

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

LCB File No. R108-04

June 24, 2004

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

AUTHORITY: §§1, 3, 4, 6, 16, 17, 32, 33, 36 and 37, NRS 637.070; §§2, 10, 12, 15, 29 and 30, NRS 637.070 and 637.100; §§5 and 7, NRS 637.070 and 637.090; §§8 and 9, NRS 637.070, 637.100, 637.110 and 637.121; §11, NRS 637.123; §13, NRS 637.070, 637.100 and 637.121; §14, NRS 637.070, 637.100, 637.121 and 637.123; §§18, 20 and 27, NRS 637.070, 637.100 and 637.110; §19, NRS 637.070 and 637.110; §§21 and 22, NRS 637.070, 637.121 and 637.135; §§23 and 24, NRS 637.070, 637.121 and 637.140; §§25 and 26, NRS 637.070 and 637.150; §28, NRS 637.070, 637.100 and 637.125; §31, NRS 637.070 and 637.123; §34, NRS 637.070, 637.181 and 637.183; §35, NRS 637.070, 637.150, 637.181 and 637.183.

A REGULATION relating to ophthalmic dispensing; establishing requirements to obtain a limited license as a dispensing optician; requiring an applicant for a license as a dispensing optician to furnish proof that he completed training and experience relating to the fitting and filling of prescriptions for contact lenses; increasing the licensing fees for an apprentice dispensing optician; requiring an apprentice dispensing optician who desires to obtain a license as a dispensing optician to demonstrate orderly progress towards the completion of his apprenticeship; setting forth the training and experience required for an apprentice dispensing optician who desires to obtain a limited license as a dispensing optician; establishing continuing education requirements for an apprentice dispensing optician who desires to obtain a limited license as a dispensing optician; revising requirements for the examination required to obtain a license as a dispensing optician; increasing the application fee for a license as a dispensing optician; revising the continuing education requirements for dispensing opticians; increasing the fees for licenses to perform ophthalmic dispensing; increasing the application fee for an apprentice dispensing optician; prohibiting an apprentice dispensing optician from being supervised by an ophthalmologist, an optometrist or a dispensing optician who directly supervises two or more other apprentice dispensing opticians; revising the training and experience requirements for an apprentice dispensing optician who desires to obtain a license as a dispensing optician; revising the continuing education requirements for an apprentice dispensing optician who desires to obtain a license as a dispensing optician; revising the provisions relating to written complaints filed with the

Board; making various other changes pertaining to ophthalmic dispensing; and providing other matters properly relating thereto.

Section 1. Chapter 637 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *“Apprentice dispensing optician” means a person employed as a licensed apprentice dispensing optician as provided by NRS 637.125 and who desires to obtain a:*

- 1. Limited license as a dispensing optician pursuant to NRS 637.121; or*
- 2. License as a dispensing optician pursuant to NRS 637.120.*

Sec. 3. *“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. 4. *“Hour of training and experience” means 50 minutes of instruction devoted to a program of training and experience that is related to the practice of ophthalmic dispensing.*

Sec. 5. *As used in this chapter and 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. 6. *As used in NAC 637.140 to 637.230, inclusive, and sections 6 to 10, inclusive, of this regulation, unless the context otherwise requires:*

- 1. “Dispensing optician” means a person who holds a license as a dispensing optician pursuant to NRS 637.120; and*
- 2. “Dispensing optician with a limited license” means a person who holds a limited license as a dispensing optician pursuant to NRS 637.121.*

Sec. 7. *A person who manages a business engaged in ophthalmic dispensing:*

- 1. Must hold a license as a dispensing optician issued pursuant to NRS 637.120 or a limited license as a dispensing optician issued pursuant to NRS 637.121; and*
- 2. Is responsible for supervising the ophthalmic dispensing and the consulting on optical fashions conducted at the business engaged in ophthalmic dispensing.*

Sec. 8. *1. An application for an examination required to obtain a limited license as a dispensing optician pursuant to NRS 637.121 must be made to 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 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 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 who has successfully completed a course of study in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing approved by the Board must obtain 2,000 hours of training and experience.*
- 4. The submission of false or misleading statements on the application filed with the Board or the failure to provide information required on any form is sufficient cause for the Board to reject the application or revoke the limited license of a dispensing optician.*
- 5. A fee of \$200 must accompany the application. Upon approval by the Board, an applicant who has failed the examination may be reexamined for a license as a dispensing*

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

6. An applicant who has failed the examination may retake the examination not more than three times.

Sec. 9. 1. *The Board's examination for a limited 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 adapting of, eyeglasses;

(c) Optical materials and their design and uses as visual aids;

(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 dispensing opticians. Other 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 submit his request for a review on a form provided by the Board within 60 days after the examination.

