

**PROPOSED REGULATION OF THE  
BOARD OF DISPENSING OPTICIANS**

**LCB File No. R042-02**

April 30, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~is omitted material~~ is material to be omitted.

AUTHORITY: §§1-10, 12-16, 18 and 27-36, NRS 637.070; §§11 and 20, NRS 637.070 and 637.122; §§17 and 19, NRS 637.070 and 637.110; §§21-24, NRS 637.070 and 637.135; §§25 and 26, NRS 637.070 and 637.140.

**Section 1.** Chapter 637 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Board” means the board of dispensing opticians.*

**Sec. 4.** *“Dispensing optician” means a person engaged in the practice of ophthalmic dispensing.*

**Sec. 5.** *“President” means the president of the board.*

**Sec. 6.** *“Secretary” means the secretary of the board.*

**Sec. 7. 1.** *As used in subsection 11 of NRS 637.150, the board will interpret the phrase “unethical or unprofessional conduct” to include, without limitation:*

*(a) Performing acts beyond the scope of the practice of ophthalmic dispensing;*

*(b) Performing dispensing duties while under the influence of intoxicating liquor or a controlled substance;*

- (c) Presenting any false or deceptive information to the board or public;
  - (d) Engaging in the sexual harassment of any employee or consumer;
  - (e) Attempting to obtain or retain a consumer, either directly or indirectly, by way of intimidation, coercion or deception; or
  - (f) Engaging in conduct that would lead to the harm or endangerment of the public.
2. As used in this section, “sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other speech or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an employee’s work performance or creating an environment which is intimidating, hostile or offensive to an employee or consumer.
- Sec. 8. Any member of the board or public may file a written complaint with the secretary if he believes:
- 1. A licensee has violated a provision of this chapter or chapter 637 of NRS; or
  - 2. An unlicensed person is engaged in activities requiring a license pursuant to the provisions of this chapter or chapter 637 of NRS.

- Sec. 9. 1. A complaint filed pursuant to section 8 of this regulation must:
- (a) Be on a form prescribed by the board;
  - (b) Be signed and verified by the person filing the complaint, under penalty of perjury; and
  - (c) Include the name, address and telephone number of the person filing the complaint.
2. The form prescribed by the board must state that, if the complaint does not appear frivolous on its face:
- (a) The person making the complaint may be required to testify at an administrative hearing; and

*(b) The board will send a notice and a copy of the complaint to the licensee or the unlicensed person who is the subject of the complaint.*

**Sec. 10. 1. The secretary shall review each complaint filed pursuant to section 8 of this regulation.**

*2. If the complaint does not appear frivolous on its face, the secretary shall:*

*(a) Place the matter on the board's agenda to consider whether the complaint should be dismissed or investigated further or whether an accusation should be filed pursuant to NAC 637.440; and*

*(b) Send written notice and a copy of the complaint to the licensee or the unlicensed person who is the subject of the complaint at least 20 days before the date on which the matter is placed on the board's agenda for discussion and possible action.*

**Sec. 11. 1. A licensed dispensing optician who desires to obtain a license to fit contact lenses by obtaining 1 year of training and experience pursuant to paragraph (b) of subsection 2 of NRS 637.122 must file an application with the board for a training license.**

*2. An application for a training license to fit contact lenses must include:*

*(a) The date of the application for licensure;*  
*(b) The date when the training will begin;*  
*(c) The name and address of the optical establishment where the training will be conducted;*  
*(d) The name and license number of the supervising optometrist or ophthalmologist; and*  
*(e) A fee of \$50.*

*3. After the expiration of an initial training license to fit contact lenses, the board may, upon the receipt of a new application and fee of \$50, issue a new training license to the applicant.*

**Sec. 12. 1. A supervising optometrist or ophthalmologist who is licensed in this state must be on the premises of the optical establishment at all times to supervise a person holding a training license to fit contact lenses. In all instances of a supervisor's absence, a substitute optometrist or ophthalmologist who is licensed in this state must be obtained to supervise the person holding a training license to fit contact lenses.**

*2. When a permanent change of supervisor is made by the employer, the board must be notified of the change within 30 days.*

**Sec. 13. 1. Except as otherwise provided in subsection 2 and NRS 639.2825, a person who does not hold a license to fit contact lenses or a training license to fit contact lenses shall not sell, furnish, dispense or fit contact lenses.**

