

SUMMARY—Revises provisions relating to dispensing opticians. (BDR 54-846)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to dispensing opticians; defining certain terms and revising certain definitions relating to ophthalmic dispensing; authorizing the Board of Dispensing Opticians to employ an Executive Director; providing immunity from civil liability to the Board and any of its members for certain acts; authorizing the Board to take certain actions against a person who commits certain violations; expanding the purposes for which the Board is authorized to accept gifts, grants, donations and contributions; revising provisions relating to the issuance, renewal, reinstatement, revocation and suspension of licenses; authorizing the Board to adopt certain regulations; requiring the Board to establish a schedule of fees relating to licensing; revising provisions relating to the confidentiality of certain information maintained by the Board; prescribing criteria for eligibility for a license as an apprentice dispensing optician; revising the criteria for eligibility for a license as a dispensing optician; revising certain provisions relating to a limited license as a dispensing optician; removing the authority of the Board to issue a special license as a dispensing optician; reorganizing various provisions; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law creates the Board of Dispensing Opticians to regulate the practice of ophthalmic dispensing and requires the Governor to appoint the members to the Board. (NRS 637.030) **Section 17** of this bill authorizes a member of the Board to continue in office until his or her successor is appointed. **Sections 18, 20, 21 and 33** of this bill revise and reorganize certain provisions governing the powers, duties and operations of the Board. **Section 18** prescribes requirements for determining whether a quorum is present at a meeting of the Board. **Section 20** authorizes the Board to employ an Executive Director. **Sections 21 and 30** of this bill expand the purposes for which the Board is authorized to accept gifts, grants, donations and contributions. **Section 19** of this bill clarifies certain language relating to the compensation and travel expenses of members and employees of the Board. **Section 6** of this bill provides that the Board and any of its members, staff and employees are immune from civil liability for any act performed in good faith and without malicious intent or gross negligence in the execution of any duty of the Board. **Section 2** of this bill sets forth certain legislative declarations concerning the regulation of the practice of ophthalmic dispensing.

Existing law authorizes the Board to issue a license as a dispensing optician, a limited license as a dispensing optician and a license as an apprentice dispensing optician. (NRS 637.120, 637.121, 637.123) Existing law establishes requirements concerning the expiration and renewal of such licenses and, for a license or limited license as a dispensing optician, the placement of such a license on inactive status and the reactivation of such a license. (NRS 637.121, 637.123, 637.140) **Section 33** repeals various requirements relating to the expiration and renewal of a license, the



placement of a license on inactive status and the reactivation of a license. **Section 8** of this bill authorizes the Board to adopt regulations prescribing such requirements, as well as various other requirements relating to licensure.

Existing law: (1) authorizes the Board to adopt regulations necessary to carry out the provisions of existing law governing ophthalmic dispensing; and (2) requires the Board to adopt regulations setting forth minimum standards of optical and ophthalmic devices. (NRS 637.070, 637.073) **Sections 22, 28 and 33** of this bill: (1) reorganize certain provisions authorizing the Board to adopt regulations; (2) authorize, rather than require, the Board to adopt standards for optical and ophthalmic devices; and (3) authorize the Board to adopt certain other regulations.

Existing law provides that, in order to be eligible to hold a limited license as a dispensing optician, a person must have held such a license on February 1, 2004. Existing law: (1) authorizes the holder of such a license to practice ophthalmic dispensing; and (2) prohibits the holder of such a license from selling, furnishing or fitting contact lenses. (NRS 637.121) **Section 27** of this bill clarifies that, in order to be eligible for a limited license as a dispensing optician, a person must have held such a license since February 1, 2004. **Section 27** also: (1) requires a limited license to be displayed at the holder's place of practice; and (2) prohibits a limited license from being placed on inactive status on or after January 31, 2023.

Existing law authorizes the Board to take certain actions and impose certain penalties against an applicant for or the holder of a license or an unlicensed person who commits certain violations of the provisions of existing law governing ophthalmic dispensing. (NRS 637.150, 637.181, 637.183, 637.185) **Section 10** of this bill authorizes a person to file a complaint with the Board if



the person reasonably believes a violation is occurring or about to occur. **Section 11** of this bill authorizes the Board to issue or authorize the issuance of an administrative citation against a person who the Board believes, based on a preponderance of the evidence, has committed a violation. **Section 12** of the bill sets forth procedures by which a person may contest a citation. **Sections 29 and 31** revise and reorganize provisions authorizing the Board to take: (1) certain disciplinary actions against the holder of a license under certain circumstances; and (2) certain actions against a person who commits, or employs a person who commits, certain violations. **Section 30** of this bill revises and reorganizes certain provisions relating to subpoenas issued by the Board and certain hearings and investigations conducted by the Board.

Existing law sets forth certain unlawful acts relating to ophthalmic dispensing, including filling a prescription for a contact lens in violation of the expiration date or the number of refills specified by the prescription. (NRS 637.200) **Sections 32 and 33** of this bill: (1) set forth certain additional unlawful acts relating to ophthalmic dispensing; and (2) reorganize certain provisions defining when a prescription expires.

Existing law establishes qualifications for examination and licensing as a dispensing optician. (NRS 637.100) **Section 25** of this bill revises the requirements for an applicant to be eligible for a license as a dispensing optician and authorizes the Board to waive certain requirements for a person who provides proof that he or she: (1) is a graduate of a foreign school and has acquired education and experience that is equivalent to or greater than those required for licensure in this State; (2) is an active member of, or the spouse of an active member of, the Armed Forces of the United States who is on active duty; (3) has at least 5 consecutive years of work experience in the practice of



ophthalmic dispensing in the District of Columbia or any other state or territory of the United States that has requirements for licensure which are equal to or greater than the requirements in this State; or (4) holds a valid and unrestricted license to engage in ophthalmic dispensing in the District of Columbia or any other state or territory in the United States.

