STATE OF NEVADA



Board of Dispensing Opticians

Notice of Workshop for the Adoption of a Regulation

NOTICE IS HEREBY GIVEN that the Nevada State Board of Dispensing Opticians will hold a public workshop at 5:00 p.m. on Thursday, August 17, 2023. The purpose of the workshop is to receive comments from all interested persons regarding the potential adoption of proposed regulations, which will amend Chapter 637 of the Nevada Administrative Code. The workshop will be held in person at: Courtyard by Marriott, Tahoe Boardroom, 6855 South Virginia Street; Reno, NV 89511, and via teleconference at: (617) 829-6755.

The purposes of the proposed regulation include, without limitation: (1) removing inconsistencies between the provisions of NAC Chapter 637 and newly amended NRS Chapter 637; (2) streamlining and reorganizing various provisions of the chapter under new section headings; (3) adding or repealing definitions related to ophthalmic dispensing, as required; (4) adding or revising provisions related to the issuance, renewal, reinstatement, inactivation, and reactivation of a license; (5) revising and clarifying provisions related to the management of an optical establishment and setting forth the duties of such a manager; (6) repealing provisions related to the issuance of special licenses; (7) clarifying the scope of practice of laboratory personnel; (8) reorganizing revising provisions related to applying for a license as a dispensing optician or apprentice dispensing optician, pursuant to revised NRS requirements; (9) revising provisions related to adopting or administering exams; (10) clarifying the terms of license inactivation and reactivation and removing provisions related to inactivating a limited license as a dispensing optician; (11) reorganizing fees into a single section; (12) reorganizing and revising provisions related to the program of education and training for apprentice opticians and limitations on license renewal or the issuance of a new license; (13) revising provisions related to the required equipment for ophthalmic dispensing; (14) reorganizing and streamlining provisions related to professional practice, unprofessional conduct, and disciplinary actions; and (15) revising, repealing, and streamlining provisions related to proceedings before the Board.

Persons wishing to comment on the adoption of the proposed regulations may attend the scheduled public workshop or may address their comments, data, views, or arguments, in written form, to: Nevada State Board of Dispensing Opticians, 4790 Caughlin Parkway #241, Reno, Nevada 89519-0907 or by email to: info@nvopticians.org. Written submissions must be received or before August 15, 2023. If no interested persons attend the workshop in-person or by phone to make presentations, the Board may proceed immediately to act upon any written submissions.

STATE OF NEVADA Board of Dispensing Opticians

Notice of Public Meeting: August 17, 2023 at 5:00 p.m.

This meeting will be conducted in person at Courtyard by Marriott, Tahoe Boardroom, 6855 South Virginia Street; Reno, NV 89511, and via teleconference at (617) 829-6755

- 1. Call to Order.
- 2. General Public Comment. In consideration of others, who may also wish to provide public comment, please avoid repetition. Comments may be limited to three (3) minutes. No action will be taken on any items raised in the public comment period.
- 3. FOR POSSIBLE ACTION: Workshop to Solicit Comments on Proposed Amendments to NAC Chapter 637. Review and discuss potential amendments to the regulations pertaining to Chapter 637 of the Nevada Administrative Code as set forth in conceptual language.
- 4. General Public Comment. In consideration of others, who may also wish to provide public comment, please avoid repetition. Comments may be limited to three (3) minutes. No action will be taken on any items raised in the public comment period.
- 5. Adjourn.

Please note: Items on the agenda may be taken out of order, combined for consideration, or removed from the agenda at any time.

This notice will be posted on the following websites: nvbdo.nv.gov notice.nv.gov

A copy of this notice will be posted at 4747 Caughlin Parkway Ste. 8, Reno, Nevada 89519-0907.

Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who require special accommodations or assistance at the workshop are required to notify Corinne Sedran, Executive Director, in writing at the Nevada State Board of Dispensing Opticians, 4790 Caughlin Parkway #241, Reno, Nevada 89519-0907, or by email at: info@nvopticians.org, no later than August 15, 2023.

STATE OF NEVADA Board of Dispensing Opticians

SMALL BUSINESS IMPACT STATEMENT REGARDING PROPOSED REGULATION, PREPARED PURUSANT TO NRS 233B.0608

1. The proposed regulation does not create an economic effect on either Nevada businesses or the public. The regulation clarifies provisions and requirements already codified in statute and regulation but does not create new burdens on businesses or the public. As such, it would not create an adverse or beneficial economic impact either immediately or in the long-term.

