

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

LCB File No. R106-14

May 9, 2016

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

AUTHORITY: §1, NRS 637.045 and 637.070; §§2 and 3, NRS 637.070, 637.100 and 637.110; §§4 and 5, NRS 637.070, 637.121 and 637.135; §6, NRS 637.070, 637.100 and 637.123; §7, NRS 637.070 and 637.123; §8, NRS 637.070, 637.100 and 637.125; §§9 and 10, NRS 637.070 and 637.100.

A REGULATION relating to dispensing opticians; revising provisions relating to compensation of members of the Board of Dispensing Opticians; revising provisions relating to the examination required for initial licensure as a dispensing optician; revising provisions relating to continuing education requirements for dispensing opticians and dispensing opticians with a limited license; revising the fee for renewal of a license as an apprentice dispensing optician; revising provisions relating to the supervision of and educational requirements for apprentice dispensing opticians; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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.

Section 1. NAC 637.120 is hereby amended to read as follows:

637.120 Each member of the Board is entitled to receive a salary of \$150 per day while engaged in the business of the Board ~~[]~~, *including, without limitation, a meeting conducted pursuant to NAC 637.110 and a proceeding conducted pursuant to NAC 637.310 to 637.700, inclusive.*

Sec. 2. NAC 637.150 is hereby amended to read as follows:

637.150 1. An application for an examination required to 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 or she has met the requirements set forth in NRS 637.100.
 - (b) Three letters concerning his or her character from references, one of which must be from a dispensing optician or a person who has worked in the optical industry with the applicant.
 - (c) An affidavit attesting to the truthfulness of all statements made in the application.
 - (d) 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.
 - (e) A statement indicating whether he or she has had a professional license revoked or suspended in this State or any other state or jurisdiction. If so, the applicant must disclose the circumstances of the revocation or suspension and, if requested by the Board, submit to a background check.
 - (f) A statement indicating whether he or she has been convicted of a misdemeanor, gross misdemeanor or felony in this State or any other state or jurisdiction. If so, the applicant must disclose the circumstances of the conviction and, if requested by the Board, submit to a background check.
3. For the purposes of paragraph (d) of subsection 1 of NRS 637.100, the Board will consider an applicant who has received a general equivalency diploma to have graduated from the equivalent of an accredited high school.
4. 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 the required ~~2,000~~ 1,000 hours of training and experience.

5. 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 license of a dispensing optician.

6. A fee of ~~[\$350]~~ **\$100** 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 \$250 and a written request for reexamination at least 60 days before the next date of examination.]~~

~~—7.— An applicant who has failed the examination may request to retake the examination.]~~

Sec. 3. 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 *and knowledge* of the applicant. ~~[and will consist of a practical section and a written section.]~~

2. ~~[Each section of the]~~ *The* examination will test the applicant's proficiency and knowledge in the following subjects : ~~[and approximate proportions:]~~

(a) ~~[For the practical section:]~~

~~—(1)]~~ Neutralization of ophthalmic products ~~[, 30 percent.]~~

~~—(2)];~~

(b) Ophthalmic product identification ~~[, 5 percent.]~~

~~—(3)];~~

(c) Ophthalmic instrumentation ~~[, 10 percent.]~~

~~—(b) For the written section:]~~

~~—(1)];~~

(d) Optical theory ~~[, 15 percent.~~

~~—(2)];~~

(e) Dispensing of ophthalmic products ~~[, 10 percent.~~

~~—(3)];~~

(f) The provisions of this chapter and chapter 637 of NRS ~~[, 15 percent.~~

~~—(4)]; and~~

(g) Anatomy, physiology and health of the eye . ~~[, 15 percent.]~~

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's proficiency and knowledge in the following subjects ~~and approximate proportions:~~

~~—(a) For the practical section:~~

~~—(1)];~~

(a) Neutralization of ophthalmic products ~~[, 20 percent.~~

~~—(2)];~~

(b) Instrumentation and fitting ~~[, 20 percent.~~

~~—(b) For the written section:~~

~~—(1)];~~

(c) Basic contact lens ~~[, 30 percent.~~

~~—(2)];~~

(d) The provisions of this chapter and chapter 637 of NRS ~~[, 15 percent.~~

~~—(3)]; and~~

(e) Slide identification . ~~[, 15 percent.]~~

4. 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 *may employ others* to assist in administering the ~~[practical]~~ examination.

~~[5. The Board will provide to an applicant who fails the examination written notification of the percentage scored in each subject.]~~

Sec. 4. 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]~~ *4, a statement affirming* that a dispensing optician or a dispensing optician with a limited license has ~~[taken]~~ *completed* the required hours of continuing education must be submitted to the Board at the time of license renewal. *The dispensing optician or dispensing optician with a limited license must:*

(a) *Sign the statement; and*

(b) *For each course completed, include in the statement the:*

(1) *Name of the course;*

(2) *Date on which the course was completed; and*

(3) *Number of hours of credit given for the course.*

2. *The Board may require a dispensing optician or a dispensing optician with a limited license to submit verification of the statement required by subsection 1. A dispensing optician or dispensing optician with a limited license who is notified by the Board that he or she has been chosen to submit verification pursuant to this subsection must submit to the Board a copy of the certificate of completion for each course of continuing education listed by the*

dispensing optician or dispensing optician with a limited license on his or her statement submitted pursuant to subsection 1.