Sec. 10. 1. *An applicant for a license as a dispensing optician must furnish proof on a form provided by the Board and signed by the supervisor of the applicant that he has completed the following hours of training and experience relating to the fitting and filling of*

prescriptions for contact lenses required pursuant to subparagraph (2) of paragraph (g) of subsection 1 of NRS 637.100:

- (a) Thirty hours of contact lens fitting;*
- (b) Twenty hours of follow-up care relating to contact lens fitting;*
- (c) Twenty hours of instrumentation;*
- (d) Fifteen hours of insertion and removal of contact lenses;*
- (e) Ten hours of inspection of contact lenses; and*
- (f) Five hours of filling prescriptions for contact lenses.*

2. The completion of one or more courses of instruction in contact lens fitting or contact lens theory in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing approved by the Board may count toward the completion of the hours of training and experience described in subsection 1.

3. As used in subsection 1, “supervisor” means an ophthalmologist, an optometrist or a dispensing optician.

Sec. 11. *1. The fee for the annual renewal of a license as an apprentice dispensing optician is \$50.*

2. The annual delinquency fee for reinstatement of a license as an apprentice dispensing optician is \$100.

Sec. 12. *1. At the time an apprentice dispensing optician who desires to obtain a license as a dispensing optician pursuant to NRS 637.120 applies for the renewal of his license, he must demonstrate to the Board that he made orderly progress during the current year toward the completion of his apprenticeship.*

2. An apprentice dispensing optician may demonstrate orderly progress by:

(a) At the end of his first year of apprenticeship, passing the examination of the American Board of Opticianry;

(b) At the end of his second year of apprenticeship, passing the Contact Lens Registry Examination of the National Committee of Contact Lens Examiners;

(c) By the end of his third year of apprenticeship, successfully completing a course of instruction pursuant to subparagraph (1) of paragraph (g) of subsection 1 of NRS 637.100; and

(d) Any other manner approved by the Board.

Sec. 13. 1. *An apprentice dispensing optician who desires to obtain a limited license as a dispensing optician pursuant to NRS 637.121 must receive instruction and personal supervision in the skills required in an optical establishment and in related duties during the 3 years of full-time employment in an optical establishment required pursuant to paragraph (a) of subsection 5 of NRS 637.100, as it existed on January 31, 2004. Such employment must include at least 2,000 hours of training and 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.*

2. The completion of one or more courses taught in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing may count toward the completion of the hours of training and experience required pursuant to subsection 1 if the courses:

(a) Provide the apprentice dispensing optician with instruction equivalent to training and experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory or the performance of other duties related to ophthalmic dispensing; and

(b) Are approved by the Board.

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, eyeglass lens identification, fitting and adjustment of eyeglasses, and use of instruments in the analysis of eyeglass lenses in a practical examination;

(f) All facets of ophthalmic dispensing procedures; and

(g) The provisions of this chapter and chapter 637 of NRS.

Sec. 14. 1. *An apprentice dispensing optician who desires to obtain a limited license as a dispensing optician pursuant to NRS 637.121 must successfully complete 12 hours of continuing education for each year of his apprenticeship as a prerequisite to the renewal of his license. The continuing education must be completed not later than December 31 of each year and proof of that completion must be submitted to the Board not later than January 31 following the year in which the continuing education was completed.*

2. A course, seminar or workshop for continuing education must be:

(a) Approved by the Board's committee on continuing education at least 15 days before it is offered; and

(b) Taught in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing.

3. The Board may waive or alter the requirements of this section if the intent of the requirements would not be carried out by its strict application.

Sec. 15. *An apprentice dispensing optician who has supervisory authority over a person who manages a business engaged in ophthalmic dispensing shall not intentionally influence, or attempt to influence, the decisions of that person related to ophthalmic dispensing.*

Sec. 16. NAC 637.001 is hereby amended to read as follows:

637.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 637.003 , ~~and~~ 637.006 *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 17. NAC 637.140 is hereby amended to read as follows:

637.140 1. Except as otherwise provided by specific statute, a person who does not hold a license as a dispensing optician , *a limited license as a dispensing optician* or *a license* 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;
- (c) Ocular prosthetic devices; and
- (d) All prescription and nonprescription contact lenses, including, without limitation, prepackaged contact lenses, individual contact lenses, cosmetic contact lenses and theatrical contact lenses.