Existing law requires the Board to issue a special license as a dispensing optician to certain applicants who meet certain requirements and who: (1) have an active license as a dispensing optician issued by the District of Columbia or any state or territory of the United States; or (2) have not less than 5 years of experience as a dispensing optician. (NRS 637.127) **Section 33** of this bill eliminates that type of license.

Existing law requires the Board to maintain records pertaining to applicants to whom licenses have been issued or denied. (NRS 637.115) **Section 26** of this bill revises the type of information concerning applicants the Board is required to maintain. **Section 26** also requires the Board to maintain certain information concerning holders of a license and disclose certain information concerning applicants for and holders of licenses upon request. **Section 23** of this bill revises provisions relating to the confidentiality of certain information maintained by the Board.

Existing law prohibits a person from managing a business engaged in ophthalmic dispensing without a valid license issued by the Board. (NRS 637.090) **Section 24** of this bill revises that prohibition to instead prohibit a person from managing an optical establishment, as defined in **section 5** of this bill, without a valid license issued by the Board.

Existing law authorizes an apprentice dispensing optician to perform the services of a dispensing optician under the direct supervision of a dispensing optician, licensed ophthalmologist



or licensed optometrist. (NRS 637.125) **Section 7** of this bill prescribes criteria for eligibility for a license as an apprentice dispensing optician. **Section 3** of this bill defines the term “direct supervision.” **Section 28** of this bill revises the circumstances under which an apprentice dispensing optician may engage in ophthalmic dispensing.

Existing law establishes maximum fees relating to licenses issued by the Board, which the Board sets by regulation. (NRS 637.110, 637.120, 637.121, 637.123, 637.140) **Sections 27 and 33** of this bill remove provisions setting forth those maximum fees. Instead, **section 9** of this bill requires the Board to establish a schedule of various fees relating to licensure and sets forth the maximum amount of those fees.

Section 4 of this bill defines “license” to mean a license issued by the Board. **Section 13** of this bill makes a conforming change to indicate the proper placement of **sections 2-4** in the Nevada Revised Statutes. **Section 14** of this bill revises the definition of “ophthalmic dispensing” to: (1) include the issuing of a final authorization to deliver lenses, frames or other specially fabricated devices to the intended wearer and the making of certain recommendations relating to a prescription; and (2) exclude certain other activities. **Section 16** of this bill makes a conforming change to account for the revised definition of ophthalmic dispensing.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *The Legislature declares that the purpose of this chapter is to protect the public safety and welfare by ensuring that:*

- 1. Only competent and scrupulous people practice ophthalmic dispensing in this State; and*
- 2. Persons who practice ophthalmic dispensing in this State maintain an appropriate standard of professional conduct.*

Sec. 3. *“Direct supervision” means that a person is physically on the premises where ophthalmic dispensing is taking place to provide individual direction, control, inspection and evaluation of work to the person he or she is supervising.*

Sec. 4. *“License” means a license issued by the Board.*

Sec. 5. *“Optical establishment” means a single physical store, office or department of a business where ophthalmic dispensing takes place. The term includes such a store, office or department that is owned or operated by a business which owns or operates multiple stores, offices or departments where ophthalmic dispensing takes place.*

Sec. 6. *The Board and any of its members, staff and employees are immune from civil liability for any act performed in good faith and without malicious intent or gross negligence in the execution of any duties pursuant to this chapter.*



Sec. 7. 1. To be eligible for a license as an apprentice dispensing optician, an applicant must:

- (a) Be at least 18 years of age; and*
- (b) Be a graduate of an accredited high school or its equivalent.*

2. A license as an apprentice dispensing optician:

- (a) Authorizes the holder to practice ophthalmic dispensing in this State under the direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist; and*
- (b) Must at all times be conspicuously displayed at the holder's place of practice.*

Sec. 8. The Board may adopt regulations:

1. Establishing requirements for the program of apprenticeship for apprentice dispensing opticians.

2. Prescribing or adopting any examination or certificate required for the issuance of a license as a dispensing optician. Any examination prescribed or adopted by the Board must, without limitation, be designed to test an applicant's knowledge of the theory and practice of ophthalmic dispensing.

3. Prescribing the procedure for:

- (a) Submitting an application for licensure and any required documentation to the Board;*
- and*
- (b) Approving or denying applications and issuing licenses.*



4. Prescribing the period for which a license or limited license as a dispensing optician is valid and the terms for the renewal and reinstatement of such a license, which may include, without limitation, requirements for continuing education. Unless otherwise prescribed by regulation pursuant to this subsection, a license or limited license as a dispensing optician:

- (a) Expires on January 31 each year;*
- (b) Is valid until its expiration date;*
- (c) Becomes delinquent if not renewed by January 31; and*
- (d) May be reinstated not more than 1 year after the date on which it becomes delinquent.*

5. Prescribing the period for which a license as an apprentice dispensing optician is valid and the terms for the renewal and reinstatement of such a license, which may limit the number of times the license may be renewed and restrict the issuance of a new license if the apprentice dispensing optician does not meet requirements adopted pursuant to subsection 1. Unless otherwise prescribed by regulation pursuant to this subsection, a license as an apprentice dispensing optician:

- (a) Expires on January 31 each year;*
- (b) Is valid until its expiration date;*
- (c) Becomes delinquent if not renewed by January 31; and*
- (d) May be reinstated not more than 1 month after the date on which it becomes delinquent.*

6. Prescribing requirements for the placement of a license as a dispensing optician on inactive status and the reactivation of such a license. The regulations adopted pursuant to this



subsection must prohibit the reactivation of a license as a dispensing optician if the license is inactive for 10 consecutive years.

