

LCB File No. R113-06

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

NOTICE OF INTENT TO ACT UPON REGULATION

**Notice of hearing for the adoption and amendment of
regulations governing dispensing opticians**

The Board of Dispensing Opticians (“Board”) will hold a public hearing for the purpose of ordering the adoption and amendment of regulations that pertain to chapter 637 of the Nevada Administrative Code (NAC) and soliciting comments from interested persons regarding the same. The hearing will be held at the following locations through simultaneous video conference:

Date:	June 15, 2006
Time:	1:45 p.m. or immediately after the workshop scheduled at 1:30 p.m. at the same location on the same day
In Las Vegas:	Grant Sawyer Building 555 E. Washington Avenue Suite 4500 Las Vegas, Nevada 89101
In Carson City:	Office of the Attorney General 100 N. Carson Street Carson City, Nevada 89701

The following information is provided pursuant to the requirements of NRS 233B.0603:

- 1. The need for and the purpose of the proposed regulation or amendment.** To provide further clarification to the provisions of chapter 637 of the Nevada Revised Statutes and other matters thereto.
- 2. Either the terms or the substance of the regulation to be adopted, amended, or repealed, or a description of the subjects and issues involved.** The terms of the proposed regulations to be adopted and amended are attached hereto as proposed regulations.
- 3. The estimated economic effect of the regulation on the business which it is to regulate and on the public.** The estimated economic effect of the

proposed regulations to be adopted and amended on the regulated industry and the public are as follows:

- A. **Estimated economic effect:** It is estimated that the proposed regulations to be adopted and amended would have a small economic effect as follows:
 - (i). **Adverse and beneficial effects:** The proposed regulations to be adopted and amended do not have an adverse effect. However, the proposed regulations provide for a beneficial effect of consumer protection.
 - (ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects as the adverse and beneficial effects.
- B. **Estimated economic effect on the public:** It is estimated that the proposed regulations to be adopted and amended will not have a negative economic effect on public.
 - (i). **Adverse and beneficial effects:** The proposed regulations to be adopted and amended provide for increased consumer protection on a regulated industry.
 - (ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects for the public.
4. **The estimated cost to the agency for enforcement of the proposed regulation.** There is no estimated cost to the Board beyond costs that are within the allotted legal budget of the Board.
5. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.** The proposed regulations to be adopted and amended do not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.
6. **If the regulation is required pursuant to federal law, a citation and description of the federal law.** The proposed regulations to be adopted and amended are not required by federal law.
7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.** The proposed regulations to be adopted and amended are not more stringent than federal regulation.
8. **Whether the proposed regulation establishes a new fee or increases an existing fee.** The proposed regulations to be adopted do not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed actions and order of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the attention of Pat Swanson, Executive Secretary, at the Board, P.O. Box 19625, Reno,

Nevada 89511. Written submissions must be received by the Board on or before June 8, 2006. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

Members of the public who are disabled and require special accommodations or assistance at the hearing must notify Pat Swanson, Executive Secretary, at the Board in writing at P.O. Box 19625, Reno, Nevada 89511, no later than 5 working days prior to the hearing. Any questions should be directed to Pat Swanson, Executive Secretary, at the Board, P.O. Box 19625, Reno, Nevada 89511 or by telephone at (775) 853-1421.

A copy of this notice and the regulations to be adopted and amended will be on file at the following locations for inspection and review by members of the public during business hours:

Office of the Attorney General
5420 Keitzke Lane, Suite 202
Reno, Nevada 89511

Community College of Southern Nevada
6375 West Charleston Avenue
Las Vegas, Nevada 89146

Grant Sawyer Building
555 E. Washington Avenue
Suite 4500
Las Vegas, Nevada 89101

Office of the Attorney General
100 N. Carson Street
Carson City, Nevada 89701

In addition, a copy of this notice and the proposed regulations to be adopted and amended will also be at the main public library in all counties in which an office of the agency is not maintained for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations and amendments are also available in the State of Nevada Registrar of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us> and <http://www.nvbdo.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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

This notice of hearing has been posted at the following locations:

Attn: Public Posting
Churchill County Library
5553 S. Maine Street
Fallon, NV 89406