Sec. 18. NAC 637.150 is hereby amended to read as follows:

637.150 1. An application for an examination *required* to ~~determine a person's fitness to practice optical~~ *obtain a license as a* dispensing *optician pursuant to NRS 637.120* must be

made to 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 ~~[]~~; *and*

(e) Proof of completion of the hours of training and experience required pursuant to subparagraph (2) of paragraph (g) of subsection 1 of NRS 637.100.

3. An applicant ~~[holding the degree of associate of science]~~ *who has successfully completed a course of study in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing approved by the Board* must obtain the required 2,000 hours of ~~[practical experience. The degree must be conferred by a school which is accredited by the Commission on Opticianry Accreditation.]~~ *training and experience.*

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

5. A fee of ~~[\$200]~~ *\$350* must accompany the application. ~~[An]~~ *Upon approval by the Board, an* applicant who has failed the examination may be reexamined for a license as a dispensing optician if the applicant submits to the Board a fee of ~~[\$150]~~ *\$250* and a written request for reexamination at least 60 days before the next date of examination.

6. An applicant who has failed the examination may retake the examination not more than three times.

Sec. 19. 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 adapting of, eyeglasses ~~{;}~~ *and contact lenses;*
- (c) Optical materials ~~{;}~~ *and* their design and uses as visual aids;
- (d) The anatomy and physiology of the eye; and
- (e) The provisions of this chapter and chapter 637 of NRS.

3. If an applicant for a license as a dispensing optician holds a limited license as a dispensing optician in good standing, the Board may modify the examination described in this section to test the applicant only on the practice and theory of fitting contact lenses.

4. The examination will be conducted in the presence of at least two Board members, both of whom must be ~~{icensed}~~ dispensing opticians. Other ~~{icensed}~~ dispensing opticians may be employed by the Board to assist in administering the practical examination.

~~{4.}~~ 5. An applicant who fails the examination and wishes to have a review of his examination papers must ~~{;}~~ *submit his request for a review on a form provided by the Board* within 60 days after the examination. ~~{, notify the Board that he requests the review.}~~

Sec. 20. NAC 637.170 is hereby amended to read as follows:

637.170 1. The ~~[requirement for an]~~ examination *required for a license as a dispensing optician pursuant to NAC 637.150* will be waived if an applicant:

- (a) Meets all other requirements for a license in this ~~[state;]~~ *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 only once.

5. ~~[An]~~ *Upon approval by the Board, 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 Board a fee of ~~[\$150]~~ *\$250* and a written request for reexamination at least 60 days before the next date of general examination.

Sec. 21. 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~~ *a dispensing optician or a dispensing optician with a limited license* has taken the required hours of continuing education must be submitted to the Board at the time of license renewal.

2. A ~~licensee~~ *dispensing optician or dispensing optician with a limited license* 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. 22. 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 adapting of eyeglasses, contact lenses and optical prosthetics;
- (c) Optical materials ~~and~~ *and* 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 will approve each course of continuing education and determine the number of credits to be given for each course. 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~~ *dispensing optician with a limited license* may not receive more than a total of ~~six~~ 6 credits each year towards his hours of continuing education for completion of self-study courses or courses offered over the Internet.

6. ~~Except as otherwise provided in subsection 7, a~~ *A dispensing optician may not receive more than a total of 7 credits each year towards his hours of continuing education for completion of self-study courses or courses offered over the Internet.*

7. A dispensing optician *with a limited license* shall complete at least 12 hours of continuing education each year. The dispensing optician *with a limited license* 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.