7. Prescribing requirements for the approval of a course of continuing education or a provider of a course of continuing education.

Sec. 9. *The Board shall establish a schedule of fees and charges for the following items, which must not exceed the following amounts:*

<i>An examination established by the Board pursuant to this chapter.....</i>	<i>\$500</i>
<i>An application for a license as a dispensing optician.....</i>	<i>\$500</i>
<i>An application for a license as an apprentice dispensing optician</i>	<i>\$250</i>
<i>The renewal of a license as a dispensing optician</i>	<i>\$500</i>
<i>The renewal of a limited license as a dispensing optician.....</i>	<i>\$200</i>
<i>The renewal of a license as an apprentice dispensing optician.....</i>	<i>\$200</i>
<i>The delinquency fee for a license as a dispensing optician.....</i>	<i>\$500</i>
<i>The delinquency fee for a limited license as a dispensing optician.....</i>	<i>\$500</i>
<i>The delinquency fee for a license as an apprentice dispensing optician</i>	<i>\$100</i>
<i>The placement of a license as a dispensing optician on inactive status.....</i>	<i>\$300</i>
<i>The reactivation of a license that has been placed on inactive status.....</i>	<i>\$300</i>

Sec. 10. *Any member of the public or a member or employee of the Board may file a complaint with the Board if the person reasonably believes that a provision of this chapter or*



any regulation adopted pursuant to this chapter has been or is about to be violated. The complaint must:

- 1. Be submitted on a form and in the manner prescribed by the Board;*
- 2. Set forth the alleged facts constituting the violation; and*
- 3. Be signed and verified by the person filing the complaint.*

Sec. 11. 1. *If the Board or its designee has reason to believe, based upon a preponderance of evidence, that a person has violated any provision of this chapter or any regulation of the Board, the Board may issue, or authorize its designee to issue, a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation, an order to:*

- (a) Pay an administrative fine for each violation;*
- (b) Reimburse the Board for the amount of the expenses the Board incurred to investigate each violation, not to exceed \$150; and*
- (c) Correct, at the cost of the person, a condition resulting from the violation. The order to correct the condition must:*

(1) State the date by which the person must comply, which must be not less than 15 days after the date on which the person receives the citation. The Board may, for good cause, extend the date for compliance with the order.

(2) Describe in detail the actions that must be taken.

2. If a citation is issued to the holder of a license pursuant to this section and includes an order to pay an administrative fine for one or more violations, the amount of the administrative



fine must not exceed the maximum amount authorized by subsection 2 of NRS 637.150 for each violation.

3. Except as otherwise provided in NRS 637.181, if a citation is issued pursuant to this section to a person who is not licensed by the Board and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:

(a) For the first violation, must not be less than \$100 or more than \$1,000;

(b) For the second violation, must not be less than \$250 or more than \$5,000; and

(c) For the third violation and for each subsequent violation, must not be less than \$500 and not more than \$10,000.

4. Any sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

5. If a person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements with the Board not later than 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 12. *1. If a person is issued a written administrative citation pursuant to section 11 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board not later than 15 business days after the date on which the citation is received by the person, unless the Board authorizes a later date for good cause.*



2. *If a person files a written request for a hearing within the time allowed by subsection 1, the Board shall provide notice of and conduct the hearing in the same manner as other disciplinary hearings.*

3. *If a person does not file a written request for a hearing to contest a citation within the time allowed by subsection 1, the citation shall be deemed a final order of the Board.*

4. *For the purposes of this section, a citation issued pursuant to section 11 of this act shall be deemed to be received by the person to whom it was issued:*

(a) On the date on which the citation is personally delivered to the person; or

(b) If the citation is mailed, 3 business days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.

Sec. 13. NRS 637.020 is hereby amended to read as follows:

637.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 637.021 to ~~637.024,~~ 637.0235, inclusive, *and sections 3, 4 and 5 of this act* have the meanings ascribed to them in those sections.

Sec. 14. NRS 637.0215 is hereby amended to read as follows:

637.0215 “Dispensing optician” means a person ~~engaged in the practice of ophthalmic~~ *who holds a:*

1. License as a dispensing ~~[-]~~ optician issued pursuant to NRS 637.120; or

2. Limited license as a dispensing optician issued pursuant to NRS 637.121.

Sec. 15. NRS 637.022 is hereby amended to read as follows:

637.022 1. “Ophthalmic dispensing” means ~~the~~ :



(a) *The design ~~[, verification and delivery to the intended wearer]~~ of lenses, frames and other specially fabricated optical devices upon prescription ~~[,]~~;*

(b) *The inspection of such lenses, frames and devices; and*

(c) *The issuing of the final authorization in writing to deliver to the intended wearer such lenses, frames and devices.*

2. The term includes:

(a) The taking of measurements to determine the size, shape and specifications of the lenses, frames or contact lenses;

(b) *The making of recommendations to the intended wearer of the lenses regarding lens material and other design features necessary to fill the prescription;*

(c) The preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating eyewear ~~[,]~~

~~—(e)]~~ , *including, without limitation, the preparation and delivery of work orders by entering prescription information into a computer or any other device connected to the Internet;*

(d) The ~~[verification]~~ *final physical inspection* of the quality of finished ophthalmic products;

~~[(d)]~~ (e) The adjustment of lenses or frames to the intended wearer's face or eyes;

~~[(e)]~~ (f) The adjustment, replacement, repair and reproduction of previously prepared ophthalmic lenses, frames or other specially fabricated ophthalmic devices; and

~~[(f)]~~ (g) The fitting of contact lenses and the dispensing of prepackaged contact lenses pursuant to a written prescription ~~[, when done]~~ by a ~~[dispensing optician or apprentice dispensing optician who is authorized]~~ *person licensed* to do so pursuant to the provisions of this chapter.