3. Each dispensing optician and dispensing optician with a limited license must retain a copy of the certificate of completion for each course of continuing education taken for 2 years after the date of completion of the course of continuing education.

4. A dispensing optician ~~[or dispensing optician with a limited license]~~ who received his or her license by examination is not required to submit a *statement described in subsection 1 or copies [copy]* of ~~[a certificate]~~ *certificates* of continuing education for the first renewal of the license.

5. A dispensing optician or a dispensing optician with a limited license who fails to complete the required number of hours of continuing education or who makes any false statement or representation regarding the completion of hours of continuing education is subject to discipline pursuant to NRS 637.150.

Sec. 5. 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 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;

(h) Refractometry;

(i) Anatomy, physiology and health of the eye;

(j) Ethics in ophthalmic dispensing;

(k) Ophthalmic products;

(l) Cardiopulmonary resuscitation training; and

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

2. ~~The~~ *Except as otherwise provided in subsection 3, 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. *The Board may deem approved those courses of continuing education:*

(a) Approved for credit by an accrediting organization recognized and approved by the Board; or

(b) Provided by a sponsor or organization that has been approved by the Board.

4. 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 or her 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.~~ 5. A licensee ~~[who attends the same educational lecture]~~ *may not receive credit towards his or her hours of continuing education for a specific course of continuing education*

more than once every 3 years . ~~is entitled to count only his or her original attendance as credit toward the licensee's hours of continuing education.~~

~~—5.]~~ **6.** A dispensing optician with a limited license may not receive more than a total of six credits each year towards his or her hours of continuing education for completion of self-study courses or courses offered over the Internet.

~~[6.]~~ **7.** A dispensing optician may not receive more than a total of seven credits each year towards his or her hours of continuing education for completion of self-study courses or courses offered over the Internet.

~~[7.]~~ **8.** A dispensing optician with a limited license shall complete at least 12 hours of continuing education *not later than December 31 of* 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.

~~[8.]~~ **9.** A dispensing optician shall complete at least 14 hours of continuing education *not later than December 31 of* 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.

10. *A dispensing optician or dispensing optician with a limited license who completes additional hours of continuing education pursuant to subsection 8 or 9, as applicable, may not submit to the Board the certificate of completion for each course in which those additional*

hours of continuing education were completed unless he or she is required to do so pursuant to NAC 637.190.

11. A dispensing optician or dispensing optician with a limited license may receive credit for not more than 4 hours of continuing education each year for community service time spent providing dispensing optician services. Such credit:

(a) Must be evidenced on a form provided by and submitted to the Board; and

(b) Subject to the limit of 4 hours, will be credited on an hour-for-hour basis if approved by the Board.

Sec. 6. NAC 637.263 is hereby amended to read as follows:

637.263 1. Except as otherwise provided in subsection 2 ~~[(b)]~~ *and NAC 637.285*, an apprentice dispensing optician who fails to renew his or her license before the license expires on January 31 of each year may have the license reinstated if the apprentice dispensing optician:

(a) ~~[(Provides proof that he or she made orderly progress toward the completion of his or her apprenticeship pursuant to NAC 637.287;~~

~~—(b)]~~ Pays the renewal fee; and

~~[(e)]~~ (b) Pays the delinquency fee.

2. The Board will not reinstate the delinquent license of an apprentice dispensing optician who does not apply for reinstatement before March 1 of each year.

Sec. 7. NAC 637.265 is hereby amended to read as follows:

637.265 1. The fee for the annual renewal of a license as an apprentice dispensing optician is ~~[\$50.]~~ *\$100.*

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

Sec. 8. NAC 637.280 is hereby amended to read as follows:

637.280 1. ~~[A]~~ *An apprentice dispensing optician must have on file with the Board a supervisor of record who is licensed in this State. An apprentice dispensing optician may not have more than one supervisor of record. A licensed dispensing optician may be the supervisor of record for not more than two apprentice dispensing opticians.*

2. *Except as otherwise provided in this subsection, the supervisor ~~[who is licensed in this State]~~ of record of an apprentice dispensing optician must be on the premises of the optical establishment at all times to directly supervise ~~[an]~~ the apprentice dispensing optician. In all instances of ~~[a supervisor's]~~ the absence ~~[.]~~ of the supervisor of record a substitute supervisor who is licensed in this State must be obtained to directly supervise the apprentice dispensing optician.*

~~[2.]~~ 3. 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 *permanent* change within 10 *business* days ~~[.~~

~~3.]~~ *after the permanent change.*

4. A supervisor *of record or a substitute supervisor* shall not directly supervise more than two apprentice dispensing opticians at any one time.

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6, an apprentice dispensing optician and his or her ~~[supervisor]~~ *supervisor of record* must be employed by the same employer at the same work location.

