10.22.26 NVBDO PROPOSED REVISIONS TO:

PROPOSED REGULATION OF THE

BOARD OF DISPENSING OPTICIANS

LCB File No. R117-26

June 22, 2026

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

EXPLANATION OF BOARD REVISIONS – Text in *green italics* is new; text in ~~purple with strikethrough~~ is to be omitted.

Section 1. Chapter 637 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. ***"Online optical vendor" means a business that dispenses ophthalmic products through remote or electronic means.***

Sec. 3. ***"Ophthalmic education program" means a structured course of study, whether offered in-person, remotely or in a hybrid format, that provides instruction on ophthalmic theory, technical skills and competencies related to ophthalmic dispensing.***

Sec. 4. ***"Optical order" means an order for an ophthalmic product that is prepared or dispensed pursuant to a prescription.***

Sec. 5. ***"Program sponsor" means the educational institution or entity that is responsible for administering an ophthalmic education program.***

Sec. 6. ***"Remote dispensing" means the dispensing of ophthalmic products to a patient without an in-person measurement, fitting, adjustment or delivery of the final ophthalmic product.***

Sec. 7. ***1. A dispensing optician shall:***

(a) Act in the best interest of the patient at all times;

(b) Perform ophthalmic dispensing with care, skill and judgment consistent with accepted standards of care in the field of ophthalmic dispensing. Such standards include, without limitation:

(1) Obtaining accurate measurements required for the fabrication and fitting of ophthalmic products;

(2) Accurately interpreting and verifying prescriptions in accordance with the standards adopted by reference in NAC 637.239 before dispensing ophthalmic products;

(3) Clarifying an incomplete, unclear or questionable prescription with the prescriber before dispensing an ophthalmic product;

(4) Dispensing ophthalmic products in accordance with a prescription and applicable federal and state laws;

(5) Performing the final inspection and verification required by section 11 of this regulation; and

(6) Ensuring the proper fit, comfort, visual performance and safety of dispensed ophthalmic products and making adjustments and providing follow-up care as necessary;

(c) Practice only within the scope of his or her education, training and licensure;

(d) Provide each patient with clear information regarding the proper use, care, limitations and maintenance of ophthalmic products;

(e) Inform a patient when a referral to an optometrist or ophthalmologist is medically advised; and

Revise paragraph (f) to read "Follow guidelines established by the Board for infection control..." and remove subsection 2 so that individual establishments are not required to submit procedures to the Board

(f) Follow guidelines established by the Board ~~guidelines~~ for infection control that are appropriate for the specific practice setting, which must include, without limitation, guidelines for:

(1) Properly cleaning, disinfecting and disposing of instruments and materials used during the provision of services;

(2) Maintaining a safe and hygienic environment for patients and staff; and

(3) Cleaning and sanitizing optical equipment and the optical establishment in which the dispensing optician works that are approved by the Board pursuant to subsection 2.

~~*2. Except as otherwise provided in this subsection, a dispensing optician shall submit the procedures for cleaning and sanitizing optical equipment to the Board for approval before adopting the procedures and each time the procedures are revised. An optical establishment may submit procedures on behalf of all dispensing opticians who work in the optical establishment. The Board will approve the procedures if it determines that the procedures will ensure proper cleaning and sanitation.*~~

3. An optical establishment, online optical vendor or other employer is subject to discipline pursuant to NRS 637.181 if the optical establishment, online optical vendor or other employer:

(a) Directs, requires or otherwise causes a dispensing optician to violate or omit a duty imposed by subsection 1; or

(b) Directs a dispensing optician or unlicensed employee to dispense an ophthalmic product that has not received a final inspection and verification by a dispensing optician to ensure that the ophthalmic product meets the standards adopted by reference in NAC 637.239 in violation of section 11 of this regulation.

Sec. 8. *1. Each optical establishment or online optical vendor shall:*

Revise the text of Sec. 8(1)(a)(2) for consistency; remove 8(1)(a)(3), which is unnecessary/redundant; revise 8(1)(b) to allow unlicensed staff to perform billing functions; remove 8(1)(c), which does not relate to patient records and belongs in a different section.

(a) Maintain accurate, complete and legible records relating to each processed or dispensed optical order which include, without limitation:

(1) The full name and license number of the dispensing optician who created or prepared the optical order;

(2) The full name and license number of the dispensing optician who performed the final inspection and verification pursuant to section 11 of this regulation and dispensed or delivered the optical order; and

~~***(3) A notation indicating that the same dispensing optician performed the duties described in subparagraphs (1) and (2), if applicable;***~~

(b) Ensure that patient records relating to optical orders are securely maintained and accessible only to dispensing opticians who will dispense the orders, or to personnel who are authorized by the optical establishment or online optical vendor, as applicable, ~~to dispense ophthalmic products~~ to access the records in accordance with HIPAA and other federal and state laws;

~~***(c) Ensure that prepared and verified ophthalmic products awaiting dispensing are securely stored and accessible only to dispensing opticians who are authorized by the optical establishment or online optical vendor, as applicable, to dispense ophthalmic products;***~~

(d) Take reasonable measures to protect the confidentiality of information relating to patients in accordance with applicable federal and state law; and

(e) Disclose information relating to a patient only with the consent of the patient or as required by applicable federal and state law.