3. The term does not include ~~any~~:

(a) The making of recommendations regarding frame designs or other design features that are not necessary to fill a prescription;

(b) The completion of sales transactions;

(c) The transfer of physical possession of lenses, frames or other specially fabricated optical devices subsequent to the performance of all services of the dispensing optician if the transfer does not occur until the dispensing optician has:

(1) Completed the final physical inspection of the lenses, frames or other specially fabricated optical device;

(2) Fitted the lenses, frames or device upon the person for whom the lenses, frames or device is intended; and

(3) Issued written authorization to dispense the lenses, frames or device;

(d) The sale of goggles, sunglasses, colored glasses or occupational protective eye devices not having a refractive value, or the sale as merchandise of complete ready-to-wear eyeglasses; or

(e) Any act for which a license is required pursuant to chapter 630 or 636 of NRS, and the provisions of this chapter do not authorize a dispensing optician or apprentice dispensing optician to perform any such act.

Sec. 16. NRS 637.025 is hereby amended to read as follows:

637.025 The provisions of this chapter do not apply to:



1. Ophthalmic dispensing personally by a licensed physician, surgeon or optometrist unless exclusively engaged in the business of filling prescriptions.

2. Ophthalmic dispensing by an employee of a licensed physician, surgeon or optometrist if the employee practices ophthalmic dispensing only under the direct supervision of the licensed physician, surgeon or optometrist and only as an assistant to the licensed physician, surgeon or optometrist.

3. ~~[A licensed pharmacist]~~ *The* dispensing *of* prepackaged contact lenses *by a licensed pharmacist* pursuant to the provisions of NRS 639.2825.

~~[4.—The sale of goggles, sunglasses, colored glasses or occupational protective eye devices not having a refractive value, or the sale as merchandise of complete ready-to-wear eyeglasses.]~~

Sec. 17. NRS 637.030 is hereby amended to read as follows:

637.030 1. The Board of Dispensing Opticians, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Four members who *are dispensing opticians and* have actively engaged in the practice of ophthalmic dispensing for not less than 3 years in the State of Nevada immediately preceding the appointment.

(b) One member who is a representative of the general public. This member must not be:

(1) A dispensing optician; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a dispensing optician.



3. *A member of the Board may continue in office until his or her successor is appointed.*

4. The Governor, after hearing, may remove any member for cause.

Sec. 18. NRS 637.040 is hereby amended to read as follows:

637.040 1. The Board shall ~~elect~~:

(a) *Elect* a President, Vice President, Secretary and Treasurer from its membership ~~[-]~~; and

(b) *Meet at least once each year on a date determined by the Board.*

2. ~~Any member~~ *A majority* of the *members of the* Board ~~may~~:

~~(a) Issue subpoenas to compel~~ *constitutes a quorum for* the ~~attendance~~ *transaction* of ~~witnesses to testify before~~ *business of* the Board . ~~for the production of books, papers and documents. Subpoenas must issue under the seal of the~~

3. *The* Board ~~and must be served in~~ *shall operate on* the ~~same manner as subpoenas issued out of the district court.~~

~~(b) Administer oaths in taking testimony in any matter pertaining to the duties of the Board.]~~
basis of a fiscal year commencing on July 1 and terminating on June 30.

Sec. 19. NRS 637.045 is hereby amended to read as follows:

637.045 *While engaged in the business of the Board:*

1. Each member of the Board is entitled to receive ~~[-]~~:

~~(a) A~~ *a* salary of not more than \$150 per day, as fixed by the ~~Board, while engaged in the business of the~~ Board; and



~~[(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.]~~

2. ~~[While engaged in the business of the Board, each]~~ *Each member and* employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 20. NRS 637.050 is hereby amended to read as follows:

637.050 *The Board may:*

1. ~~[The principal office of the Board is the place of business or employment of the Secretary of the Board, but it may maintain]~~ *Maintain* offices in as many ~~[localities]~~ *locations* in the State as it finds necessary to carry out the provisions of this chapter ; ~~[-, and may meet or conduct any of its business at any place in the State.]~~

2. ~~[The Board shall meet at least once in]~~ *Employ and fix* the ~~[fall]~~ *compensation* of ~~[each year on a date determined by the Board, at which time candidates applying for licensing must be examined]~~ *an Executive Director* and ~~[their qualifications determined.]~~ *any other employees, including, without limitation, investigators, lobbyists, attorneys, other professional consultants and clerical personnel the Board deems necessary to carry out the provisions of this chapter;*

3. ~~[In addition to the meeting required by subsection 2, the Board may hold such other meetings as it may deem advisable. The time]~~ *Contract with professional consultants* and ~~[place of all such meetings must be determined by the Board.]~~ *service providers, including, without*



limitation, investigators, lobbyists and attorneys, as the Board deems necessary to carry out the provisions of this chapter; and

4. Transact any other business necessary to carry out the provisions of this chapter.

Sec. 21. NRS 637.060 is hereby amended to read as follows:

637.060 1. Except as otherwise provided in subsection ~~{3.}~~ 4, all money received by the Board under the provisions of this chapter must be deposited in banks, credit unions, savings and loan associations or savings banks in the State of Nevada. The money may be drawn on by the Board for payment of all expenses incurred in the administration of the provisions of this chapter.

2. The Board may accept gifts, grants, donations and contributions of money from any source to assist in carrying out the provisions of this chapter.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect administrative fines therefor and deposit the money therefrom in banks, credit unions, savings and loan associations or savings banks in this State.