2. A concerted effort was made to determine any economic burden. The Board reviewed many of the proposed regulations at its regular meetings throughout 2021 and 2022, and additional revisions were added by staff in 2023 to reflect amendments to NRS Chapter 637. During its consideration of these items at meetings, the Board did not receive any testimony from the public indicating the proposed regulations would cause a negative impact on small businesses, and further revisions added by staff in 2023 do not impose any financial or regulatory burdens on small businesses. The Board is composed of industry members employed by a range of employer types, from large corporations, to small, independent offices. None of the Board members expressed concern that the proposed regulations would create a financial burden on their employers or colleagues. No new fees or regulatory burdens are being proposed, other than a \$50 increase to the fee to renew a singular license as a dispensing optician.

3. Enforcement of the proposed regulation will not create any additional costs for the Board.

4. The proposed regulation provides a \$50 increase to the annual fee to renew a singular license as a dispensing optician. The total annual amount the agency expects to collect is approximately \$20,000, which the Board will use to offset increased operating costs, including the cost of maintaining an online licensing system and increased office rent and utilities fees.

5. There are no regulations of other federal, state, or local governmental agencies which the proposed regulation overlaps or duplicates.

Interested persons may present their views regarding the proposed regulation either in writing, or during the workshop.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.

Corinne Sedran

Corinne Sedran, Executive Director Nevada State Board of Dispensing Opticians

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
GENERAL PROVISIONS	 Add definition of "ophthalmic product" Add provision related to officers of the Board/officer elections 	 Make definition of term consistent throughout chapter; organization of chapter (move definition from 637.140(4) to definitions section) Concision: other provisions under section heading "BOARD OF DISP OPTICIANS" are redundant and should be repealed; remaining section to be moved under "GENERAL PROVISIONS"
637.003 "Board" defined.	Repeal	Redundant to NRS provision
637.006 "Dispensing optician" defined.	Repeal	Redundant to NRS provision
637.009 "Manage a business engaged in ophthalmic dispensing" interpreted.	Repeal	Clarity: all provisions related to management will be updated to refer to "optical establishment" instead of "business engaged in…" per NRS amendments and combined under 637.144 for clarity and consistency
BOARD OF DISPENSING OPTICIANS	Remove entire section	Redundant to NRS provisions or otherwise unnecessary; provisions related to workplace inspections will be reorganized under OPTICAL ESTABLISHEMENTS section heading and hearings/investigations will be reorganized under "PROCEEDINGS BEFORE THE BOARD" section heading
<u>637.100</u> Officers.	Reorganize	Move under "GENERAL PROVISIONS"
<u>637.110</u> Meetings.	Remove unnecessary provisions; reorganize remaining provisions under GENERAL PROVISIONS	Most provisions redundant to NRS or unnecessary/not included in other boards' regulations; reorganize provision related to rules of order/ disrupting a public meeting under GENERAL PROVISIONS
637.120 Salary of members.	Repeal	Redundant to NRS provision/not included in other boards' regulations
637.123 Inspections: Authority of Board; licensee to provide access; failure to cooperate; disciplinary action.	Reorganize under new section heading	Reorganize provisions related to workplace inspections under new section: "OPTICAL ESTABLISHMENTS" with other provisions related to workplace requirements
637.125 Hearings and investigations; taking evidence.	Reorganize	Move under "PRACTICE BEFORE THE BOARD" with other provisions related to disciplinary actions
LICENSING	 Add new sections to cover terms of license renewal, delinquency, and reinstatement for all types of licenses issued by the Board Remove all provisions related to specific fees 	 Per amendments to NRS, specific terms of license renewal, delinquency, and reinstatement will be addressed in regulation; terms of reinstatement must be updated to reflect NRS amendments (1 year for opticians; 30 days for apprentices) All fees will be consolidated under a single FEES section heading