*2. A licensed dispensing optician whose license has been issued by the board may, pursuant to a prescription, sell or furnish a prepackaged contact lens that does not require any adjustment, modification or fitting if he:*

*(a) Has passed the Contact Lens Registry Examination of the National Committee of Contact Lens Examiners; and*  
*(b) Holds a current certificate of registration issued by the National Committee of Contact Lens Examiners.*

*3. A licensed dispensing optician who chooses to sell or furnish a prepackaged contact lens pursuant to this section shall:*

- (a) Comply with the continuing education requirements for a dispensing optician who is licensed to fit contact lenses as set forth in NAC 637.200 and 637.210; and
- (b) Submit to the board, as part of the annual renewal of his license as a dispensing optician, a copy of the certificate of registration issued by the National Committee of Contact Lens Examiners.

**Sec. 14. 1. A person who does not hold a license as a dispensing optician or as an apprentice dispensing optician shall not provide any ophthalmic products to the public.**

**2. As used in this section, “ophthalmic products” includes, without limitation:**

- (a) Ophthalmic lenses for sunglasses, dive masks, sports goggles and occupational goggles;
- (b) Ophthalmic prescription lenses; and
- (c) Ocular prosthetic devices.

**Sec. 15. NAC 637.015 is hereby amended to read as follows:**

637.015 As used in NRS 637.090, the board will interpret the term “manage a business engaged in ophthalmic dispensing” to mean having the responsibility for ophthalmic dispensing and having direct supervisory responsibility for employees who engage in ophthalmic dispensing , *including employees who are not licensed pursuant to this chapter and chapter 637 of NRS,* at a single place of business.

**Sec. 16. NAC 637.110 is hereby amended to read as follows:**

637.110 1. A majority vote of a quorum of the board is necessary to conduct business.

2. Robert’s Rules of Order govern the general conduct of meetings of the board when not otherwise provided by these rules or by law. Persons who willfully disrupt meetings may be removed.

3. Special meetings may be called by the president **[of the board]** on his own motion or by written consent of two or more other board members.

**Sec. 17.** NAC 637.150 is hereby amended to read as follows:

637.150 1. An application for an examination to determine a person's fitness to practice optical dispensing must be made to the secretary **[of the board]** at least 60 days before the date of the examination. The application must be made on forms provided by the board.

2. The applicant must provide with the application:

- (a) Proof that he has met the educational requirements set forth in NRS 637.100;
- (b) A full-face, close-up photograph of himself taken within the last year, not smaller than 2 inches by 2 inches;
- (c) Three letters concerning his character from references; and
- (d) An affidavit attesting to the truthfulness of all statements made in the application.

3. An applicant holding the degree of associate of science in ophthalmic dispensing must obtain the required **[1-year] 2,000 hours** of practical experience. **[after the degree was conferred.]** The degree must be conferred by a school which is accredited by the **[American Board of Opticianry.]** *Commission on Opticianry Accreditation.*

4. The submission of false or misleading statements on the application filed with the **[board's]** secretary or the failure to provide information required on the form is sufficient cause for the board to reject the application or revoke the license of a dispensing optician.

5. A fee of \$200 must accompany the application. An applicant who has failed the examination may be **[re-examined for a fee of \$150. The fee must accompany the submission of his application for re-examination.]** *reexamined for a license as a dispensing optician if the*

*applicant submits to the secretary a fee of \$150 and a written request for reexamination at least 60 days before the next date of examination.*

**Sec. 18.** NAC 637.160 is hereby amended to read as follows:

637.160 1. The board's examination for a license as a dispensing optician will test the dispensing skills of the applicant.

2. The examination will test the applicant's proficiency and knowledge in the following subjects:

- (a) Mechanical and geometric optics;
- (b) Measurement for, and the fitting and ~~adaptation~~ *adapting* of, eyeglasses; ~~and~~
- (c) Optical materials, their design and uses as visual aids ~~H~~;
- (d) *The anatomy and physiology of the eye; and*
- (e) *The provisions of this chapter and chapter 637 of NRS.*

3. The examination will be conducted in the presence of at least two board members, both of whom must be licensed dispensing opticians. Other licensed dispensing opticians may be employed by the board to assist in administering the practical examination.

4. An applicant who fails the examination and wishes to have a review of his examination papers must, within 60 days after the examination, notify the board that he requests the review.

