

**ADOPTED REGULATION OF THE  
BOARD OF DISPENSING OPTICIANS**

**LCB File No. R043-10**

Effective June 30, 2010

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

AUTHORITY: §1, NRS 637.070, 637.100 and 637.123; §2, NRS 637.070; §3, NRS 637.070, 637.100 and 637.110; §4, NRS 637.070, 637.100 and 637.125.

A REGULATION relating to dispensing opticians; providing the grounds for and limitations on certain renewals of licenses of apprentice dispensing opticians; revising the application requirements for an apprentice dispensing optician; revising the provisions governing supervision of such an apprentice; and providing other matters properly relating thereto.

**Section 1.** Chapter 637 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in subsection 2:*

*(a) An apprentice dispensing optician whose license has been renewed by the Board four or more times may submit a written application to the Board for an additional renewal of his license; and*

*(b) The Board will find that good cause exists pursuant to NRS 637.123 for the renewal of the license of the apprentice dispensing optician and will renew the license if the applicant, in his application, demonstrates to the satisfaction of the Board that:*

*(1) The apprentice dispensing optician has made orderly progress toward the completion of his apprenticeship; and*

*(2) Unforeseen circumstances have occurred which have prevented the completion of the apprenticeship at an earlier time.*

*2. The Board will not renew the license of an apprentice dispensing optician pursuant to this section more than two times.*

**Sec. 2.** NAC 637.144 is hereby amended to read as follows:

637.144 1. A person who manages a business engaged in ophthalmic dispensing:

(a) Must be a dispensing optician or a dispensing optician with a limited license;

(b) Is responsible for supervising the ophthalmic dispensing and the consulting on optical fashions conducted at the business engaged in ophthalmic dispensing; and

(c) Must, within 10 days after becoming the *ophthalmic* manager of the business, notify the Board, in writing, that he is the *ophthalmic* manager.

2. Each ophthalmic dispensing area of a business engaged in ophthalmic dispensing must have an ophthalmic manager as described in subsection 1 who makes decisions that concern ophthalmic dispensing and a business manager who makes decisions that do not concern ophthalmic dispensing, except that the ophthalmic manager and the business manager may be the same person. The ophthalmic manager must have ultimate authority with respect to any matter relating to ophthalmic dispensing governed by the provisions of this chapter or chapter 637 of NRS, and the decision of the ophthalmic manager with respect to any such matter may not be superseded by the business manager.

3. An apprentice dispensing optician shall not:

(a) Act as a person who manages a business engaged in ophthalmic dispensing; or

(b) Under any circumstances act in such a manner as to supersede the authority or any decision of a dispensing optician or a dispensing optician with a limited license.

4. As used in this section, “person who manages a business engaged in ophthalmic dispensing” means the person who is in charge of the ophthalmic dispensing area of such a

business. The term does not include the general manager of a retail establishment who is not in charge of ophthalmic dispensing.

**Sec. 3.** NAC 637.260 is hereby amended to read as follows:

637.260 1. Each person desiring to be employed as an apprentice dispensing optician must file an application with the Board stating:

- (a) The date of the application for licensure;
- (b) The name and address of the optical establishment where the apprenticeship will be conducted; ~~and~~
- (c) The name and license number of the supervisory ophthalmologist, optometrist or dispensing optician ~~and~~; *and*
- (d) The name and license number of the ophthalmic manager of the optical establishment where the apprenticeship will be conducted and, if applicable, the name of the business manager.*

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

3. A fee of \$100 must accompany each application. The fee will not be refunded.

**Sec. 4.** NAC 637.280 is hereby amended to read as follows:

637.280 1. A supervisor who is licensed in this 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 must be obtained to directly supervise the apprentice dispensing optician.

2. When a permanent change of supervision is made by the employer, the supervisor and apprentice dispensing optician shall notify the Board, in writing, of the change within 10 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}~~ *A supervisor shall not directly supervise more than two* apprentice dispensing opticians ~~{}~~ *at any one time.*

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 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:

(a) “Directly supervise” means 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.

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

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
AS REQUIRED BY NRS 233B.066**

**LCB FILE R043-10**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 637.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of dispensing opticians as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Board of Dispensing Opticians (BDO), [www.opticalboard.state.nv.us](http://www.opticalboard.state.nv.us), mailed to all county libraries in Nevada and posted at the following locations:

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|---|---|
| 1. Attorney General's Office<br>555 E. Washington, #3900<br>Las Vegas, NV 89101                 | 3. Attorney General's Office<br>100 N. Carson St.<br>Carson City, NV 89701  |
| 2. College of Southern Nevada<br>6375 W. Charleston<br>Bldg. H, Room 105<br>Las Vegas, NV 89146 | 4. Truckee Meadows Community College<br>High Tech Center at Redfield<br>18600 Wedge Pkwy., Room 103<br>Reno, NV 89511 |

A workshop was held on April 19, 2010, and the minutes of that meeting contain a summary of the discussion held regarding the proposed amendments. Thereafter, on or about April 23, 2010, the Board of Dispensing Opticians issued a Notice of Intent to Act Upon a Regulation which incorporated in the proposed amendments the suggestions of the parties attending the April 19, 2010 workshop

The public hearing was held on May 25<sup>th</sup>, 2010. At the hearing, Dave Stuart, a dispensing optician, testified in support of the proposed amendments and regulations.

A copy of this summary of the public response to the proposed regulation may be obtained from the Board of Dispensing Optician's Executive Secretary, P.O. Box 19625, Reno, NV 89511, telephone (775) 853-1421, or email to [nvbdo@govmail.state.nv.us](mailto:nvbdo@govmail.state.nv.us).

**2. The number of persons who:**

- (a) Attended each hearing: April 19, 2010: 10; May 25, 2010: 3
- (b) Testified at each hearing: April 19, 2010: 9; May 25, 2010: 1
- (c) Submitted to the agency written comments: No written comments were submitted.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted on May 25, 2010 and included all of the changes suggested at the workshop held on April 19, 2010.

**5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

There is no estimated economic effect of the adopted regulation upon businesses.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the BDO for enforcement of this regulation.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

**8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A

**10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small**

**business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Board of Dispensing Opticians has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this Determination, the Board considered the fact that the proposed amendment imposes no significant burden to any business.