~~7.~~ 8. A dispensing optician ~~who is licensed to fit contact lenses~~ shall complete at least 14 hours of continuing education each year ~~{}~~ , *including 7 hours of instruction related to the practice and theory of fitting contact lenses.* 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. 23. NAC 637.215 is hereby amended to read as follows:

637.215 The holder of a license as a dispensing optician or a *limited* license ~~[to fit contact lenses]~~ *as a dispensing optician* who has paid the fee for the transfer of the license to an inactive list 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 or reactivates his license pursuant to subsection 4.
2. Is not required to obtain the credits for continuing education required for the holder of an equivalent license that is on active status.
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.
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]~~ *14* hours of continuing education credits ~~[12]~~, *as required pursuant to NAC 637.200*; or
 - (2) If the holder is a dispensing optician ~~[who is licensed to fit contact lenses, 14]~~ *with a limited license, 12* hours of continuing education credits ~~[12]~~, *as required pursuant to NAC 637.200*;
 - (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. 24. NAC 637.220 is hereby amended to read as follows:

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

~~—(a) As]:~~

(a) *License as* a dispensing optician is ~~[\$200.~~

~~—(b) To fit contact lenses is \$100.~~

~~—(c) As an apprentice] \$300.~~

(b) *Limited license as a* dispensing optician is ~~[\$25.] \$200.~~

2. The annual delinquency fee for reinstatement of a ~~[license:~~

~~—(a) As]:~~

(a) *License as* a dispensing optician is ~~[\$100.~~

~~—(b) To fit contact lenses is \$50.~~

~~—(c) As an apprentice] \$300.~~

(b) *Limited license as a* dispensing optician is ~~[\$25.] \$200.~~

3. The fee for the transfer of a ~~[license]:~~

(a) *License* as a dispensing optician ~~[or to fit contact lenses]~~ to an inactive list is ~~[\$150.]~~
\$300.

(b) *Limited license as a dispensing optician to an inactive list* is \$200.

4. The fee for the reactivation of a ~~[license:~~

~~—(a) As]:~~

(a) *License as* a dispensing optician is ~~[\$200.~~

~~—(b) To fit contact lenses is \$100.] \$300.~~

(b) *Limited license as a dispensing optician* is \$200.

Sec. 25. NAC 637.235 is hereby amended to read as follows:

637.235 1. As used in *paragraph (k) of* subsection ~~[H] 1~~ 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; ~~for~~
- (f) Engaging in conduct that would lead to the harm or endangerment of the public ~~H~~; *or*
- (g) Engaging in conduct that would be a violation of section 15 of this regulation.*

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. 26. NAC 637.250 is hereby amended to read as follows:

637.250 1. Advertising which quotes prices of ophthalmic goods and services must include the following information:

- (a) Whether the advertised price includes single vision or multifocal glass or plastic lenses;
- (b) Whether the advertised price for contact lenses refers to “hard” or “soft” lenses;
- (c) Whether the advertised price of ophthalmic goods includes all dispensing fees;
- (d) Whether the advertised price for eyeglasses includes both frames and lenses; and
- (e) Whether the advertised lens price includes all lens prescription powers.

2. Each advertisement in violation of any one of the provisions of subsection 1 is a separate offense punishable ~~[by suspension or revocation of license.]~~ *pursuant to NRS 637.150.*

Sec. 27. NAC 637.260 is hereby amended to read as follows:

637.260 1. Each person desiring to be employed as ~~[a licensed]~~ **an** apprentice dispensing optician ~~[as provided by NRS 637.125]~~ must file an application with the Board stating:

(a) The date of the application for licensure;

(b) ~~[The date when the apprenticeship commences;~~

~~—(c)]~~ The name and address of the optical establishment where the apprenticeship will be conducted; and

~~[(d)]~~ (c) The name and license number of the supervisory ~~[opticians or optometrists.]~~ **ophthalmologist, optometrist or dispensing optician.**

2. Each application must be certified under oath by the applicant and the supervising **ophthalmologist, optometrist or dispensing optician.** ~~[or optometrist.]~~

3. A fee of ~~[\$40]~~ **\$100** must accompany each application. The fee will not be refunded.

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

637.280 1. A supervisor who is licensed in this ~~[state]~~ **State** must be on the premises of the optical establishment at all times to **directly** supervise an apprentice dispensing optician. In all instances of a supervisor's absence, a substitute supervisor who is licensed in this ~~[state]~~ **State** must be obtained to **directly** 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.