~~{3.}~~ *4.* If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection ~~{2.}~~ 3 and the Board deposits the money collected from the imposition of administrative fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 22. NRS 637.070 is hereby amended to read as follows:



637.070 ~~[1.]~~ The Board may adopt such rules and regulations as it may deem necessary to carry out the provisions of this chapter ~~[~~

~~—2.— The Board shall have a common seal of which all courts of this State shall take judicial notice.~~

~~—3.— The Board may empower any member to conduct any proceeding, hearing or investigation necessary to its purposes.~~

~~—4.— The Board may employ and fix the compensation of attorneys, investigators and other professional consultants and such other employees and assistants as it may deem necessary to carry out the provisions of this chapter.] , including, without limitation, regulations:~~

- 1. Establishing standards of practice for persons licensed pursuant to this chapter.*
- 2. Setting forth minimum standards for lenses, frames, specially fabricated optical devices and other ophthalmic devices dispensed by a dispensing optician. Such standards must be consistent with the minimum standards of quality approved by the American National Standards Institute.*
- 3. Prescribing the form of an administrative citation issued pursuant to section 11 of this act.*
- 4. Prescribing a schedule of administrative fines that may be imposed in connection with issuance of an administrative citation.*

Sec. 23. NRS 637.085 is hereby amended to read as follows:



637.085 ~~{1.—Except as otherwise provided in this section, all applications for licensure, financial records of the Board and records of hearings and any order or decision of the Board or a panel must be open to the public.~~

~~—2.}~~ Except as otherwise provided in ~~{this section and}~~ NRS 239.0115, the following may be kept confidential:

~~{(a)}~~ 1. Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application.

~~{(b)}~~ 2. Any report concerning the fitness of any person to receive or hold a license to practice ophthalmic dispensing.

~~{(c)}~~ 3. Any communication between:

~~{(1)}~~ (a) The Board and any of its committees or panels; and

~~{(2)}~~ (b) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

~~{(d) Any other information or records in the possession of the Board.~~

~~—3.}~~ 4. Except as otherwise provided in ~~{this section and}~~ NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person . ~~{are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.~~



~~4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.~~

5. ~~[The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or]~~ Any other information ~~[to any other licensing board] or [any other agency]~~ *record in possession of the Board* that is ~~[investigating]~~ *not* a ~~[person, including, without limitation, a law enforcement agency.]~~ *public record subject to the provisions of chapter 239 of NRS.*

Sec. 24. NRS 637.090 is hereby amended to read as follows:

637.090 A person shall not engage in the practice of ophthalmic dispensing or manage ~~[a business engaged in ophthalmic dispensing]~~ *an optical establishment* without holding a valid, active license issued as provided by this chapter.

Sec. 25. NRS 637.100 is hereby amended to read as follows:

637.100 1. To ~~[qualify]~~ *be eligible* for ~~[examination and licensing]~~ *a license* as a dispensing optician, an applicant must : ~~[furnish proof that the applicant:]~~

(a) ~~[Is]~~ *Be* at least 18 years of age.

(b) ~~[Is of good moral character.]~~

~~—(c) Is]~~ *Be* a graduate of an accredited high school or its equivalent.

~~[(d) Has passed the examination of the American Board of Opticianry.]~~

~~—(e) Has]~~

(c) *Have* done either of the following:



(1) ~~[Served]~~ *Successfully completed an educational program on ophthalmic dispensing approved by the Board and served* as an apprentice dispensing optician for not less than ~~[3]~~ 2 years in ~~[an optical establishment where prescriptions for spectacles or contact lenses from given formulae are fitted and filled under the direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist for the purpose of acquiring experience in ophthalmic dispensing and has passed an educational program on the theory of ophthalmic dispensing approved]~~ *accordance with regulations adopted* by the Board ~~[:]~~ *pursuant to NRS 637.070;* or

(2) ~~[Successfully completed a course of study in a school which offers a]~~ *Been awarded an associate's* degree ~~[of associate]~~ in applied science for studies in ophthalmic dispensing *from a school which is* approved by the Board and ~~[has had 1 year of ophthalmic experience]~~ *served* as an apprentice dispensing optician ~~[under]~~ *for not less than 1 year in accordance with regulations adopted by* the ~~[direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist.~~

~~—(f) Has done all]~~ *Board pursuant to NRS 637.070.*

(d) Have passed any examination or obtained any certificate required by regulations adopted by the Board pursuant to NRS 637.070 for the issuance of ~~[the following:~~

~~—(1) Successfully completed a course of instruction on the fitting of contact lenses approved by the Board;~~

~~—(2) Completed at least 100 hours of training and experience in the fitting of and filling of prescriptions for contact lenses under the direct supervision of a licensed dispensing optician~~



~~authorized to fit and fill prescriptions for contact lenses, a licensed ophthalmologist or a licensed optometrist;~~

~~— (3) Passed the Contact Lens Registry Examination of the National Committee of Contact Lens Examiners; and~~

~~— (4) Passed the practical examination on the fitting of and filling of prescriptions for contact lenses adopted by the Board.]~~ *a license as a dispensing optician.*

2. The Board ~~[shall adopt regulations to carry out]~~ *may waive* the ~~[provisions of this section, including, without limitation, regulations that establish requirements for:~~

~~— (a) The program of apprenticeship for apprentice dispensing opticians;~~

~~— (b) The training and experience of apprentice dispensing opticians; and~~

~~— (c) The issuance of licenses to apprentice dispensing opticians.]~~ *requirements of paragraph (c) of subsection 1 for an applicant who submits proof that the applicant:*

(a) Is a graduate of a foreign school and has acquired education and experience that the Board deems equivalent to or greater than the education and experience required for the issuance of a license as a dispensing optician in this State;

(b) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States who is on active duty; or

(c) Has at least 5 consecutive years of work experience in the practice of ophthalmic dispensing in the District of Columbia or any state or territory of the United States that does not have requirements for licensure which the Board deems equal to or greater than the requirements for the issuance of a license as a dispensing optician in this State. Some portion



of the 5 consecutive years of work experience must have been obtained within the 2 years immediately preceding the date of application for licensure.