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
<u>637.130</u> Definitions.	Repeal	Redundant/unnecessary definitions of "dispensing optician" and "dispensing optician with a limited license"
<u>637.132</u> Special license: Interpretation of statutory requirements.	Repeal; move provisions related to out-of-state applicants to 637.150	Inapplicable: NRS provisions related to "Special Licenses" repealed; all applications for licensure as a dispensing optician will be combined under a single section
<u>637.140</u> License required to provide ophthalmic products directly to public; authorized scope of practice of laboratory personnel.	Streamline/reorganize	Remove unnecessary/redundant language related to laboratory personnel; move definition of "ophthalmic products" to "GENERAL PROVISIONS" section heading; reorganize provisions related to providing products/scope of practice of laboratory personnel under PROFESSIONAL PRACTICE section heading
637.144 Requirements for managing ophthalmic dispensing.	Streamline/clarify/incorporate provisions from 637.009 (to be repealed); remove references to "ophthalmic" versus "business" managers; move all provisions under new section heading: OPTICAL ESTABLISHMENTS (below at 637.237)	Eliminate/incorporate inconsistent provisions from 637.009; reflect recent amendments to NRS (AB 415); clarify roles/responsibilities of licensed managers; clarify management provisions only applicable to management of "ophthalmic establishments," per Sec. 5 of AB 415 (NRS)
<u>637.148</u> Completion and proof of required hours of training and experience.	Repeal/reorganize some text/remove specific hourly requirements for areas of practice	Reorganize all provisions related to program of apprenticeship under single section heading; allow board more flexibility to determine appropriate areas/hours of contact lens practice
637.150 Application for examination: Contents; training and experience required for certain applicants; fees.	Revise/streamline/ reorganize apprentice training requirements; update requirements for license as optician; incorporate requirements for out-of- state applicants (previously "Special Licenses" under 637.132)	Apprenticeship hourly training requirements will be consolidated under PROGRAM OF APPRENTICESHIP section heading for clarity; rest of section will be streamlined/revised to include only application requirements for opticians (exam requirements amended in NRS); requirements for out-of-state applicants will be added under this section, per amended NRS provisions; fee provision will be consolidated under new FEES section heading
637.160 Scope, content and administration of examination.	Revise	Update to reflect Board's current practice of utilizing national certification exams/separate Laws Exam, rather than preparing/ administering its own exam
<u>637.190</u> Continuing education: Submission of statement affirming completion; request for verification by Board; exemption for first renewal of license; disciplinary action for failure to comply.	Revise/streamline	Streamline redundant language; update requirements for reporting CEs to the Board, as necessary

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
637.200 Continuing education:	Revise/streamline	Streamline any redundant language; allow for CE course to be
Subjects; approval of and credit for		approved by board post-attendance; clarify provision related to CE
courses; minimum hours; credit for		credit for community service (contact lens vs spectacle credit)
community service.		
637.215 Transfer of license to inactive	Revise/remove inapplicable provisions	Remove provisions related to inactivation of Limited License
list; renewal of inactive status;		(disallowed by NRS amendment); clarify maximum amount of time
reactivation of license.		a license may be inactive before it expires permanently (a license
		that is not reactivated expires, does not become delinquent);
		clarify terms of consecutive versus non-consecutive periods of
		inactive status
637.218 Reinstatement of expired	Repeal/reorganize provisions	Reorganize provisions into new sections that give specific
license.		terms/instructions for the renewal, delinquency period, and
		reinstatement of all license types, per amended NRS; update
		provisions to reflect revised periods of reinstatement (1 year
	Demost /regressing	for opticians, 30 days for apprentices), per amended NRS
637.220 Fees for renewal, reinstatement, transfer and	Repeal/reorganize	All fees will be reorganized under a single FEES section heading
reactivation of license; waiver		
of renewal fee for first renewal		
of license.		
<u>637.225</u> Issuance of duplicate license.	Repeal	Inapplicable: licensees may print their own duplicate certificates
637.230 Licensees to file addresses	Revise/reorganize	Clarify reporting requirements pertain to mailing address and
and change of address with Board.		not "program address"; specify Board chooses required method
C C		of reporting
FEES (NEW SECTION)	Insert new section	Consolidate all fees for licensure (initial, renewal, delinquency/
		reinstatement, inactivation/reactivation) under a single section
		heading; increase fee for renewal of a dispensing optician
		license by \$50 to offset increased Board expenses
PROFESSIONAL PRACTICE (AND	1. Amend title of section heading	1. New title better represents provisions under its umbrella
DISCIPLINARY ACTIONS)	2. Reorganize provision related to the	2. Improve organization of chapter: include <u>637.239</u> Adoption by
	adoption by reference of ANSI standards	reference of certain standards for prescription ophthalmic
	3. Reorganize other provisions related to	lenses under this section heading
	professional practice under this section	3. Reorganize/revise/consolidate provisions from the following
	heading	sections under this section heading: <u>637.235</u> Grounds for
	4. Add new section: Citations	disciplinary action: "Unethical or unprofessional conduct"