Attn: Public Posting
Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049
(171 Central Street)

Attn: Public Posting

Attn: Public Posting

Las Vegas – Clark County Library
833 Las Vegas Blvd. N.
Las Vegas, NV 89101

Attn: Public Posting
Elko County Library
720 Court Street
Elko, NV 89801

Attn: Public Posting
Esmeralda County Library
P.O. Box 430; (Fourth & Crook Sts.)
Goldfield, NV 89316

Attn: Public Posting
Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Attn: Public Posting
Humboldt County Library
85 East 5th St.
Winnemucca, NV 89445

Attn: Public Posting
93 Main St.
P.O. Box 330
Pioche, NV 89043

Attn: Public Posting
Lyon County Library
20 Nevin Way
Yerington, NV 89447

Attn: Public Posting
Mineral County Library
P.O. Box 1390; (First & A Streets)
Hawthorne, NV 89415

Pershing County Library
P.O. Box 781; (1125 Central Avenue)
Lovelock, NV 89419

Attn: Public Posting
Storey County Library
P.O. Box 14; (95 South R Street)
Virginia City, NV 89449

Attn: Public Posting
Washoe County Library
P.O. Box 2151; (301 S. Center)
Reno, NV 89505

Attn: Public Posting
White Pine County Library
950 Campton St.
Ely, NV 89301

Attn: Public Posting
Battle Mountain Branch Library (Lander County)
P.O. Box 141
Battle Mountain, NV 89820

Attn: Public Posting
Carson City Library
900 N. Roop Street
Carson City, NV 89701

Attn: Public Posting
Douglas County Library
P.O. Box 337
Minden, NV 89423

Attn: Public Posting
Goldfield Public Library
P.O. Box 430
Goldfield, NV 89013

LCB File No. R113-06

PROPOSED REGULATION OF THE BOARD OF DISPENSING OPTICIANS

Explanation: Material in *bold italics* is new material; material lined out within ~~bold brackets~~ is material to be omitted.

Purpose: To adopt regulations under chapter 637 of the Nevada Administrative Code relating to Dispensing Opticians; amending examination and licensing provisions; establishing certain definitions; and providing other matters properly relating thereto.

General Authority: NRS 637.070, 637.100, 637.121, 637.123, and 637.140.

Section 1. Chapter 637 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 8, inclusive, of this regulation.

Section 2.

1. A license as an apprentice dispensing optician shall be not renewed after March 1 of each year if that apprentice dispensing optician fails to:

- (a) Renew his license;*
- (b) Submit the required continuing education credits;*
- (c) Pay the fee for renewal; and*
- (d) Pay the annual delinquency fee.*

2. A license as an apprentice dispensing optician shall not be renewed if at the time of renewal, an accusation is pending against the licensee.

Section 3.

1. A license or limited license as a dispensing optician shall be not renewed if the licensee fails to:

- (a) Renew his license after two consecutive years;*
- (b) Submit the required continuing education credits;*
- (c) Pay the fee for renewal; and*
- (d) Pay the annual delinquency fee.*

2. A license or limited license as a dispensing optician shall not be renewed if at the time of renewal, an accusation is pending against licensee.

Section 4.

1. The Board may consider, at their discretion, past ophthalmic experience a person not licensed as an ophthalmic dispenser pursuant to the provisions of chapter 637 of NRS and this chapter towards completion of an ophthalmic dispensing license if that person has done all of the following prior to submitting their application:

- (a). Holds a current ABO certificate;*
- (b). Holds a current NCLA certificate;*
- (c). Worked for eighteen consecutive months in the optical industry under the supervision of a licensed optician in another state or this State, or an optometrist or ophthalmologist in another state or this State within 24 months of submitting their application; and*
- (d). Obtained a letter from his employer described in paragraph (c) of this section submitted directly to the Board describing the person's optical duties and the dates of employment and/or supervision.*

Section 5. NAC 637.144 is amended as follows:

A person who manages a business engaged in ophthalmic dispensing:

1. Must hold a license as a dispensing optician issued pursuant to NRS 637.120 or a limited license as a dispensing optician issued pursuant to NRS 637.121; and
2. Is responsible for supervising the ophthalmic dispensing and the consulting on optical fashions conducted at the business engaged in ophthalmic dispensing.
3. *The person who manages a business engaged in ophthalmic dispensing must, within 10 days of becoming the manager, notify the board in writing that he is the manager.*

Section 6. NAC 637.160 is amended as follows:

1. The Board's examination for a license as a dispensing optician will test the dispensing skills of the applicant.

~~2. The examination will test the applicant's proficiency and knowledge in the following subjects:~~

- ~~— (a) Mechanical and geometric optics;~~
- ~~— (b) Measurement for, and the fitting and adapting of, eyeglasses and contact lenses;~~
- ~~— (c) Optical materials and their design and uses as visual aids;~~
- ~~— (d) The anatomy and physiology of the eye; and~~
- ~~— (e) The provisions of this chapter and chapter 637 of NRS.]~~

2. *The examination will test the applicant's proficiency and knowledge in the following subjects by percentage:*

- (a) Neutralization of ophthalmic products, approximately 30%*
- (b) Optical Theory, approximately 15%*
- (c) Dispensing of ophthalmic products, approximately 10%*
- (d) Nevada Law, approximately 15%*
- (e) Anatomy/Physiology, approximately 15%*
- (f) Ophthalmic Product Identification, approximately 5%*
- (g) Ophthalmic Instrumentation, approximately 10%*

3. *The examination to upgrade to an ophthalmic dispensing license will test the applicant's proficiency and knowledge in the following subjects by percentage:*

- (a) Basic Contact Lens, approximately 30%*
- (b) Nevada Laws, approximately 15%*
- (c) Slide Identification, approximately 15%*
- (d) Neutralization, approximately 20%*
- (e) Instrumentation and Fitting, approximately 20%*

~~[3.]~~ 4. 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 only on the practice and theory of fitting contact lenses.

~~[4.]~~ 5. 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 to assist in administering the practical examination.

~~[5.]~~ 6. An applicant who fails the examination and wishes to have a review of his examination papers must submit his request for a review on a form provided by the Board within 60 days after the examination.

Section 7. NAC 678.200 is amended as follows:

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; ~~[and]~~
 - (h) Refractometry.
 - (i) Health of the eye;*
 - (j) Ethics;*
 - (k) Ophthalmic products;*
 - (l) Cardiopulmonary resuscitation (CPR) training; and*
 - (m) The provisions of this chapter and chapter 637 of NRS.*
2. 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. 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 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. A licensee who attends the same educational lecture more than once every 3 years is entitled to count only his original attendance as credit toward his hours of continuing education.
5. A dispensing optician with a limited license may not receive more than a total of six credits each year towards his hours of continuing education for completion of self-study courses or courses offered over the Internet.
6. A dispensing optician may not receive more than a total of seven credits each year towards his hours of continuing education for completion of self-study courses or courses offered over the Internet.
7. A dispensing optician with a limited license shall complete at least 12 hours of continuing education 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. A dispensing optician shall complete at least 14 hours of continuing education 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.

Section 8. NAC 637.280 is amended as follows:

1. A supervisor who is licensed in this State must be on the premises of the optical establishment at all times to directly supervise an apprentice dispensing optician. In all instances of a supervisor's absence, a substitute supervisor who is licensed in this State must be obtained to directly supervise the apprentice dispensing optician.

2. When a permanent change of supervisor is made by the employer, the Board must be notified of the change within 30 days.

3. An apprentice dispensing optician may not be supervised by an ophthalmologist, an optometrist or a dispensing optician who directly supervises two or more other apprentice dispensing opticians.

4. Except as otherwise provided in subsection 5, an apprentice dispensing optician and his supervisor must be employed by the same employer. *When an apprentice dispensing optician or supervisor makes a permanent change of supervision, both the apprentice dispensing optician and supervisor must notify the board of the change in writing within 10 days.*

5. An apprentice dispensing optician may be directly supervised by any dispensing optician authorized to fit and fill prescriptions for contact lenses, ophthalmologist or 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. 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) "Supervisor" means an ophthalmologist, an optometrist or a dispensing optician who directly supervises the apprentice dispensing optician.