**Sec. 19.** NAC 637.170 is hereby amended to read as follows:

637.170 1. The requirement for an examination will be waived if an applicant:

- (a) Meets all other requirements for a license in ~~Nevada;~~ *this state*;
- (b) Holds a license in good standing from another state;
- (c) Within the past 10 years has passed an examination which was equivalent to the board's examination required of an applicant for a license; and

(d) Has worked as a dispensing optician for 75 percent or more of the time between passing that examination and making application to the board.

2. Within 90 days after receiving an application for such a waiver, the board will seek to verify all documents submitted with the application. A license will not be issued under such a waiver until satisfactory documentation has been received by the board.

3. An applicant who requests a waiver of the examination must appear in person before the board so that the board may administer an examination consisting of questions pertaining to his qualifications to be licensed as a dispensing optician. The applicant may appear for this purpose before the board verifies the documentation supporting his application. To pass an examination administered pursuant to this subsection, the applicant must achieve a score of at least 70 percent in each of the six sections of the examination.

4. An applicant may request a waiver of the examination ~~for one time each calendar year for a period of not more than 3 consecutive years.] only once.~~

*5. An applicant who fails the examination administered pursuant to subsection 3 may be reexamined at the next general examination for a license as a dispensing optician if the applicant submits to the secretary a fee of \$150 and a written request for reexamination at least 60 days before the next date of general examination.*

**Sec. 20.** NAC 637.175 is hereby amended to read as follows:

637.175 1. ~~[To obtain a license to fit contact lenses, a]~~ A licensed dispensing optician *who desires to obtain a license to fit contact lenses pursuant to paragraph (a) of subsection 2 of NRS 637.122* must file with the board an application accompanied by payment of a fee of \$200 for the initial issuance.

2. [An application for a training license to fit contact lenses must be accompanied by a fee of \$50.

3. Two years after an initial training license is issued, the board may, upon the receipt of a new application and the payment of a fee of \$50, issue a new training license to the applicant.] A dispensing optician who is licensed to fit contact lenses shall:

(a) Comply with the continuing education requirements set forth in NAC 637.200 and 637.210; and

(b) Submit to the board, as part of the licensee's annual renewal, a copy of the certificate of registration issued by the National Committee of Contact Lens Examiners.

**Sec. 21.** NAC 637.180 is hereby amended to read as follows:

637.180 As used in NAC [637.190] 637.180 to 637.210, inclusive, [“hours” means hours of lecture or instruction.] “hour of continuing education” means 50 minutes of instruction devoted to a program of continuing education that is related to the practice of ophthalmic dispensing.

**Sec. 22.** NAC 637.190 is hereby amended to read as follows:

637.190 1. Except as *otherwise* provided in subsection 2, a *copy of a* certificate proving that the licensee has taken the required hours of continuing education must be submitted to the secretary [of the board] at the time of license renewal.

2. A licensee who received his license by examination is not required to submit a *copy of a* certificate of continuing education for the first renewal of his license.

**Sec. 23.** NAC 637.200 is hereby amended to read as follows:

637.200 1. Subjects for continuing education in ophthalmic dispensing include:

(a) Mechanical and geometric optics;

- (b) The measurement, fitting and ~~adaptation~~ *adapting* of eyeglasses, contact lenses and optical prosthetics;
  - (c) Optical materials, their design and uses as visual aids;
  - (d) The nature and properties of light and its refraction by lenses;
  - (e) The anatomy and physiology of the eye and its appendages;
  - (f) The principles of management relating to ophthalmic dispensing;
  - (g) The principles of ophthalmic dispensing and the wearing of contact lenses related to ophthalmology and optometry; and
  - (h) Refractometry.
2. The board ~~shall~~ *will* approve each course of continuing education *[.] and determine the number of credits to be given for each course.* Each course must be sponsored by a school for opticians or a state, regional or national association of opticians. *A sponsor of a course shall submit to the board an outline of the course, and any other related materials that the board may require, for approval of the course before the course is offered.*
3. A licensee is not entitled to receive credit for a course of continuing education unless the course is approved by the board. *A licensee may seek approval of a course before attending the course to receive credit towards his hours of continuing education by submitting to the board an outline of the course and any other related materials that the board may require.*
4. A licensee who attends the same educational lecture more than once every 3 years is entitled to count only his original attendance as credit toward his hours of continuing education.
5. *A licensee who is enrolled in a self-study course or a course offered over the Internet to receive credit towards his hours of continuing education will receive one-half credit for each*

*credit of study. The licensee may not receive more than a total of six credits for such courses each year.*

6. Except as otherwise provided in subsection [6.] 7, a dispensing optician shall complete at least 12 hours of continuing education each year. The dispensing optician is entitled to receive credit for not more than 6 additional hours of continuing education completed during a year and may apply those hours *of continuing education* to the requirement for continuing education for the following year.

