

**INFORMATIONAL STATEMENT FOR
REGULATION PROPOSED BY THE NEVADA STATE BOARD OF DISPENSING OPTICIANS**

(LCB No. R106-14)

The following statement is submitted for the proposed amendment and additions to NAC chapter 637.

1. A clear and concise explanation of the need for the adopted regulation.

The regulations are needed to modernize some of the core processes of the Board to allow for more flexibility and efficiency in the Board's operations and improved service to the Board's opticians and apprentices. The need for each of the various sections of the regulation is set out in the following table:

Sec.	NAC Provision	Effect	Need
1	637.120	Clarifies those activities that would entitle a Board member to the daily salary of \$150	The Board needs clarification for its staff to assure that Board members are properly paid for their service
2	637.150	(1) Removes the application deadline that was tied to the examination date; (2) Alters the required number of experiential hours for some applicants to take into consideration current working conditions, including the unavailability of full-time positions for Apprentice licensees; (3) Eliminates the Board's examination fee and replaces it with an application fee of \$100.	The Board needs the three changes because: (1) The application deadline is frustrating and delaying licensure for otherwise qualified applicants; (2) NRS 637.100 requires some applicants to obtain one year of experience. The former version of the regulation requires 2,000 hours of experience, which cannot be reasonably obtained within one year of employment by most applicants, so the requirement was changed to 1,000 hours; (3) The Board determined a need to adopt a qualifying exam that is more up-to-date and equitable than the current licensing exam; under the new exam scheme the Board will no longer need to collect exam fees
3	637.160	Removes specific percentage requirements for specific subject matters on the Board's examination and combines	In order to adopt a more suitable qualifying exam (see Section 2), the Board needs to alter the former regulation's rigid structure

		conceptually the written and practical examinations; also allows persons other than Board members to assist in the administration of the examination	regarding percentage requirements for each subject matter and strict separation of the written and practical examinations. The former regulation was unworkable and did not take into account changes in the profession, so the Board increased the effectiveness of the testing regime by making it more flexible and realistic
4	637.190	Moves the Board from a system of receiving and reviewing all continuing education from every licensee to an auditing methodology	The Board needs to move to the auditing methodology used by other licensing boards to allow the Board's staff to focus its efforts on more critical functions; the Board's increasing number of licensees has made the collection and review of all continuing education from every licensee impractical
5	637.200	See answer to Sec. 4	See answer to Sec. 4
6	637.263	Removes the obligation of an apprentice to prove "orderly progress" on each annual renewal	The Board needs to remove the burden of policing the progress of its apprentices on a yearly basis, which was consuming one or two entire Board meetings per year; the Board is placing the responsibility on the apprentices to assure their own progression towards full licensure, similar to the processes of other licensing boards
7	637.265	Increases an apprentice's annual renewal fee from \$50 to \$100	The Board needs to increase apprentices' renewal fees because the quantity of apprentice renewals has increased, and therefore, also the workload on the Board's staff
8	637.280	Clarifies the requirements for supervision by a licensed optician for an apprentice	The Board needs to clarify the rules and reporting applicable to licensed opticians who supervise apprentices; this is one of the leading causes of complaints and disciplinary investigations, so

			clearer rules are hoped to alleviate some of the causes for complaints and discipline and to increase accountability for licensed opticians to assure optimum training of apprentices
9	637.285	Adds new language to clarify the educational requirements for apprentices, including creating a 40-month time limit within which the education must be completed so that apprenticeships cannot be perpetual	The Board needs to create accountability for apprentices who are not completing their educational requirements in a timely manner and who are, in some cases, apprentices for as long as nine years without ever completing the requirements for full licensure as an optician
10	637.287 637.295	& Repeals the two provisions	The Board no longer needs NAC 637.287 because of the changes worked by Sec. 9 and no longer needs NAC 637.295 because of the changes worked by Secs. 4 & 5

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

The Board discussed and crafted the language that ultimately became R106-14 at its regular meetings on June 11, 2014, August 13, 2014, October 6, 2014, February 11, 2015, April 8, 2015, July 8, 2015, and August 12, 2015. At each meeting, some of the Board's licensees were in attendance and several spoke as to various aspects of the regulations, though the central focus of the comments was tangentially-related issues such as whether licensees would continue to receive continuing education credit for attending Board meetings and whether the Board might adopt a national examination to replace its present examination. Based upon the discussions, the Board made some changes to the proposed language.

On October 20, 2015, the Board held a workshop regarding R106-14. Some of the Board's licensees attended and participated in the workshop. Though numerous of the Board's licensees spoke, as before, most of the comments focused on tangential issues such as whether licensees would continue to receive continuing education credit for attending Board meetings and whether the Board might adopt a national examination to replace its present examination. Because the tangential issues were not actually part of the regulation at issue, they were discussed with the participants but did not effectuate any change to the regulations.

On June 14, 2016, the Board held a regulation hearing regarding R106-14. The hearing was video-conferenced between locations in Las Vegas and Carson City. Copies of the notice of hearing and the proposed text of R106-14 were e-mailed to all the

Board's licensees for whom the Board had e-mail addresses and mailed to all people who have sought such public documents pursuant to the Nevada Open Meeting Law. The Notice of Hearing and the proposed text of R106-14 were sent to a total of 460 persons. Fourteen of the Board's licensees submitted written comments in response to the Notice and six licensees testified in person at the hearing. As before at the Board's informal discussion of the regulations and at the workshop, most of the comments focused on the tangential issue of the Board's adoption of a national certification exam to replace the present board-administered examination. Some questioned whether licensure requirements were being removed or lessened, but those questions were addressed by pointing the audience to NRS provisions that contain the licensure requirements at issue. Because the tangential issues were not actually part of the regulation at issue, they were discussed with the participants but did not effectuate any change to the regulations.