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
637.235 Grounds for disciplinary	Revise	 interpreted; <u>637.280</u> Supervision of apprentice; notice of permanent change of supervision. 637.300 Change of employer; <u>637.230</u> Licensees to file addresses and change of address with Board 4. Form and contents of citations must be added to regulations pursuant to amended NRS Streamline, reorganize, and clarify acts that constitute
action: "Unethical or unprofessional conduct" interpreted.	Revise	"unprofessional conduct"; add provision related to apprentice opticians defying instructions of their supervising opticians or dispensing when not properly supervised
Citations	Include new section	Per amended NRS Chapter 637, the Board may now issue citations for violations of that chapter or NAC Chapter 637; this section will outline the form of such a citation and give the monetary penalties for individual infractions
OPTICAL ESTABLISHMENTS (NEW SECTION)	Create new section heading to cover requirements/guidelines pertaining to the workplace	Consolidate/organize all provisions related to workplace requirements, including: <u>637.144</u> Requirements for managing ophthalmic dispensing; <u>637.237</u> Use of supervisory authority over person who manages business engaged in ophthalmic dispensing; <u>637.241</u> Equipment for dispensing opticians; general requirements; <u>637.245</u> Equipment for fitting contact lenses; <u>637.250</u> Advertising which quotes prices of ophthalmic goods and services.
<u>637.239</u> Adoption by reference of certain standards for prescription ophthalmic lenses.	Revise; reorganize	Update reference to ANSI standards; remove requirement for Board to review revisions to standards/hold hearing; remove provision related to obtaining a copy of the current version of ANSI standards; reorganize provisions under PROFESSIONAL PRACTICE
637.241 Equipment for dispensing opticians; general requirements.	Revise/consolidate	Update required equipment and combine with section 637.245
<u>637.245</u> Equipment for fitting contact lenses.	Repeal/consolidate	Update required equipment and combine with section 637.241
APPRENTICE DISPENSING OPTICIANS (PROGRAM OF APPRENTICEHSIP)	Amend title to: PROGRAM OF APPRENTICESHIP	All provisions related to apprentice training requirements will be consolidated under this section heading, including: 637.285 evidence of enrollment in educational program on theory of ophthalmic dispensing or adequate prior ophthalmic experience; inactivation of license for failure to comply; appeal of decision to inactivate; time limit for completion of program; request for

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
		extension; effect of failure to complete program; 637.290 Training
		and experience; areas of instruction.
		Other provisions related to apprentice opticians will be reorganized
637.260 Qualifications for licensure;	Repeal/reorganize	under other section headings Qualifications for licensure will be reorganized under LICENSES
application; fee.	Repearreorganize	section heading; fees will be reorganized under FEES section
<u>637.263</u> Reinstatement of expired	Repeal/reorganize	Reinstatement, restrictions on number of renewals or issuance of
license; reapplication for licensure.		new licenses will be consolidated under LICENSES section heading;
637.265 Fee for renewal or	Repeal/reorganize	All fees will be consolidated under single FEES section; waiver of
reinstatement of license; waiver of		fee for first renewal of license provision will be included under
renewal fee for first renewal of		LICENSING section
license.		
637.280 Supervision of apprentice;	Reorganize	These provisions will be consolidated under PROFESSIONAL
notice of permanent change of		PRACTICE section heading
supervision.		
637.285 Evidence of enrollment in	Revise	Provisions will be revised in accordance with amended NRS
educational program on theory of		provisions: apprentices now required to be licensed for 2 years
ophthalmic dispensing or adequate		instead of 3; time limit for completion of program will now be
prior ophthalmic experience; inactivation of license for failure to		measured in renewal cycles (3 or 4 cycles depending on date of initial licensure); 40-month time limit does not reflect NRS
comply; appeal of decision to		provisions and will be removed
inactivate; time limit for completion		
of program; request for extension;		
effect of failure to complete program.		
637.290 Training and experience;	Revise; streamline; repeal certain provisions	Provisions will be revised in accordance with amended NRS
areas of instruction.		provisions: apprentices now required to be licensed for 2 years
		instead of 3; provision allowing courses as part of a degree program
		to be applied in lieu of training hours will be repealed; specific
		requirements related to units of spectacles (currently under
		637.150) or hours of contact lens training (currently under 637.148)
		will be consolidated here, along with requirements for tracking
627 200 Change of analysis	Deergenize	hours/units
637.300 Change of employer.	Reorganize	Move provision under PROFESSIONAL PRACTICE section heading