3. **An apprentice dispensing optician may not be supervised by an ophthalmologist, an optometrist or a dispensing optician who directly supervises two or more other apprentice dispensing opticians.**

4. *Except as otherwise provided in subsection 5, an apprentice dispensing optician and his supervisor must be employed by the same employer.*

5. *An apprentice dispensing optician may be directly supervised by any dispensing optician authorized to fit and fill prescriptions for contact lenses, ophthalmologist or optometrist in order to complete the 100 hours of training and experience in the fitting of and filling of prescriptions for contact lenses required pursuant to subparagraph (2) of paragraph (g) of subsection 1 of NRS 637.100.*

6. As used in this section ~~[, “supervisor”]~~:

(a) *“Directly supervise” mean physically providing individual direction, control, inspection and evaluation of work based on the training, experience and education of the apprentice dispensing optician, and any other relevant factors; and*

(b) *“Supervisor” means an ophthalmologist, an optometrist or a ~~[licensed]~~ dispensing optician ~~[]~~ who directly supervises the apprentice dispensing optician.*

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

637.285 An apprentice dispensing optician shall, within 3 months after the date of his initial licensure as an apprentice 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]~~ an *educational program on the theory of ophthalmic dispensing approved* by the Board.

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

637.290 1. An apprentice dispensing optician *who desires to obtain a license as a dispensing optician pursuant to NRS 637.120* must receive instruction and personal supervision in the skills required in an optical establishment and in related duties during the 3 years of

training required pursuant to *subparagraph (1) of paragraph (a) (f) of subsection 5 1* of NRS 637.100. Such training must include at least 2,000 hours of ~~supervised~~ *training and* 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~~ *who desires to obtain a license as a dispensing optician pursuant to NRS 637.120 and who has successfully completed a course of study in a school which offers a* degree of associate of science in ophthalmic dispensing must receive at least ~~2,000~~ *1,000* hours of ~~supervised~~ *training and* 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. *The completion of one or more courses taught in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing may count toward the completion of the hours of training and experience required pursuant to subsections 1 and 2 if the courses:*

(a) Provide the apprentice dispensing optician with instruction equivalent to training and experience at the fitting table and in preparing laboratory orders, verifying processed work from the laboratory or the performance of other duties related to ophthalmic dispensing; and

(b) Are approved by the Board.

4. *Upon approval by the Board, if an apprentice dispensing optician holds a limited license as a dispensing optician in good standing, the hours of training and experience that he*

received as a dispensing optician with a limited license may count towards the hours of training and experience required pursuant to subsections 1 and 2.

5. 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, *eyeglass lens and contact* lens identification, fitting and adjustment of ~~[glasses,]~~ *eyeglasses*, and use of instruments in the analysis of *eyeglass lenses and contact* lenses in a practical examination;

(f) All facets of ophthalmic dispensing procedures; and

(g) The provisions of this chapter and chapter 637 of NRS.

Sec. 31. NAC 637.295 is hereby amended to read as follows:

637.295 1. ~~[A-licensed]~~ *An* apprentice dispensing optician *who desires to obtain a license as a dispensing optician pursuant to NRS 637.120* must successfully complete ~~[+2]~~ *14* hours of continuing education for each year of his apprenticeship as a prerequisite to the renewal of his license. The continuing education must be completed not later than December 31 of each year and proof of that completion must be submitted to the Board not later than January 31 following the year in which the continuing education was completed.

2. ~~[The successful completion of the National Academy of Opticians' correspondence course during the period of apprenticeship is equivalent to 48 hours of continuing education and satisfies the requirement for continuing education for 4 years.~~

~~—3.]~~ A course, seminar or workshop for continuing education must be ~~[approved]~~ :

(a) *Approved* by the Board's committee on continuing education at least ~~[30]~~ 15 days before it is offered ~~[, unless the committee waives this requirement.~~

~~—4.]~~; and

(b) *Taught in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing.*

3. The Board may waive or alter the ~~[requirement that 12 hours of continuing education be completed annually]~~ *requirements of this section* if the intent of ~~[that requirement]~~ *the requirements* would not be carried out by its strict application.

Sec. 32. NAC 637.333 is hereby amended to read as follows:

637.333 Any member of the Board or public may file a written complaint with the Board 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 ~~[]~~; or

3. A person employs a dispensing optician, apprentice dispensing optician or other person in violation of NRS 637.125.

Sec. 33. NAC 637.335 is hereby amended to read as follows:

637.335 1. A complaint filed pursuant to NAC 637.333 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:

(a) The person making the complaint may be required to testify at a judicial or administrative proceeding; and

(b) The Board may send a notice and copy of the complaint to the licensee or the ~~unlicensed~~ person who is the subject of the complaint.