2. An optical establishment or online optical vendor that utilizes an electronic system, platform or service for the creation, verification, approval or dispensing of ophthalmic products shall:

(a) Provide each dispensing optician with an individual account for professional use, which:

(1) Must be unique to the dispensing optician;

(2) Must not be shared with, transferred to or used by another person; and

(3) Must not utilize group, generic or shared login credentials;

(b) Ensure that the electronic system, platform or service:

(1) Maintains a record of account access and activity which must include, without limitation, a record of the creation, verification, approval and dispensing of ophthalmic products; and

(2) Includes measures designed to detect and prevent concurrent or suspicious login activity; and

(c) Investigate any confirmed breach of account security and take appropriate corrective action.

3. A dispensing optician:

(a) Shall not allow unauthorized access to the account provided to the dispensing optician pursuant to subsection 2 or share access to that account.

(b) Shall maintain the confidentiality of the credentials associated with his or her account and take reasonable measures to prevent unauthorized access to his or her account, including, without limitation, logging out of his or her account after use and reporting any known or suspected breach of account security without undue delay.

4. The records required to be kept pursuant to this section:

(a) May be maintained in paper or electronic form;

(b) Must be maintained for not less than 5 years after the date on which the optical order to which the records pertain was dispensed, unless a longer period is required by federal or state law; and

(c) Must be made available to the Board or any of its authorized agents upon request.

5. Each optical establishment or online optical vendor shall establish policies and procedures necessary to ensure compliance with the provisions of this section.

6. As used in this section, "unauthorized access" means access to an account provided to a dispensing optician pursuant to subsection 2 by any person other than that dispensing optician.

Sec. 9. *1. A brick-and-mortar optical establishment or traveling optical establishment shall:*

(a) Provide services to patients in person by a dispensing optician, which must include, without limitation:

(1) The measurement and fitting of ophthalmic products;

(2) The final inspection and verification of each ophthalmic product required by section 11 of this regulation before dispensing the ophthalmic product to a patient;

(3) An assessment of the fit, comfort, alignment, visual performance and safety of each dispensed ophthalmic product; and

(4) Adjustments to dispensed ophthalmic products and follow-up care as necessary;

(b) Maintain a copy of the standards adopted by reference in NAC 637.239 in an accessible location for reference or review by dispensing opticians employed by the optical establishment;

(c) Ensure that prepared and verified ophthalmic products awaiting dispensing are securely stored and accessible only to dispensing opticians who are authorized by the optical establishment to dispense the orders.

This provision is necessary to ensure patients are receiving the final adjustments and other follow up care required by Sec. 9(1) and that unlicensed personnel are not dispensing prescription items.

(d) Maintain written procedures for:

(1) Receiving and responding to complaints from patients; and

(2) Processing remakes and returns of ophthalmic products resulting from noncompliance with the standards adopted by reference in NAC 637.239;

(e) Have the following optical equipment at the place of dispensing:

(1) A lens clock;

(2) A lensometer; and

(3) A pupilometer; and

(f) Have the following optical equipment at the place of dispensing if the brick-and-mortar optical establishment or traveling optical establishment fits contact lenses:

(1) A slit lamp;

(2) A digital or manual keratometer or autorefractor;

(3) A contact lens loupe;

(4) A thickness gauge;

(5) A diameter gauge;

(6) Fluorescein dye; and

(7) Trial contact lenses.

2. Equipment used for dispensing ophthalmic products at a brick-and-mortar optical establishment or traveling optical establishment must be:

(a) Appropriate for its intended purpose;

(b) Properly maintained, calibrated and in good working order; and

(c) Capable of producing ophthalmic products that meet the standards adopted by reference in NAC 637.239.

3. If no dispensing optician is on duty in a brick-and-mortar optical establishment or

traveling optical establishment while the establishment is open to the public, the optical establishment shall post th

Remove requirement in Sec. 9(4) that an establishment must be "open to the public" or "routinely" perform dispensing services so that these provisions apply to any in-person dispensing services.

subsection 2 of NRS 637.0

4. As used in this sect

Remove the word "routinely" from Sec. 9(4)(b)2) for the same reason

(a) "Brick-and-mortar optical establishment" means an optical business that operates from a fixed and permanent physical location:

~~*(1) Which is open to the public; and*~~

(2) At which dispensing opticians ~~routinely~~ perform ophthalmic dispensing, including, without limitation, dispensing, fitting, adjusting, repairing, replacing or selling ophthalmic products.