[6.] 7. A dispensing optician who is licensed to fit contact lenses shall complete at least 14 hours of continuing education each year. The dispensing optician is entitled to receive credit for not more than 7 additional hours of continuing education completed during a year and may apply those hours *of continuing education* to the requirement for continuing education for the following year.

**Sec. 24.** NAC 637.210 is hereby amended to read as follows:

637.210 1. The continuing education required for the renewal of a ~~certificate~~ *license* to fit contact lenses must include at least 7 hours of instruction on the subject of fitting contact lenses.

2. A licensed dispensing optician who is ~~certified~~ *licensed* to fit contact lenses and who fails to meet *the* continuing education requirements for ~~recertification as a contact lens dispenser~~ *a license to fit contact lenses* does not, for that reason alone, lose his license as a dispensing optician.

**Sec. 25.** NAC 637.215 is hereby amended to read as follows:

637.215 The holder of a license as a dispensing optician or *a license* to fit contact lenses who has paid the fee for the transfer of the license to an inactive list ~~is~~:

~~—1.~~ **May] as set forth in NAC 637.220:**

1. **Will** remain on the inactive list for a period of 5 years, unless he renews his inactive status pursuant to subsection 3 ~~H~~ or reactivates his license pursuant to subsection 4.
  2. Must obtain all credits for continuing education required for the holder of an equivalent license that is on active status. The credits for continuing education may be obtained at any time during the 5-year period.
  3. May renew his inactive status for a second 5-year period. To renew his inactive status, the holder of the license must submit to the board a written notice of extension and proof of compliance with the requirements for continuing education by January 31 of the fifth year of the first period of inactive status.
4. **May reactivate his license by:**
  - (a) *Submitting a letter to the board requesting the reactivation of his license;*
  - (b) *Obtaining, within the 12 months immediately preceding the submission of the letter requesting reactivation of his license:*
    - (1) *If the holder is a dispensing optician, 12 hours of continuing education credits; or*
    - (2) *If the holder is a dispensing optician who is licensed to fit contact lenses, 14 hours of continuing education credits;*
  - (c) *Submitting the statement required pursuant to NRS 637.113; and*
  - (d) *Paying the fee for reactivation of his license as set forth in NAC 637.220.*

**Sec. 26.** NAC 637.220 is hereby amended to read as follows:

637.220 1. The fee for ~~an~~ the annual renewal of a license:

- (a) As a dispensing optician is \$200.
- (b) To fit contact lenses is \$100.

- (c) ~~For~~ As an apprentice dispensing optician is \$25.
2. The annual delinquency fee for reinstatement of a license:
- As a dispensing optician is \$100.
  - To fit contact lenses is \$50.
  - As an apprentice dispensing optician is \$25.
3. The fee for the transfer of a license as a dispensing optician or to fit contact lenses to an inactive list is \$150.

**4. *The fee for the reactivation of a license:***

- As a dispensing optician is \$200.*
- To fit contact lenses is \$100.*

**Sec. 27.** NAC 637.230 is hereby amended to read as follows:

- 637.230 1. Each ~~dispensing optician licensed in Nevada~~ *licensee in this state* shall file with the secretary ~~of the board~~ his home or mailing address and his business address.
2. The board must be notified of a change of a ~~dispensing optician's~~ *licensee's* home or business address within 30 days of such change.

**Sec. 28.** NAC 637.280 is hereby amended to read as follows:

- 637.280 1. A supervising optician or optometrist ~~shall~~ *who is licensed in this state must* be on the premises of the optical establishment at all times ~~to supervise an apprentice~~ *dispensing optician.* In all instances of a supervisor's absence, a substitute dispensing optician *who is* licensed in ~~the State of Nevada~~ *this state* must be obtained to supervise the apprentice ~~dispensing optician.~~
2. When a permanent change of supervisor is made by the employer, the board must be notified of the change within 30 days.