~~{5.}~~ 6. An apprentice dispensing optician may be directly supervised by any *licensed* dispensing optician authorized to fit and fill prescriptions for contact lenses, *licensed* ophthalmologist or *licensed* 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.}~~ 7. An apprentice dispensing optician ~~{and}~~, his or her supervisor *of record and his or her substitute supervisor* must ~~{each}~~ be able to read, write, speak and understand the English language.

~~{7.}~~ 8. *The Board may require a supervisor of record to conduct a periodic review of an apprentice dispensing optician.*

9. 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) *“Permanent change” means a change in the supervisor of record of an apprentice dispensing optician that lasts 7 days or longer.*

(c) “Supervisor ~~{}~~ *of record*” means an ophthalmologist, an optometrist or a dispensing optician who directly supervises the apprentice dispensing optician.

Sec. 9. NAC 637.285 is hereby amended to read as follows:

637.285 *1.* An apprentice dispensing optician shall, within ~~{3}~~ 6 months after the date of his or her initial licensure as an apprentice dispensing optician, submit evidence to the Board that he or she is enrolled in an educational program on the theory of ophthalmic dispensing approved

by the Board. *An apprentice dispensing optician who fails to enroll in such an educational program or fails to submit evidence to the Board as required by this subsection may not renew his or her license as an apprentice dispensing optician.*

2. *Except as otherwise provided in subsection 3, an apprentice dispensing optician must complete his or her educational program required by subsection 1 not more than 40 months after the date of his or her initial licensure as an apprentice dispensing optician.*

3. *An apprentice dispensing optician may request an extension of the 40-month time limit imposed by subsection 2. Such an extension:*

(a) May not exceed 12 months; and

(b) Must be requested on a form provided by and submitted to the Board not later than 90 days before the expiration of the 40-month time limit imposed by subsection 2.

4. *Upon receipt of a request for an extension pursuant to subsection 3, the Board will grant the request if the Board finds that:*

(a) The reason for or cause necessitating the request for an extension is the result of circumstances that are emergent or were unforeseeable or otherwise outside the control of the apprentice dispensing optician;

(b) The length of the requested extension is reasonable under the circumstances; and

(c) The apprentice dispensing optician will be able to complete his or her educational program within the requested extension of time.

5. *An apprentice dispensing optician who fails to complete his or her educational program in the time required by this section may not renew his or her license as an apprentice dispensing optician.*

6. An apprentice dispensing optician who is not allowed to renew his or her license pursuant to subsection 1 or 5 may reapply for initial licensure as an apprentice dispensing optician not sooner than 1 year after the date on which his or her previous license as an apprentice dispensing optician expired.

Sec. 10. NAC 637.287 and 637.295 are hereby repealed

TEXT OF REPEALED SECTIONS

637.287 Demonstration of orderly progress toward completion of apprenticeship. (NRS 637.070, 637.100)

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 or her license, the apprentice dispensing optician must demonstrate to the Board that he or she made orderly progress during the current year toward the completion of his or her apprenticeship.

2. The Board will consider the following as proof of orderly progress:

(a) For an apprentice dispensing optician who has not yet completed the educational program on the theory of ophthalmic dispensing in which the apprentice dispensing optician is required to be enrolled pursuant to NAC 637.285 and who has been licensed for at least 6 months of the calendar year:

(1) Successful completion of one or more educational courses as part of an approved program for a degree of associate in applied science for studies in ophthalmic dispensing; or

(2) Successful completion of one or more college or home-study courses as part of an approved program for a certificate for studies in ophthalmic dispensing or contact lens theory.

(b) For an apprentice dispensing optician who has completed the educational program on the theory of ophthalmic dispensing in which the apprentice dispensing optician is required to be enrolled pursuant to NAC 637.285:

(1) Successful completion of 100 hours of practical instruction or training in contact lenses;

(2) Taking or passing the examination of the American Board of Opticianry;

(3) Taking or passing the Contact Lens Registry Examination of the National Contact Lens Examiners;

(4) Taking or passing the Board's examination for a license as a dispensing optician; or

(5) Successful completion of at least 14 hours of continuing education in accordance with NAC 637.295 if the apprentice:

(I) Made orderly progress as described in each of subparagraphs (1) to (4), inclusive, before the current renewal period; and

(II) Does not have the experience required in NRS 637.100 to qualify for the Board's examination for a license as a dispensing optician.

637.295 Continuing education. (NRS 637.070, 637.123)

1. Except as otherwise provided in subsection 2, an apprentice dispensing optician who desires to obtain a license as a dispensing optician pursuant to NRS 637.120 must make orderly

progress as described in NAC 637.287 for each year of his or her apprenticeship as a prerequisite to the renewal of his or her license. For the purpose of proving orderly progress pursuant to subparagraph (5) of paragraph (b) of subsection 2 of NAC 637.287, continuing education must meet the requirements of this section and proof of successful completion of the continuing education must be submitted to the Board not later than January 31 following the calendar year in which the continuing education was completed.

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

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

(b) Taught in a school which offers a degree of associate in applied science for studies in ophthalmic dispensing and which is nationally or regionally accredited.

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