(b) "Traveling optical establishment" means an optical business:

(1) That primarily operates at locations other than a fixed and permanent location, including, without limitation, private residences, long-term care facilities, schools, places of employment, community centers and temporary clinics; and

(2) At which dispensing opticians ~~routinely~~ perform ophthalmic dispensing, including, without limitation, dispensing, fitting, adjusting, repairing, replacing or selling ophthalmic products.

Sec. 10. *1. An online optical vendor shall:*

(a) Ensure that each optical order is dispensed by a dispensing optician licensed pursuant to this chapter and chapter 637 of NRS;

(b) Maintain a copy of the standards adopted by reference in NAC 637.239 in an accessible location for reference or review by dispensing opticians employed by the online optical vendor;

(c) Clearly and conspicuously disclose to patients:

(1) The absence of in-person fitting or adjustment services, if applicable;

(2) The potential limitations associated with remote dispensing; and

(3) The available options for obtaining in-person professional assistance;

(d) When obtaining measurements for ophthalmic products remotely, ensure that:

(1) The limitations associated with remote measurement are clearly and conspicuously disclosed to the patient; and

(2) The measurements meet the standards adopted by reference in NAC 637.239; and

(e) Maintain written procedures for:

(1) Receiving and responding to complaints from patients;

(2) Processing remakes and returns of ophthalmic products resulting from

*n*Move the contents of Sec. 10(2) to Section 11 so the provisions related to prescriptions are applicable regardless of business model; remove paragraphs (b) and (c) which are generally covered under paragraph (a)*e cannot be resolved remotely.*

2. A dispensing optician shall not dispense, supply or authorize the fabrication of an ophthalmic product ~~through an online optical vendor~~ unless the dispensing optician has obtained a copy of the prescription for the patient. Before dispensing, supplying or authorizing the fabrication of an ophthalmic product, the dispensing optician shall:

(a) Verify the authenticity, completeness and validity of the prescription;

~~(b) Verify that the prescription was issued by a prescriber who is authorized prescribe ophthalmic products;~~

~~(c) Ensure that the prescription has not expired;~~

(d) When a prescription is received by remote or electronic means, take steps as necessary to verify that the prescription has not been altered and is attributable to the prescriber who issued the prescription; and

(e) Include a copy of the prescription as part of the record required to be maintained pursuant to section 8 of this regulation.

Sec. 11. *1. Before authorizing the delivery of or otherwise dispensing an ophthalmic product to a patient, whether in-person or through remote dispensing, a dispensing optician shall:*

(a) Ensure that all measurements required for dispensing are obtained accurately through methods that are consistent with applicable professional standards;

(b) Perform a final inspection and verification of the ophthalmic product to ensure compliance with the standards adopted by reference in NAC 637.239; and

(c) Provide the patient with information concerning the fit, use, care and limitations of the ophthalmic product and the availability of follow-up care, adjustments and referrals.

2. A dispensing optician shall not authorize the delivery of or otherwise dispense an ophthalmic product if the measurements obtained are insufficient to ensure compliance with

Amend NAC 637.2313(a) (637.285 was repealed by R067-23) to include a degree program, per NRS 637.100; remove the provisions of that section that pertain to areas of instruction, which will now be covered by Section 12 of this regulation (see p. 29)

Sec. 12. *1. To obtain approval of an ophthalmic education program for the purposes of NAC 637.285, the program sponsor must submit to the Board an application in the form and manner prescribed by the Board. Such application must include, without limitation:*

(a) A detailed Amend language in Sec. 12(1) to be consistent with all other language in the regulation pertaining to the applications and forms *the program;*

(b) An outline of the curriculum of the program, including, without limitation, subject matter, instructional hours and learning outcomes that satisfy the educational requirements set forth in section 13 of this regulation;

(c) The credentials and qualifications of each instructor who presents the program or, if the program is not presented by an instructor, the qualifications, methodology, standards, references or other basis upon which the content of the program was developed;

(d) The methods of instruction and assessment used in the program;

(e) The policies governing attendance, evaluation and successful completion of the program; and

Revise Sec. 12(2) so the Board may proactively recognize accrediting agencies, rather than awaiting requests; remove the references to Sections 13 and 14 because an accrediting agency may recognize either a degree program or the type of program described in Section 13 (see notes at end of document).