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
PRACTICE BEFORE THE BOARD OF	Rename section heading: PROCEEDINGS BEFORE	New heading better reflects content of provisions; is consistent with
DISPENSING OPTICIANS	THE BOARD	other boards' regulatory structure
(PROCEEDINGS BEFORE THE BOARD)		
General Provisions	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
		of provisions under their umbrella
<u>637.310</u> Scope.	Repeal	Inapplicable/redundant: cited NRS provision amended and no
		longer applies; citation of NAC provisions unnecessary
637.320 Communications.	Repeal	Outdated: Many formal documents/payments are now submitted
		electronically; postmark provision already provided by NRS 238.100
637.333 Authority to file complaint.	Repeal	Provision redundant to amended NRS provision
637.335 Form and contents of	Revise	Update required form/contents of complaint to allow for electronic
complaint.		submissions, other required updates
637.337 Review and investigation of	Revise	Allow Board to choose a designee other than Executive Director to
complaint; filing of charging		prepare charging documents, conduct investigations, etc. if needed;
document.		charging document will be filed on behalf of the Board
Parties	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
		of provisions under their umbrella
637.340 Classification of parties.	Repeal	Unnecessary provision related to how to classify parties within
		legal documents; is not consistent with other board's regulations
637.390 Service of process on	Repeal/reorganize	Consolidate provision with 637.470, covering all other service of
attorney.		process provisions
637.410 Conduct required; removal	Revise	Change verbiage from "ethical and courteous" to "conform to all
from proceeding.		standards of ethical and courteous behavior required in the courts
		of this State"
Pleadings, Motions, Briefs and Other	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
Papers		of provisions under their umbrella
<u>637.430</u> Petitions.	Repeal/reorganize	Combine provision dfining "petition" with other petition provisions
		under 637.650
<u>637.460</u> Filing.	Repeal	Unnecessary; filing of pleadings, motions, and briefs addressed by
		other NV laws; provision not consistent with other boards'
		regulations
637.470 Service of process.	Revise/consolidate	Remove provision requiring Board to supply an apprentice's
		employer with a copy of a notice of a disciplinary hearing as it is
		inconsistent and does not specify if "employer" is company, optical

NAC SECTION/SECTION HEADING	PROPOSED REVISION	CONCEPTUAL AMENDMENT/JUSTIFICATION FOR REVISION
		establishment, supervisor, or manager; consolidate provision related
		to service of process on attorney (637.390) into this section
637.480 Proof of service.	Repeal	Unnecessary; form of certificate dictated by other NV laws;
		not consistent with other boards' regulations
Proceedings	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
		of provisions under their umbrella
637.550 Testimony must be under	Repeal	Unnecessary; issuance of oaths/taking testimony at hearings
oath.		addressed by other NV laws; provision not consistent with
		other boards' regulations
Declaratory Orders and Advisory	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
Opinions		of provisions under their umbrella
637.650 Petitions.	Revise	Consolidate provisions of 637.700 (petition for regulation change)
		into this section; include additional details that must be submitted
		with petitions
637.660 Procedure for consideration	Revise	Consolidate provisions of 637.700 (petition for regulation change)
of petition.		into this section; grant Board additional time to review petitions
637.670 Draft of order or opinion by	Revise	Provisions governing drafting of order or opinion not
member of Board; approval by Board.		administratively feasible (would require special meetings) and not
		consistent with other boards' statutes; revise to allow assigned
		board member/all board members enough time to prepare/approve
		response to petition at regularly scheduled board meetings
<u>637.680</u> Notice.	Repeal	Redundant citation of 637.470, and inapplicable citation of 637.480
		(to be repealed)
<u>637.690</u> Compliance with opinion or order.	Repeal; consolidate	Consolidate single provision into 637.670 (draft of order or opinion)
Petitions for Adoption, Filing,	Remove subsection heading	Subsection headings are unnecessary and do not reflect content
Amendment or Repeal of Regulations 637.700 Format; contents; action by	Repeal	of provisions under their umbrella Provisions governing response to petition for change of regulation
Board.		not administratively feasible (would require special meetings) and
		not consistent with other boards' statutes; revise and combined
		with other provisions related to petitions for declaratory orders,
		etc. (637.650 and 637.660)