**Sec. 29.** NAC 637.285 is hereby amended to read as follows:

637.285 An apprentice dispensing optician shall, within 1 year after the date of his initial licensure as an apprentice ~~H~~ **dispensing optician**, submit evidence to the board that he is enrolled in the career progression program of the National Academy of Opticianry or an equivalent program accepted by the board.

**Sec. 30.** NAC 637.290 is hereby amended to read as follows:

637.290 1. An apprentice **dispensing optician** must receive instruction and personal supervision in the skills required in an optical establishment and in related duties ~~[for the first]~~ **during the** 3 years of training ~~[. The fourth year of apprenticeship]~~ **required pursuant to paragraph (a) of subsection 5 of NRS 637.100. Such training** must include at least ~~H,800~~ **2,000** hours of supervised experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory and the performance of other duties related to ophthalmic dispensing. The completion of a course of instruction approved by the board that is offered by an accredited school may count toward the completion of the hours of apprenticeship required pursuant to this subsection.

2. An apprentice **dispensing optician** holding the degree of associate of science in ophthalmic dispensing must receive ~~[the same training required for the fourth year of apprenticeship, as stated in subsection 1.] at least 2,000 hours of supervised experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory and the performance of other duties related to ophthalmic dispensing.~~

3. Areas of instruction for apprenticeship must include the following:

- (a) Ocular anatomy, physiology, and refractive anomalies of the eye;
- (b) Processes of vision, especially the effect of light, lenses and prisms placed before the eye;

- (c) Theoretical optics;
- (d) Ophthalmic vocabulary;
- (e) Ophthalmic prescription interpretation, lens identification, fitting and adjustment of glasses, and use of instruments in the analysis of lenses in a practical examination; **[and]**
- (f) All facets of ophthalmic dispensing procedures **[.] ; and**
- (g) *The provisions of this chapter and chapter 637 of NRS.***

**Sec. 31.** NAC 637.300 is hereby amended to read as follows:

637.300 A new application must be submitted by an apprentice **dispensing optician** within 30 days after his employment changes. The board will not approve more than 30 days of experience gained by an apprentice **dispensing optician** with a new employer before the new application is received by the board.

**Sec. 32.** NAC 637.310 is hereby amended to read as follows:

637.310 NAC **[637.320] 637.310** to 637.700, inclusive, govern practice and procedure before the board. **[of dispensing opticians.]**

**Sec. 33.** NAC 637.440 is hereby amended to read as follows:

637.440 **1.** Upon its own initiative, or following the receipt **and review** of a verified complaint **[.] filed pursuant to section 8 of this regulation,** the board may cause an accusation to be filed against **[a dispensing optician] an applicant or holder of a license** alleging one or more grounds for disciplinary action pursuant to NRS 637.150.

**2.** Facts constituting grounds for disciplinary action must be stated with sufficient particularity to enable the respondent to identify the charges against him. All applicable decisions, statutes, rules and regulations, or orders of the board **[should] must** be cited in the

accusation, together with the dates on which the acts or omissions complained of allegedly occurred.

**Sec. 34.** NAC 637.530 is hereby amended to read as follows:

637.530 1. If a party fails to appear at a hearing scheduled by the board and no continuance has been requested or granted, the board may hear the testimony of witnesses who have appeared and consider and dispose of the matter on the basis of the evidence before it.

2. Where, because of an accident, sickness or other reasonable cause, a party fails to appear for a hearing scheduled by the board or fails to request a continuance thereof, the party may within a reasonable period of time, not to exceed 15 days after the date of the hearing, apply to the secretary **[of the board]** to reopen the proceedings, and the board upon finding such cause sufficient and reasonable will immediately fix a time and place for hearing and give **[such] the** party notice thereof.

**Sec. 35.** NAC 637.670 is hereby amended to read as follows:

637.670 If the board determines that it will issue a declaratory order or advisory opinion, the president **[of the board]** or other presiding officer shall assign one member of the board to write the order or opinion. The member has 30 days within which to submit to the board a draft, after reviewing comments by all other members on the issue, researching the issue and seeking the assistance of the attorney general, if necessary. Upon completion of the draft, the assigned member shall submit it to the board for approval.

**Sec. 36.** NAC 637.270 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**637.270 Certificate of registration.** Upon acceptance of the application by the board, a certificate of registration as an apprentice dispensing optician will be issued to the applicant. The certificate will be valid for 5 years only at the establishment indicated on the application.