~~*2. The Board may deem an ophthalmic education program to be approved pursuant to section 14 of this regulation without an application pursuant to subsection 1 if the ophthalmic education program or program sponsor has been approved by an accrediting agency recognized by the Board. An accrediting agency may request such recognition from the Board, and the Board will approve the request upon determining that the accrediting agency ensures that each ophthalmic education program or program sponsor it approves complies with the requirements of section 13 of this regulation.*~~ *For purposes of NAC 637.2313(a), the Board may deem an ophthalmic education program as approved if the program or school offering an associate degree in ophthalmic dispensing has been approved by an accrediting agency recognized by the Board.*

Sec. 13. *1. An ophthalmic education program must provide the following programs of instruction:*

(a) An education program on the theory and practice of ophthalmic dispensing which must include, without limitation, ~~*not less than 2,400 hours of educational*~~ *instruction on*

Remove the specific hours of instruction requirements to eliminate confusion regarding classroom hours versus on-the-job training hours; the 1,000 training hours for degree-holders and 2,000 training hours for home-study students (both of which must be obtained on-the-job) will remain a separate component of the apprenticeship program.

n

relating to the basic anatomy of the eye and adnexa, visual pathways and fundamental ocular physiology relevant to opticianry practice;

(2) Ophthalmic optics and lens theory, which must include, without limitation, instruction relating to geometric and physical optics, lens power, prism, lens materials and the characteristics of optical performance;

(3) Ophthalmic lenses and materials, which must include, without limitation, instruction relating to lens design, materials, treatments, coatings and considerations when selecting a lens;

(4) Selection, adjustment and repair of frames, which must include, without limitation, instruction relating to frame materials, fitting principles, adjustment techniques and basic repairs;

(5) Measurements and fitting techniques, which must include, without limitation, instruction relating to facial measurements, pupillary distance, segment height, fitting cross placement and verification procedures; and

(6) Interpretation and verification of prescriptions, which must include, without limitation, instruction relating to prescription analysis, the standards adopted by reference in NAC 637.239, lens verification and troubleshooting.

(b) An education program on the theory and practice of dispensing contact lenses which must include, without limitation, ~~not less than 1,200 hours of educational~~ instruction on the following topics: Remove the specific hours of instruction requirement.

(1) Fundamentals of contact lenses, which must include, without limitation, instruction relating to basic types of contact lenses, materials used for contact lenses, systems of caring for contact lenses and the role of a dispensing optician in providing services relating to contact lenses;

(2) The fitting of contact lenses, which must include, without limitation, instruction relating to theoretical and practical principles of fitting soft, rigid, gas permeable and specialty contact lenses;

(3) Prescriptions for and dispensing of contact lenses, which must include, without limitation, instruction relating to interpreting prescriptions, translating a prescription into an appropriate order for lenses and other decisions specific to the dispensing of contact lenses;

(4) Instrumentation and technologies used in the dispensing of contact lens, which must include, without limitation, instruction relating to the operation and interpretation of keratometers, corneal topographers, slit lamps, lensometers, pachymeters and trial lens sets; and

(5) Infection control and safety, which must include, without limitation, instruction relating to standard precautions, sanitation of equipment, workplace safety and applicable health regulations. Remove Sec. 13(2), which is unnecessary without the specific hours requirements

~~*2. For the purposes of this section, 1 instructional hour must consist of not less than 50 minutes of direct instruction or supervised practical training.*~~

3. A program sponsor shall provide, for each apprentice dispensing optician enrolled in the ophthalmic education program, an accurate and complete official transcript or an equivalent official record upon completion of the program. An official transcript or equivalent official record must, without limitation:

(a) Clearly identify:

(1) The full name of the apprentice dispensing optician;

(2) The full name of the program sponsor;

(3) The name of the ophthalmic education program;

(4) The dates of attendance or completion of the program; and

(5) The number of hours of educational instruction completed in each required topic; and

(b) Contain sufficient information to enable the Board to verify compliance with the educational requirements set forth in this chapter.

Sec. 14. *1. Upon receipt of a completed application for approval of an ophthalmic education program, the Board will review the application and supporting documentation submitted pursuant to section 12 of this regulation to determine whether the ophthalmic education program complies with the educational requirements set forth in section 13 of this regulation and otherwise provides sufficient and appropriate education in the subject matter described in that section. In evaluating an application, the Board will consider, without limitation:*

(a) The relevance of the curriculum to the practice of ophthalmic dispensing;

(b) The adequacy of the hours of educational instruction and the depth of the content taught;

(c) The qualifications and credentials of each instructor;

(d) The effectiveness of the methods of assessment and evaluation; and

(e) The ability of the program to prepare an apprentice dispensing optician for the safe and competent practice of ophthalmic dispensing.

2. The Board may approve, deny or conditionally approve an ophthalmic education program. The Board will provide written notice of its decision to the program sponsor and, if applicable, identify any condition of approval or deficiency in an application that requires correction by the program sponsor.

3. The Board may delegate the review and approval of ophthalmic education programs pursuant to this section to an employee, contractor or other designee of the Board.

4. The approval of an ophthalmic education program is valid for a period not to exceed 5 years unless earlier suspended or revoked by the Board pursuant to section 15 of this regulation. During the period of approval, an ophthalmic education program shall maintain compliance with the requirements set forth in sections 12 to 15, inclusive, of this regulation.

5. A program sponsor shall notify the Board in writing of any substantive change to the curriculum, instructors, methods of instruction or structure of the ophthalmic education program not later than 30 days after the change.