Because of the obvious interest in the proposed regulation, the Board held an additional hearing on August 10, 2016 in Las Vegas. Copies of the Notice of Hearing and the proposed text of R106-14 were emailed to all of the Board's licensees for whom the Board had e-mail addresses and mailed to all people who have sought such public documents pursuant to the Nevada Open Meeting Law. The Notice of Hearing and the proposed text of R106-14 were sent to a total of 461 persons. Five of the Board's licensees submitted written comments in response to the Notice and seven licensees testified in person at the hearing. As before during the Board's informal discussion of the regulations at its meetings, at the workshop, and at the June 14th hearing, most of the comments focused on the tangential issue of the Board's adoption of a national certification exam to replace the present board-administered examination. Some questioned whether licensure requirements were being removed or lessened, but as before, those questions were addressed by pointing the audience to NRS provisions that contain the licensure requirements at issue. Because the tangential issues were not actually part of the regulation at issue, they were discussed with the participants but did not effectuate any change to the regulations at issue.

A summary of the public comment, as required by NRS 233B.066(1)(b), may be obtained by contacting Corinne Sedran, Executive Director, by e-mail addressed to info@nvopticians.org, by phone at (775) 689-0132, or by regular mail addressed to 4790 Coughlin Parkway #241, Reno, Nevada 89519-0907.

3. The number of persons who:

(a) Attended the October 20, 2015 Workshop – 46
Testified at the October 20, 2015 Workshop – 4

(b) Attended the June 14, 2016 Hearing – 50
Testified at the June 14, 2016 Hearing – 6
Attended the August 10, 2016 Hearing – 46
Testified at the August 10, 2016 Hearing – 7

(c) Submitted written statements for the October 20, 2015 Workshop – 0
Submitted written comments for the June 14, 2016 Hearing – 14
Submitted written comments for the August 10, 2016 Hearing – 5

- 4. For each person identified in subparagraph (b) and (c) above, following is the information that was provided to the Nevada State Board of Dispensing Opticians:**

Name	Phone #	Business Address	Business Phone #	E-mail	Representing	Hearing
Linda Brown	None provided	None provided	None provided	lyoneyes@charter.net	Self	6/14/16
Temma Chaparro	(530) 305-5351	None provided	None provided	babywarrior@aol.com	Self	10/20/15 8/10/16
Chris DeVaul	None provided	None provided	None provided	Chris.devaul@gmail.com	Self	6/14/16
Elizabeth Guriglia	(702) 569-5272	None provided	None provided	None provided	Self	8/10/16
Brent Hanson	None provided	None provided	None provided	Bhanson1990@gmail.com	Self	6/14/16
Scott Helkaa	None provided	None provided	None provided	Scott.helkaa@csn.edu	Self	10/20/15 6/14/16
Edward Jiongco	None provided	None provided	None provided	edjoptician@yahoo.com	Self	8/10/16
Lori Leonard	None provided	None provided	None provided	loridave@hotmail.com	Self	6/14/16
Kyler Lund	None provided	None provided	None provided	None provided	Self	8/10/16
Carole Neel	(702) 612-2514	None provided	None provided	None provided	Self	8/10/16
Robert Olds	None provided	None provided	None provided	Rolds52@hotmail.com	Self	10/20/16
Mary Ruth	(775) 848-9320	None provided	None provided	None provided	Self	6/14/16 8/10/16
Tina Sanchez	None provided	None provided	None provided	tibuchick@yahoo.com	Self	8/10/16
Tamara Sternod	None provided	None provided	None provided	tsternod@gmail.com	Self	6/14/16
David Stuart	None provided	None provided	None provided	davidbstuart@yahoo.com	Self	10/20/16

5. 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 by emailing the Notice of Hearing and the text of R106-14 to all of the Board's licensees and to all persons on the Board's mailing list maintained pursuant to the Open Meeting Law. Other interested persons may obtain a copy of the comments received by contacting the Board's Executive Director.

6. If the regulation was adopted with changes to any part of the proposed regulation, a summary of the reasons for adopting the regulation with change.

The testimony received and written documents presented at the hearings were considered by the Board and resulted in a single amendment to the language of R106-14

that was adopted by the Board. The amendment changed the regulation's required retention period for proof of continuing education credits from 2 years to 3 years. This change will facilitate the Board's oversight by audit of continuing education requirements.

- 7. 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.

An anticipated adverse effect is the increase of an apprentice's annual license renewal fee from \$50 to \$100. An anticipated beneficial effect is the elimination of travel costs to those persons seeking to take the Board's licensing examination. Neither effect is anticipated to have a significant resulting financial effect on optical businesses or the public.

(b) Both immediate and long-term effects.

The anticipated adverse and beneficial economic effects would be both immediate and long-term.

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

There will be no significant cost to the Nevada State Board of Dispensing Opticians to enforce the proposed regulation.

- 9. 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 similar regulations of other state or government agencies that the proposed regulation overlaps or duplicates.

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

This proposed regulation is not more stringent than any federal law or regulation.

- 11. 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.**

The two altered fees will result in a net annual decrease to the Board of approximately \$6,000. This decrease is the difference between the annual increase of approximately \$6,000 due to the increased Apprentice License renewal fees, and the

annual decrease of approximately \$12,000 due to the removal of examination fees. The decrease will not have a negative impact on

the Board's overall financial situation because changes to the examination will eliminate many travel costs to the Board.

Signed this 7th day of September, 2016.

/s/

Corinne Sedran, Executive Director
Nevada State Board of Dispensing Opticians