3. The Board may waive the requirements of paragraphs (c) and (d) of subsection 1 for an applicant who submits proof to the Board which shows to the satisfaction of the Board that the applicant holds a valid and unrestricted license to engage in ophthalmic dispensing in the District of Columbia or any state or territory of the United States that has requirements for licensure which the Board deems to be equal to or greater than the requirements for the issuance of a license as a dispensing optician in this State.

4. A license as a dispensing optician:

(a) Authorizes the holder to practice ophthalmic dispensing in this State; and

(b) Must be conspicuously displayed at all times at the holder's place of practice.

Sec. 26. NRS 637.115 is hereby amended to read as follows:

637.115 *1.* The Board shall maintain records pertaining to applicants to whom licenses have been issued or denied. These records must ~~{be open to the public and must}~~ include:

~~{1.}~~ *(a)* The name of each applicant.

~~{2.}~~ *(b)* The name of ~~{the school granting the diploma to the applicant.}~~

~~{3.}~~ ~~The date of the diploma.~~

~~{4.}~~ *each person who is issued a license.*

(c) The business address of the applicant ~~{}~~ *or holder of a license.*

~~{5.}~~ *(d)* The date of issuance or denial of the license.

~~{6.}~~ *(e)* The current status of the license.



(f) The name of each holder of a license who has been subject to disciplinary action by the Board.

2. Upon request, the Board shall disclose any information maintained pursuant to subsection 1 and may charge a fee for a copy of the information. The fee must not exceed the actual cost incurred by the Board in producing the copy.

Sec. 27. NRS 637.121 is hereby amended to read as follows:

637.121 1. ~~Except as otherwise provided in this section, a limited license as a dispensing optician authorizes the licensee to engage in the practice of ophthalmic dispensing pursuant to this chapter.~~

~~—2.]~~ Only a person who is deemed to ~~hold~~ *have held* an active ~~]~~ *or* inactive ~~for delinquent~~ limited license as a dispensing optician ~~on~~ *since* February 1, 2004, may hold a limited license as a dispensing optician. A limited license as a dispensing optician may not be issued to any other person.

2. Except as otherwise provided in subsection 3, a limited license as a dispensing optician authorizes the holder to engage in the practice of ophthalmic dispensing pursuant to this chapter.

3. A person practicing ophthalmic dispensing pursuant to a limited license ~~:~~
~~—(a) Except as otherwise provided in this section, is subject to the provisions of this chapter in the same manner as a person practicing ophthalmic dispensing pursuant to a license issued pursuant to NRS 637.120, including, without limitation, the provisions of this chapter governing the renewal or reactivation of a license; and~~



~~—(b) Shall~~ *shall* not ~~[sell, furnish or fit]~~ *dispense* contact lenses.

4. A limited license as a dispensing optician:

(a) ~~[Expires on January 31 of each year.]~~ *Must at all times be conspicuously displayed at the holder's place of practice.*

(b) May *not* be ~~[renewed before its expiration upon:~~

~~—(1) Presentation of proof of completion of the continuing education required by this section;~~
and

~~—(2) Payment of a renewal fee set by the Board of not more than \$200.~~

~~—(c) Except as otherwise provided in subsection 5, is delinquent if it is not renewed before January 31 of each year. Not later than 2 years after the expiration of a limited license, a delinquent limited license may be reinstated, at the discretion of the Board, upon payment of each applicable annual renewal fee in addition to the annual delinquency fee set by the Board of not more than \$500.~~

~~—5. Upon written request to the Board, and payment of a fee not to exceed \$300, a licensee in good standing may have his or her name and limited license as a dispensing optician transferred to an inactive list. Such a licensee shall not practice ophthalmic dispensing during the time the limited license is inactive. If an inactive licensee wishes to resume the practice of ophthalmic dispensing as limited by this section, the Board shall reactivate the limited license upon:~~

~~—(a) If deemed necessary by the Board, the demonstration by the licensee that the licensee is then qualified and competent to practice;~~

~~—(b) The completion of an application; and~~



~~—(c) Payment of the renewal fee set by the Board pursuant to subsection 4.~~

~~—6. To reactivate a limited license as a dispensing optician pursuant to subsection 5, an inactive licensee is not required to pay the delinquency fee and the renewal fee for any year while the license was inactive.~~

~~—7. Except as otherwise provided in subsection 8, each person with a limited license as a dispensing optician must complete courses of continuing education in ophthalmic dispensing each year. Such continuing education must:~~

~~—(a) Encompass such subjects as are established by regulations of the Board.~~

~~—(b) Consist of a minimum of 12 hours for a period of 12 months.~~

~~—8. A person with a limited license as a dispensing optician who is on active military service is exempt from the requirements of subsection 7.~~

~~—9. The Board shall adopt any other regulations it determines are necessary to carry out the provisions of this section.]~~ *placed on inactive status on or after January 31, 2023.*

Sec. 28. NRS 637.125 is hereby amended to read as follows:

637.125 1. A person may not employ another person to perform the services of a dispensing optician unless the other person:

(a) Is licensed by the Board as a dispensing optician; or

(b) Is licensed by the Board as an apprentice dispensing optician and is directly supervised as required by the provisions of this chapter.



2. A licensed dispensing optician may not allow another person who is under his or her direct supervision to perform the services of a dispensing optician unless the other person is licensed by the Board as a dispensing optician or an apprentice dispensing optician.