Amend language in Sec. 14(6) to be consistent with all other language in the regulation pertaining to the applications and forms

6. A program sponsor of an ophthalmic education program must submit an application for renewal in the form and manner prescribed by the Board. An application for renewal must demonstrate continued compliance with the requirements set forth in sections 12 to 15, inclusive, of this regulation.

7. A program sponsor shall not represent or advertise an ophthalmic education program that is not approved by the Board pursuant to this section or deemed approved pursuant to subsection 2 of section 12 of this regulation as being approved by the Board.

Sec. 15. *1. The Board may require periodic reports and conduct audits or on-site reviews to ensure continued compliance with sections 12 to 15, inclusive, of this regulation.*

2. If the Board determines that an approved ophthalmic education program has failed to comply with sections 12 to 15 inclusive, of this regulation, the Board may suspend, revoke or refuse to renew its approval of the program.

3. Before suspending, revoking or refusing to renew the approval of an ophthalmic education program, the Board will notify the program sponsor of the deficiency in compliance and provide an opportunity for the program sponsor to respond to the notice of deficiency.

Sec. 16. NAC 637.001 is hereby amended to read as follows:

637.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 637.007 and 637.008 ***and sections 2 to 6, inclusive, of this regulation*** have the meanings ascribed to them in those sections.

Sec. 17. NAC 637.220 is hereby amended to read as follows:

637.220 1. Unless waived pursuant to subsection 2, the fee for:

(a) An application for an initial license as an apprentice dispensing optician is ~~[$100.]~~ ***$200.***

(b) An application for an initial license as a dispensing optician is ~~[$150.]~~ ***$250.***

(c) The annual renewal of a license as an apprentice dispensing optician is ~~[$100.]~~ ***$200.***

(d) The annual renewal of a license as a dispensing optician is ~~[$350.]~~ ***$500.***

(e) The annual renewal of a limited license as a dispensing optician is $200.

(f) The examination described in NAC 637.160 is $250.

2. The Board will waive the annual renewal fee set forth in subsection 1 for:

(a) The first renewal if the initial license was issued on or after November 1; or

(b) The first renewal if the license was reactivated on or after November 1.

3. The annual delinquency fee for the reinstatement of a:

(a) License as an apprentice dispensing optician is $100.

(b) License as a dispensing optician is $300.

(c) Limited license as a dispensing optician is $200.

4. The fee for the inactivation of a license as a dispensing optician or the renewal of such an inactive license is $300.

Sec. 18. NAC 637.235 is hereby amended to read as follows:

637.235 1. As used in paragraph (h) of subsection 6 of NRS 637.150, the Board will interpret the phrase "other conduct which the Board has determined is unethical or unprofessional" to include, without limitation:

(a) Performing acts beyond the scope of the practice of ophthalmic dispensing;

(b) Performing dispensing duties while under the influence of intoxicating liquor or a controlled substance;

(c) Presenting any false or deceptive information to the Board or the public;

(d) Engaging in the sexual harassment of any employee or consumer, including, without limitation, making unwelcome sexual advances, requests for sexual favors or other speech or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with the work performance of an employee or creating an environment which is intimidating, hostile or offensive to an employee or consumer;

(e) Attempting to obtain or retain a consumer, either directly or indirectly, by way of intimidation, coercion or deception;

(f) Engaging in conduct that would lead to the harm or endangerment of the public;

(g) Violating an order issued by the Board; ~~[or]~~

(h) Failing to cooperate with an investigation conducted by the Board, including, without limitation, failing to provide documents requested by a member of the Board, the staff of the Board or an investigator for the Board ~~[.]~~ ***; or***

(i) Engaging in falsification, misrepresentation or cheating relating to continuing education requirements, including, without limitation:

(1) Using answers to test questions, external assistance or other unauthorized materials to complete continuing education coursework or examinations;

(2) Allowing another person to complete, in whole or in part, any continuing education activity on behalf of the licensee; and

(3) Misrepresenting the completion of continuing education requirements.

2. In addition to the conduct listed in subsection 1, the Board will further interpret the phrase "other conduct which the Board has determined is unethical or unprofessional" to include:

(a) A dispensing optician who allows an apprentice dispensing optician whom the dispensing optician directly supervises to perform any task:

(1) For which the apprentice dispensing optician is not trained;

(2) Which is outside the scope of practice of an apprentice dispensing optician; or

(3) Without the direct supervision of the dispensing optician.

(b) An apprentice dispensing optician who performs any act for which a license is required pursuant to this chapter or chapter 637 of NRS:

(1) Without the direct supervision of a licensed dispensing optician, ophthalmologist or optometrist; or

(2) In violation of the express instructions of the licensed dispensing optician, ophthalmologist or optometrist who is supervising the apprentice dispensing optician.

