



STATE OF NEVADA

BOARD OF DISPENSING OPTICIANS

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NOTICE OF INTENT TO ACT UPON A PROPOSED REGULATION R106-14

Notice of Hearing for the Adoption of a Permanent Regulation of the Nevada State Board of Dispensing Opticians

NOTICE IS HEREBY GIVEN that the Nevada State Board of Dispensing Opticians will hold a Public Hearing at 1:00 p.m., on August 10, 2016, at:

Nevada Legislative Counsel Bureau
555 E Washington Avenue, Suite 4412
Las Vegas, NV 89101

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a regulation pertaining to Chapter 637 of the Nevada Administrative Code, LCB File No. R106-14. The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation.

The need and purpose of the proposed regulation is multifaceted and is intended to update various Board regulations to adapt them to present practices and needs, including the following as described by the Legislative Counsel Bureau:

Under existing law and regulations, members of the Board of Dispensing Opticians are entitled to a salary of not more than \$150 per day while engaged in the business of the Board. (NRS 637.045; NAC 637.120) **Section 1** of this regulation clarifies that certain meetings and proceedings are considered to be part of the business of the Board.

Existing law requires an applicant for licensure as a dispensing optician to pass an examination given by the Board and authorizes the Board to waive that requirement for an applicant under certain circumstances. (NRS 637.100, 637.110, 637.127) Existing regulations require an applicant seeking to take such an examination to apply to the Board at least 60 days before the date of the exam and pay a fee of \$350. (NAC 637.150) **Section 2** of this regulation removes the 60-day requirement and lowers the fee to \$100. **Section 2** also lowers the hours of training and experience required for certain applicants from 2,000 to 1,000. Existing regulations require that at least two Board members be present during the examination and authorize the Board to employ other dispensing opticians to assist in administering the practical portion of the examination. (NAC 637.160) **Section 3** of this regulation authorizes the Board to employ others to assist in the administration of the examination and removes: (1) the distinction between a practical section of the examination and a written section of the examination; (2) the approximate

proportion of each subject that is to be included on the examination; and (3) the requirement that two Board members be present during the examination.

Existing law requires a licensed dispensing optician to complete annual continuing education and to submit proof of completion of such continuing education to the Board to renew his or her license. (NRS 637.135, 637.140) Under existing regulations, the Board must approve each course of continuing education offered before a licensed dispensing optician can receive credit for the course. Existing regulations also limit the number of continuing education credits a licensed dispensing optician may receive each year, but allow a certain number of additional credits earned to be applied to the continuing education requirements for the following year.

(NAC 637.200) Existing regulations also require a licensed dispensing optician to submit to the Board certificates of completion for continuing education each year with his or her license renewal. (NAC 637.190) **Section 4** of this regulation newly provides that a licensed dispensing optician must submit to the Board a statement affirming that the licensee has taken the required hours of continuing education and listing the courses taken. **Section 4** further authorizes the Board to require a licensed dispensing optician to verify his or her statement regarding continuing education by submitting, at the request of the Board, certificates of completion for the courses listed on the statement submitted to the Board for renewal of the license. **Section 4** also clarifies that a licensed dispensing optician who fails to complete the required number of continuing education hours or makes any false statements or representations regarding the completion of continuing education is subject to discipline by the Board. **Section 5** of this regulation newly authorizes the Board to grant approval for all continuing education courses offered by certain organizations or sponsors recognized by the Board. **Section 5** further provides that licensees who have completed additional hours of continuing education to be applied to the requirements for continuing education the following year must not submit those certificates to the Board unless requested by the Board. **Section 5** also allows licensees to receive up to 4 hours of continuing education credit each year for certain community service time spent providing dispensing optician services.

Existing law authorizes the Board to set a fee, not to exceed \$200, for the renewal of a license as an apprentice dispensing optician. (NRS 637.123) **Section 7** of this regulation raises the renewal fee for a license as an apprentice dispensing optician from \$50 to \$100.

Existing law requires that an apprentice dispensing optician be directly supervised by a licensed dispensing optician, a licensed ophthalmologist or a licensed optometrist. (NRS 637.125) Existing regulations require that a supervisor or a substitute supervisor be on the premises of the optical establishment at all times to directly supervise the apprentice dispensing optician. (NAC 637.280) **Section 8** of this regulation newly provides that: (1) a licensed dispensing optician may not be the supervisor of record for more than two apprentice dispensing opticians; and (2) the Board may require a supervisor of record to conduct a periodic review of an apprentice dispensing optician.

Existing law provides that the license of an apprentice dispensing optician be renewed annually, but such a license may be renewed not more than 4 times, except in certain circumstances. (NRS 637.123) Existing regulations require an apprentice dispensing optician to enroll in an educational program on the theory of ophthalmic dispensing within 3 months after his or her initial licensure, and thereafter to demonstrate

orderly progress toward completion of his or her apprenticeship. (NAC 637.263, 637.285, 637.287) **Section 9** of this regulation raises from 3 months to 6 months the time limit for an apprentice dispensing optician to enroll in an educational program after his or her initial licensure. **Section 9** further requires an apprentice dispensing optician to complete his or her educational program in not more than 40 months, except that an extension of not more than 12 months may be requested by the apprentice dispensing optician and granted by the Board in certain circumstances. Finally, **section 9** provides that an apprentice dispensing optician who fails to meet the various time limits imposed regarding his or her educational program may not renew his or her license as an apprentice dispensing optician, but may reapply for initial licensure after waiting at least 1 year. **Sections 6 and 10** of this regulation make conforming changes regarding the educational program requirements for apprentice dispensing opticians.

2. Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

See text of R106-14 (attached hereto) for specific amendment language.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

A copy of the proposed language can be obtained by contacting the Nevada State Board of Dispensing Opticians, 4790 Caughlin Parkway #241, Reno, Nevada 89519-0907, telephone: (775) 689-0132, fax: (775) 689-0133, e-mail: info@nvopticians.org.

4. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

- (a) Both adverse and beneficial effects.

There are no anticipated adverse economic effects on the opticianry profession or the public. A beneficial effect is that the regulation will reduce the application fee from its present amount of \$350.00 to no more than \$100.00.

- (b) Both immediate and long term effects.

There are no anticipated immediate or long-term economic effects on the opticianry profession or the public except that the application fee will be reduced when the regulation becomes effective.

5. A statement identifying the methods used by the Nevada State Board of Dispensing Opticians in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608:

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, and June 10, 2015. At each such meeting, some of the Board's licensees were in attendance, and several spoke as to various aspects of the drafts at issue. Based upon the discussions, the Board made some changes to the proposed language. No participant in any of the discussions presented any evidence or argument that the proposed

drafts would have a positive or negative impact on small businesses.

On October 20, 2015, the Board held a workshop regarding the language that became R106-14. Attending and participating in the workshop were some of the Board's licensees. No participant in the discussion presented any evidence or argument that the proposed language would have a positive or negative impact on small businesses.

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

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

7. A description of any regulations of other state or local 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 notice must include the name of the regulating federal agency.

There are no similar regulations of other state or government agencies that the proposed regulations overlap or duplicate.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

This proposed regulation is not required by federal law.

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

This proposed regulation does not include any provision that is more stringent than a federal regulation that regulates the same activity.

10. The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

Persons wishing to comment upon the proposed action of the Nevada State Board of Dispensing Opticians may appear and make oral comment at the scheduled public hearing, or may address their comments, data, views or arguments, in written form, to the Nevada State Board of Dispensing Opticians, Attention: Corinne Sedran, Executive Director, at 4790 Caughlin Parkway #241, Reno, Nevada 89519-0907, telephone: (775) 689-0132, fax: (775) 689-0133, e-mail: info@nvopticians.org. Written submissions must be received by Nevada State Board of Dispensing Opticians on or before August 2, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Dispensing Opticians may proceed immediately to act upon any written submission.

Copies of the notice and the regulations to be adopted or amended will be available at the Nevada State Board of Dispensing Opticians, 4747 Caughlin Parkway, Unit 2, Reno, Nevada. A copy of this notice and the regulation to be adopted or amended has been submitted for posting for inspection by members of the public during business hours at the Nevada State Library and Archives, 100 Stewart Street, Carson City, Nevada. Copies of this notice and the proposed regulation will be mailed to members of the public upon request.

This notice and the text of the proposed regulation has been submitted to the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. This information is also available at the Nevada State Board of Dispensing Opticians' website at: <http://nvbdo.nv.gov>.

Upon adoption of any regulation, the agency, if requested to do so by an interested person either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This Notice of Hearing has been deposited at the following locations:

Nevada State Library and Archives - 100 North Stewart Street, Carson City, Nevada 89701
Nevada State Board of Dispensing Opticians – 4747 Caughlin Parkway, Reno, Nevada 89519
Carson City Library – 900 N. Roop Street, Carson City, Nevada 89701
Churchill County Library - 553 S. Maine Street, Fallon, Nevada 89406
Clark County Library – 1401 E. Flamingo Road, Las Vegas, Nevada 89119
Douglas County Public Library - 1625 Library Lane, Minden, Nevada 89423
Elko County Library - 720 Court Street, Elko, Nevada 89801
Esmeralda County Library - 10 Montezuma Way, Silverpeak, Nevada 89047
Eureka Branch Library - 210 S. Monroe, Eureka, Nevada 89316
Humboldt County Library – 85 E. 5th Street, Winnemucca, Nevada 89445
Lincoln County Library – 63 Main Street, Pioche, Nevada 89043
Lyon County Central Library – 20 Nevin Way, Yerington, Nevada 89447
Mineral County Library – 110 1st Street, Hawthorne, Nevada 89415
Pershing County Library – 1125 Central Avenue, Lovelock, Nevada 89419
Storey County Library - 95 South R Street, Virginia City, Nevada 89440
Tonopah Library – 167 S. Central Street, Tonopah, Nevada 89049
Washoe County Library – 301 S. Center Street, Reno, Nevada 89505
White Pine County Library – 950 Campton Street, Ely, Nevada 89301

This notice of intent to act upon a regulation has been e-mailed to all licensees of the Nevada State Board of Dispensing Opticians for whom the Board has permission to contact via listserv, and to all persons who have requested in writing that they be placed upon a mailing list, which is maintained by the Nevada State Board of Dispensing Opticians for this purpose.