3. ~~[[If a person is]]~~ A licensed ~~[[by the Board as an]]~~ apprentice dispensing optician ~~[[, a]]~~ *may engage in ophthalmic dispensing only when:*

(a) A licensed dispensing optician, licensed ophthalmologist or licensed optometrist ~~[[must: —(a) Directly supervise]]~~ *is directly supervising* all ~~[[work done by the apprentice]]~~ dispensing ~~[[optician.]]~~ *activities and verifying the quality of the finished products to be dispensed;*

(b) ~~[[Be in attendance whenever the]]~~ *The licensed dispensing optician, licensed ophthalmologist or licensed optometrist supervising the apprentice dispensing optician is not supervising more than two licensed* apprentice dispensing ~~[[optician is engaged in ophthalmic dispensing.]]~~ *opticians at any time; and*

(c) ~~[[Post the license of the]]~~ *The* apprentice dispensing optician ~~[[in]]~~ *is not being supervised by the holder of a* ~~[[conspicuous place where the apprentice]]~~ *limited license as a* dispensing optician ~~[[works.]]~~

~~—4.— A licensed dispensing optician may not have under his or her supervision more than two licensed apprentice dispensing opticians at any one time.~~

~~—5.— A licensed dispensing optician or a person who employs a licensed dispensing optician may employ other persons to assist in consulting on optical fashions, and a licensed dispensing optician may supervise such other persons. Such other persons:~~

~~—(a) Are not required to be licensed pursuant to the provisions of this chapter.~~



~~—(b) May not perform the services of a dispensing optician.~~

~~—6. The Board may adopt regulations to carry out the provisions of this section.] while the apprentice dispensing optician is performing any service relating to dispensing contact lenses.~~

Sec. 29. NRS 637.150 is hereby amended to read as follows:

637.150 1. If the Board finds, ~~[by a preponderance of the evidence,]~~ *after notice and a hearing as required by law*, that an applicant or holder of a license ~~;~~

~~—(a) Has] has~~ been adjudicated insane ~~;~~

~~—(b) Habitually], habitually~~ uses any controlled substance or intoxicant ~~;~~

~~—(c) Has] or has~~ been *diagnosed with a medical or mental health condition that is likely to impede the safe practice of ophthalmic dispensing, the Board may:*

(a) For an applicant, refuse to grant the applicant a license; or

(b) For a holder of a license:

(1) Place the holder on probation;

(2) Suspend or revoke the license;

(3) Refuse to renew or reinstate the license; or

(4) Take any combination of the disciplinary actions described in subparagraphs (1), (2) and (3).

2. If the Board finds, after notice and a hearing as required by law, that an applicant or holder of a license has committed unprofessional conduct which has endangered or is likely to endanger public health, safety or welfare, the Board may:

(a) For an applicant, refuse to grant the applicant a license; or



(b) For a holder of a license:

(1) Place the holder on probation;

(2) Suspend or revoke the license;

(3) Refuse to renew or reinstate the license;

(4) Reprimand the holder publicly;

(5) Require the holder to reimburse the Board for the cost of any investigation or hearing related to the disciplinary action;

(6) Require the holder to pay an administrative fine of not more than \$10,000 for each act constituting unprofessional conduct; or

(7) Take any combination of the disciplinary actions described in subparagraphs (1) to (6), inclusive.

3. The Board shall not privately reprimand a holder of a license.

4. Pursuant to NRS 622A.410, the Board may reinstate a license that has been revoked if the person who was issued the license applies to the Board for its reinstatement.

5. Notwithstanding the provisions of chapter 622A of NRS, if the Board receives a report pursuant to subsection 5 of NRS 228.420, the Board must commence disciplinary proceedings regarding the report not later than 30 days after receiving the report.

6. The Board shall, to the extent feasible, communicate and cooperate with or provide any documents or information to any other licensing board or agency, including, without limitation, a law enforcement agency, that is investigating a person licensed pursuant to this chapter.



7. *An order of the Board that imposes discipline and the findings of fact and conclusions of law supporting the order are public records.*

8. *As used in this section, “unprofessional conduct” includes:*

(a) *Being* convicted of ~~fa~~ *any* crime involving moral turpitude ~~f~~;

~~(d) Has been convicted of~~ *or* violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

~~(e) Has advertised~~

(b) *Advertising* in any manner which would tend to deceive, defraud or mislead the public;

~~(f) Has presented to the Board any diploma, license or certificate that has been signed or issued unlawfully or under fraudulent representations, or obtains or has obtained~~

(c) *Obtaining* a license to practice in this State through fraud *or the misrepresentation or concealment* of ~~any kind~~;

~~(g) Has been convicted of a violation of any federal or state law relating to a controlled substance;~~

~~(h) Has, without proper verification, dispensed a lens, frame, specially fabricated optical device or other ophthalmic device that does not satisfy the minimum standards established by the Board pursuant to NRS 637.073;~~

~~(i) Has violated any regulation of the Board;~~

~~(j) Has violated~~ *a material fact*;

(d) *Committing fraud or deceit in the practice of ophthalmic dispensing*;

(e) *Violating* any provision of this chapter ~~f~~;



~~—(k) Is incompetent;~~

~~—(l) Is guilty of unethical or unprofessional conduct as determined by]~~ *or any regulations of* the Board ~~];~~

~~—(m) Is guilty of repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner;~~

~~—(n) Is guilty of a fraudulent or deceptive practice as determined by the Board; or~~

~~—(o) Has operated]~~ *adopted pursuant to this chapter; and*

(f) Operating a medical facility, as defined in NRS 449.0151, at any time during which:

(1) The license of the facility was suspended or revoked; or

(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160 . ~~];~~

~~→ the Board may, in the case of an applicant, refuse to grant the applicant a license, or may, in the case of a holder of a license, place the holder on probation, reprimand the holder publicly, require the holder to pay an administrative fine of not more than \$10,000, suspend or revoke the holder's license, or take any combination of these disciplinary actions:~~

~~—2.— The Board shall not privately reprimand a holder of a license.~~

~~—3.— An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.~~

~~—4.— The provisions of paragraph (o) of subsection 1 apply to an owner or other principal responsible for the operation of the medical facility.~~