Sec. 19. ~~NAC 637.285 is hereby amended to read as follows~~:

Section 637.285 was repealed by R067-23 and replaced with 637.2316 (in the now codified regulation); to avoid confusion and/or unintended revisions to the language of the regulation, Sec. 19 must be redrafted by the LCB

Sec. 20 must be redrafted by LCB to include the option of obtaining an associate degree pursuant to 637.100(1)(c)(2)

Sec. 20. Section 5 of LCB File No. R067-23 is hereby amended to read as follows:

1. An apprentice dispensing optician who desires to obtain a license as a dispensing optician pursuant to NRS 637.100 must:

(a) Complete ~~[an educational]~~ ***the following education programs that comprise an ophthalmic education program approved by the Board pursuant to section 14 of this regulation:***

(1) An education program ~~[approved by the Board which includes the following areas of instruction:~~

~~(1) Ocular anatomy, physiology and refractive anomalies of the eye;~~

~~(2) Processes of vision, especially the effect of light, lenses and prisms placed before the eye;~~

~~(3) Theoretical optics;~~

~~(4) Ophthalmic vocabulary;~~

~~(5) Ophthalmic prescription interpretation, eyeglass lens and contact lens identification, fitting and adjustment of eyeglasses and use of instruments in the analysis of eyeglass lenses and contact lenses in a practical examination; and~~

~~(6) All facets of ophthalmic dispensing procedures.]~~ ***on the theory and practice of ophthalmic dispensing ; and***

(2) An education program on the theory and practice of dispensing contact lenses.

(b) Receive instruction and training under the direct supervision of a licensed dispensing optician, ophthalmologist or optometrist in this State while employed at an optical establishment. Such instruction and training must include experience at the fitting table in preparing laboratory orders, verifying processed work from the laboratory and the performance of other duties related to ophthalmic dispensing consisting of:

(1) At least 2,000 hours of training and experience as an apprentice dispensing optician completing a 2-year apprenticeship pursuant to subparagraph (1) of paragraph (c) of subsection 1 of NRS 637.100; or

(2) At least 1,000 hours of training and experience as an apprentice dispensing optician completing a 1-year apprenticeship pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 637.100.

(c) Complete at least 100 hours of training and experience related to the fitting and filling of prescriptions for contacts lenses, as evidenced in the form and manner prescribed by the Board and signed by the licensed dispensing optician, ophthalmologist or optometrist in this State who provided such training. A dispensing optician with a limited license shall not provide any of the training required pursuant to this paragraph.

(d) Perform the accurate and correct neutralization of at least 100 pairs of prescription spectacles as evidenced on a form prescribed by the Board and signed by the licensed dispensing

Amend Sec. 20(2) because a person with a limited license should not be required to complete the ophthalmic portion of the education program, only the contact lens portion

2. The Board will waive the requirements of paragraphs ***(a)(1)***, (b) and (d) of subsection 1 for an apprentice dispensing optician who holds a limited license as a dispensing optician pursuant to NRS 637.121.

3. An apprentice dispensing optician who desires to obtain a license as a dispensing optician pursuant to NRS 637.100 and who has obtained qualifying ophthalmic experience before licensure as an apprentice dispensing optician or while previously licensed as an apprentice dispensing optician in this State may apply to the Board for credit toward the requirements of paragraph (b) of subsection 1. The application must include, without limitation:

(a) A detailed description of the nature, scope and duration of the previous ophthalmic

Amend Sec. 20(3)(c) and remove Sec. 20(4)(b): if the apprentice previously worked in another state, they may not have been required to have a licensed supervisor while training or working; the signed attestation should include workplace duties and dates of employment

number of hours worked;

(c) A signed attestation from the ~~supervising dispensing optician, ophthalmologist or optometrist~~ workplace supervisor or employer of the applicant ~~confirming the duties and supervision~~ verifying the ophthalmic dispensing experience of the applicant including the applicant's workplace duties and dates of employment; and

(d) Any additional information requested by the Board.

4. The Board may grant credit pursuant to subsection 5 only for ophthalmic experience that the apprentice dispensing optician obtained:

(a) Within the 5 years immediately preceding the date of application for credit;

~~(b) While working under the direct supervision of a licensed dispensing optician, ophthalmologist, or optometrist;~~

(c) In compliance with all applicable licensing, employment and consumer protection laws; and

(d) Through the performance of duties that are substantially similar to the duties required of an apprentice dispensing optician in this State, including, but not limited to, the dispensing, fitting, adjustment, repair or sale of ophthalmic products.