Sec. 34. NAC 637.337 is hereby amended to read as follows:

637.337 1. The person designated by the Board to review complaints filed pursuant to NAC 637.333 shall review each complaint and may cause any complaint to be investigated.

2. If a complaint is filed ~~against a licensee~~ pursuant to ~~subsection 1 of~~ NAC 637.333:

(a) The matter will be placed 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 ~~;~~ *or if the complaint is filed against:*

(1) An unlicensed person pursuant to subsection 2 of NAC 637.333, whether the Board should issue a cease and desist order pursuant to subsection 2 of NRS 637.181; or

(2) A person pursuant to subsection 3 of NAC 637.333, whether the Board should impose a fine pursuant to subsection 1 of NRS 637.183; and

(b) The Board may send written notice and a copy of the complaint to the licensee *or person* who is the subject of the complaint.

3. If a licensee *or person* who is the subject of a complaint does not respond within 20 days after receipt of a written notice of a complaint, he is deemed to have admitted the allegations in the complaint.

~~4.—If a complaint is filed against an unlicensed person pursuant to subsection 2 of NAC 637.333:~~

~~—(a) The matter will be placed on the Board’s agenda to consider whether the complaint should be dismissed or investigated further or whether legal action should be initiated; and~~
~~—(b) The Board may send written notice and a copy of the complaint to the unlicensed person who is the subject of the complaint.]~~

Sec. 35. 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 NAC 637.333, the Board may cause an accusation to be filed against ~~[an]~~ :

(a) An applicant or holder of a license alleging one or more grounds for disciplinary action pursuant to NRS 637.150.

(b) An unlicensed person alleging one or more grounds for disciplinary action pursuant to NRS 637.183.

(c) A person who employs a dispensing optician, apprentice dispensing optician or other person in violation of NRS 637.125, alleging one or more grounds for disciplinary action pursuant to NRS 637.181.

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

Sec. 36. NAC 637.135, 637.145, 637.175, 637.177, 637.178, 637.180, 637.210 and 637.240 are hereby repealed.

Sec. 37. Sections 2, 8, 9, 13 and 14 of this regulation expire by limitation on January 31, 2006.

TEXT OF REPEALED SECTIONS

637.135 Required licensing: “Manage a business engaged in ophthalmic dispensing” interpreted. (NRS 637.070, 637.090) 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.

637.145 License required to sell, furnish, dispense or fit contact lenses; prepackaged contact lenses. (NRS 637.070)

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 his current certificate of registration issued by the National Committee of Contact Lens Examiners.

637.175 License to fit contact lenses: Application; fee; renewal. (NRS 637.070, 637.122)

1. 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. 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 his current certificate of registration issued by the National Committee of Contact Lens Examiners.

637.177 Training license to fit contact lenses: Application; extension. (NRS 637.070, 637.122)

1. A licensed dispensing optician or licensed apprentice dispensing optician who desires to obtain a license to fit contact lenses by obtaining the training and experience required pursuant to NRS 637.122 must file an application with the Board for a training license to fit contact lenses.

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 licensed dispensing optician licensed to fit contact lenses, optometrist or ophthalmologist; and
 - (e) A fee of \$50.
3. Two years after an initial training license to fit contact lenses has been issued, the Board may, upon the receipt of a new application and fee of \$50, issue a new training license to fit contact lenses to the applicant.

637.178 Training license to fit contact lenses: Supervision of person holding license. (NRS 637.070)

1. A supervisor 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 supervisor 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.

3. As used in this section, "supervisor" means an ophthalmologist, an optometrist or a licensed dispensing optician who is licensed to fit contact lenses.

637.180 Continuing education: "Hour of continuing education" defined. (NRS 637.070, 637.135) As used in NAC 637.180 to 637.210, inclusive, "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.

637.210 Continuing education: License to fit contact lenses. (NRS 637.070, 637.135)

1. The continuing education required for the renewal of a 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 licensed to fit contact lenses and who fails to meet the continuing education requirements for the renewal of a license to fit contact lenses does not, for that reason alone, lose his license as a dispensing optician.

637.240 Fitting contact lenses: Report to prescriber. (NRS 637.070) Upon completing the fitting of a contact lens, the dispenser must provide a written report to the prescriber, in the form prescribed by the Board. The dispenser must keep a copy of the report in his records.