~~—5. As used in this section, “preponderance of the evidence” has the meaning ascribed to it in NRS 233B.0375.]~~

Sec. 30. NRS 637.154 is hereby amended to read as follows:

637.154 1. ~~[To the extent that money is available for that purpose, the]~~ *The* Board may, ~~[upon its own motion, investigate the actions of any person who holds a license issued pursuant to this chapter that may constitute grounds for refusal to issue such a license, or the suspension or revocation of the license.]~~ *in a manner that is consistent with the provisions of chapter 622A of NRS, conduct investigations, hold hearings and examine witnesses in carrying out its duties pursuant to this chapter.*

2. ~~[The]~~ *For the purposes of this chapter, any member of the* Board may ~~[accept gifts, grants]~~ *administer oaths* and ~~[donations of money from any source]~~ *issue subpoenas* to ~~[carry out]~~ *compel* the ~~[provisions]~~ *attendance* of ~~[this section.]~~ *witnesses and the production of books, papers, documents and any other articles related to the practice of ophthalmic dispensing.*

3. *If any person fails to comply with a subpoena within 10 days after its issuance, the Board may petition the district court for an order compelling compliance with the subpoena.*

4. *Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the person has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.*



5. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order, the person must be dealt with as for contempt of court.

Sec. 31. NRS 637.181 is hereby amended to read as follows:

637.181 Notwithstanding the provisions of chapter 622A of NRS ~~§~~:

~~—1. The Board shall conduct an investigation if it receives a complaint that sets forth reason to believe that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter. The complaint must be:~~

~~—(a) Made in writing; and~~

~~—(b) Signed and verified by the person filing the complaint.~~

~~—2. If, if~~ the Board determines that a person ~~[, without the proper license, is engaging]~~ *who is not licensed pursuant to this chapter has engaged* in an activity for which a license is required pursuant to this chapter, ~~[the Board:~~

~~—(a) Shall issue]~~ *or has violated, or employed a person who, in the course of his or her employment, has violated any provision of NRS 637.125 or any regulation adopted by the Board to carry out the provisions of that section, the Board may:*

1. Issue and serve on the person an order to cease and desist from engaging in the activity until such time as the person obtains the proper license from the Board.

~~[(b) May, after notice and opportunity for a hearing, impose upon]~~



2. *Issue a citation to the person pursuant to section 11 of this act. Such a citation must describe with particularity the nature of the violation and inform the person of the provisions of this section.*

3. *Order the person to reimburse the Board the costs of any investigation or hearing related to a violation.*

4. *Assess against the person an administrative fine of not more than \$10,000 ~~[-]~~ for each separate violation.* The imposition of an administrative fine is a final decision for the purposes of judicial review.

~~[3.—An administrative fine imposed pursuant to this section is in addition to]~~

5. *Impose any ~~[other penalty provided in this chapter.~~*

~~—4.—The Board shall retain all complaints received by]~~ *combination of the [Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.] penalties set forth in subsections 1, 2 and 3.*

Sec. 32. NRS 637.200 is hereby amended to read as follows:

637.200 The following acts constitute misdemeanors, unless a greater penalty is provided pursuant to NRS 200.830 or 200.840:

1. The insertion of a false or misleading statement in any advertising in connection with the business of ophthalmic dispensing.

2. Making use of any advertising statement of a character tending to indicate to the public the superiority of a particular system or type of eyesight examination or treatment.



3. Furnishing or advertising the furnishing of the services of a refractionist, optometrist, physician or surgeon.

4. Changing the prescription of a lens without an order from a person licensed to issue such a prescription.

5. Filling a prescription ~~[for a contact lens]~~ in violation of the expiration date or , *for a prescription for a contact lens, in violation of the* number of refills specified by the prescription. *A prescription shall be deemed to have an expiration date of 2 years after the date on which the prescription was issued, unless the practitioner who wrote the prescription includes on the prescription a different period.*

6. *Holding oneself out to the public, either verbally or in writing, to be an optician, a dispensing optician or an apprentice dispensing optician without holding a valid and active license issued pursuant to this chapter.*

7. *Failing to comply with a citation or order issued pursuant to this chapter after the citation or order is final.*

8. Violating any provision of this chapter.

Sec. 33. NRS 637.010, 637.024, 637.041, 637.073, 637.075, 637.110, 637.120, 637.123, 637.127, 637.135, 637.140, 637.155, 637.170, 637.175 and 637.183 are hereby repealed.

Sec. 34. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 33, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and



(b) On October 1, 2023, for all other purposes.

LEADLINES OF REPEALED SECTIONS

637.010 Short title.

637.024 “Supervision” defined.

637.041 Enforcement of subpoenas issued by Board.

637.073 Regulations setting minimum standards for optical and ophthalmic devices.

637.075 Fiscal year.

637.110 Fees for application for license; requirements for, waiver of and passing score for examination of applicant for license as dispensing optician; prohibition on participation in preparing, conducting and grading examination.

637.120 Issuance of license as dispensing optician; display of license; nontransferability; issuance of duplicate license.

637.123 Apprentice dispensing optician: Expiration, renewal and reinstatement of license; fees; continuing education; limitations on renewal.

637.127 Special license as dispensing optician.

637.135 Dispensing optician: Continuing education.



637.140 Dispensing optician: Expiration, renewal and reinstatement of license; fees; inactive status; reactivation of inactive license.

637.155 Hearing required after receipt of report of certain violations of Industrial Insurance Act.

637.170 Reinstatement of revoked license; fee.

637.175 Expiration of prescriptions.

637.183 Administrative fine for violation of provisions governing employment and supervision of dispensing opticians, apprentice dispensing opticians and other assistants.