5. Upon receipt of an application for credit toward the requirements of paragraph (b) of subsection 1, the Board will review each application on a case-by-case basis and may grant full, partial or no credit based on the quality, relevance and a verification of the ophthalmic exp Amend the language in Sec. 20(6) to be consistent with all other language in the regulation related to the review and approval of applications ***e Board is final.***

6. ~~The Board may delegate the review, approval or denial of an application for credit towards the requirements of paragraphs (b) of subsection 1 to the Executive Director of the~~

~~*Board, an authorized employee or a designee of the Board.*~~ ***The Executive Director of the Board, an authorized employee of the Board or a designee of the Board may review and approve or deny applications submitted pursuant to this section and in accordance with the policies of the Board.***

Sec. 21. Section 9 of LCB File No. R067-23 is hereby amended to read as follows:

1. A manager of an optical establishment:

(a) Must hold a license as a dispensing optician issued pursuant to this chapter or chapter 637 of NRS; and

(b) Is responsible for ~~[overseeing all aspects of ophthalmic dispensing]~~ ***all day-to-day and on-site management duties*** at the optical establishment, including, without limitation:

(1) ~~[Ensuring]~~ ***The oversight of all ophthalmic dispensing services, including, without limitation, ensuring*** that all ophthalmic dispensing is performed by ~~[an]~~ appropriately licensed ~~[employee]~~ ***employees*** and that the optical establishment and its employees adhere to the provisions of this chapter and chapter 637 of NRS;

(2) Maintaining a current list of all licensees who are employed at the optical establishment;

(3) Displaying the current license certificates of all licensed employees in a public and conspicuous area of the optical establishment; ~~[and]~~

(4) Ensuring the optical establishment keeps a copy of each sworn statement submitted to the Board pursuant to section 7 of LCB File No. R067-23 that indicates the supervisor of record for each apprentice dispensing optician employed at the optical establishment ~~[.]~~ ***;***

(5) Supervising, scheduling, evaluating and disciplining licensed and unlicensed employees;

(6) Making decisions relating to operations, staffing or professional practice that affect

the optical establishment; and

(7) Ensuring compliance with applicable regulations, recordkeeping requirements, audits, inspections and the implementation of policies and procedures required by this chapter.

2. A dispensing optician must notify the Board, in the form and manner prescribed by the Board, within 10 days after becoming the manager of an optical establishment, that he or she is the manager of the optical establishment. A dispensing optician shall not manage more than one optical establishment.

3. Except as otherwise provided in this subsection, the manager of an optical establishment must be on duty during the hours the optical establishment is engaged in ophthalmic dispensing unless the manager assigns another dispensing optician to act as the substitute manager of the optical establishment.

4. An apprentice dispensing optician shall not:

(a) Act as a manager of an optical establishment; or

(b) Under any circumstances have any authority to, or act in such a manner as to supersede the authority or any decision of a dispensing optician.

5. ~~[If no dispensing optician is on duty in the optical establishment, a sign prescribed by the Board must be posted for public view at the main entrance or cashier station of the optical establishment in accordance with subsection 2 of NRS 637.090.~~

~~6.]~~ A person who has supervisory authority over a person who manages an optical establishment and intentionally influences or attempts to influence the decisions of that person relating to ophthalmic dispensing shall be deemed to have violated the provisions of NRS 637.090.

6. An optical establishment shall:

(a) Maintain a contemporaneous record that identifies the manager on duty during each period in which ophthalmic dispensing occurs. Such a record must include, without limitation:

(1) The full name and license number of the manager on duty;

(2) The date and the beginning and ending times during which the manager was on duty; and

(3) A notation of any replacement of or modification to the manager on duty, if applicable.

(b) Retain the record required by paragraph (a) for not less than 2 years after the record is made and make the record available to the Board for inspection upon request.

(c) Post a sign, in the form prescribed by the Board, that identifies the manager on duty. The sign must be visible to the public during any period during which ophthalmic dispensing is occurring.

(d) Ensure that the sign posted pursuant to paragraph (c) is updated upon any replacement of or modification to the manager on duty.

7. An optical establishment shall not circumvent the requirements of paragraph (a) of subsection 1 by:

(a) Assigning managerial duties to an unlicensed person under another title, including, without limitation, office manager, operations manager, store lead , administrator or consultant;

(b) Designating a dispensing optician as manager of the optical establishment while authorizing an unlicensed person to perform managerial duties or exercise managerial authority;

(c) Characterizing managerial duties performed by an unlicensed person as temporary, incidental, clerical, advisory or administrative in nature;

(d) Authorizing an unlicensed person to manage the optical establishment during any period in which a manager is absent or unavailable; or

(e) Establishing an employment, contractual or supervisory arrangement that permits an unlicensed person to perform managerial duties or exercise managerial authority.

8. The following circumstances create a rebuttable presumption that an optical establishment has employed, designated or otherwise permitted an unlicensed person to serve as the manager of the optical establishment in violation of paragraph (a) of subsection 1:

(a) An unlicensed person is the highest-ranking or primary on-site person that is responsible for the day-to-day operation of the optical establishment;

(b) An unlicensed person routinely opens or closes the optical establishment, prepares work schedules or assigns responsibilities for licensed and unlicensed employees;

(c) An unlicensed person directs or provides instruction to licensed or unlicensed employees concerning the operation of the optical establishment;

(d) An unlicensed person communicates with regulatory agencies, vendors or other third parties on behalf of the optical establishment;

(e) An unlicensed person performs managerial duties during any period in which a manager is absent or unavailable; or

(f) A manager of the optical establishment is present only intermittently, remotely or in a nominal capacity.

9. A rebuttable presumption established pursuant to subsection 8 may be overcome if the optical establishment presents clear and convincing evidence that an unlicensed person does not perform managerial duties or exercise managerial authority.

10. In determining compliance with paragraph (a) of subsection 1, the Board will consider the duties performed and authority exercised by an unlicensed person without regard to the job title or contractual designation of the unlicensed person or the reporting structure of the optical establishment.

11. Each day, or portion thereof, that an optical establishment is in violation of paragraph (a) of subsection 1 constitutes a separate violation.

Sec. 22. Section 13 of LCB File No. R067-23 is hereby amended to read as follows:

1. If the Board, the Executive Director of the Board, an authorized employee of the Board or a designee of the Board issues a citation pursuant to NRS 637.182, the Board, Executive Director, authorized employee or designee will impose an administrative fine according to the ~~[schedule]~~ ***schedules*** adopted in ~~[subsection]~~ ***subsections*** 2 ~~[.]~~ ***, 3 and 4.***

2. The Board adopts the following schedule of administrative fines for any citation issued pursuant to subsection 1 ~~[.]~~ ***, except for violations described in subsections 3 and 4:***

Violation	First Violation	Second Violation	Third or Subsequent Violation
APPRENTICE DISPENSING OPTICIAN OR DISPENSING OPTICIAN			
Failure to notify the Board of a change of address pursuant to NAC 637.230	$100	$200	$500
Failure to notify the Board of a change of supervisor of record pursuant to section 7 of LCB File No. R067-23	100	200	500

Violation	First Violation	Second Violation	Third or Subsequent Violation
Failure to post a current license certificate in a conspicuous manner pursuant to section 9 of LCB File No. R067-23	200	500	1,000
Failure to provide access to facilitate an inspection in violation of section 11 of LCB File No. R067-23	200	500	1,000
Practicing with an expired license	500	1,000	1,500
Dispensing a prescription ophthalmic product that is not in accordance with the standards adopted by reference in NAC 637.239	500	1,000	1,500
Dispensing without supervision in violation of subsection 3 of NRS 637.125	500	1,000	1,500
Supervising more than two apprentice opticians at one time in violation of subsection 1 of section 7 of LCB File No. R067-23	500	1,000	1,500
Allowing an unlicensed person to dispense ophthalmic products in violation of subsection 2 of NRS 637.125	1,000	1,500	2,000
ANY PERSON OR BUSINESS ENGAGED IN OPHTHALMIC DISPENSING			

Violation	First Violation	Second Violation	Third or Subsequent Violation
Selling nonprescription cosmetic or theatrical contact lenses without a license	100	500	1,000
Practicing ophthalmic dispensing without a license in violation of NRS 637.181	1,000	1,500	2,000
Employing an unlicensed person who practices ophthalmic dispensing without a license in violation of NRS 637.125	1,000	1,500	2,000
Employing a person licensed pursuant to this chapter or chapter 637 of NRS who violates subsection 2, 3 or 4 of NRS 637.125	1,000	1,500	2,000
Presenting oneself to the public as a dispensing optician or an apprentice dispensing optician in violation of subsection 6 of NRS 637.200	500	1,000	1,500

3. ***The Board adopts the following schedule of administrative fines for any citation issued pursuant to subsection 1 for a violation of paragraph (b) of subsection 3 of section 7 of this regulation:***

(a) For the first violation, $1000.

(b) For the second and any subsequent violation, $5000.

4. The Board adopts the following schedule of administrative fines for any citation issued

pursuant to subsection 1 for a violation of paragraph (a) of subsection 1 of section 9 of LCB File No. R067-23:

(a) For a violation continuing for at least 1 day but not more than 7 days, $100 per day.

(b) For a violation continuing for at least 8 days but not more than 30 days, $200 per day.

(c) For a violation continuing for 31 days or more, $500 per day.

5. Notwithstanding any citation issued pursuant to subsection 1 and an administrative fine imposed pursuant to ~~[subsection]~~ ***subsections*** 2, ***3 and 4,*** a person who violates a provision of this chapter or chapter 637 of NRS may be ordered to appear at a hearing before the Board and is subject to the penalties set forth in NRS 637.150 and 637.181.

Amend NAC 637.2313(a) (637.285 was repealed by R067-23) to include a degree program, per NRS 637.100; remove the provisions that pertain to areas of instruction, which will now be covered by Section 12 of this regulation (see p. 10)

PROGRAM OF APPRENTICESHIP

NAC 637.2313 Completion of educational program, instruction and training; waiver of certain requirements for holder of limited license. (NRS 637.070, 637.071, 637.100, 637.121)

1. An apprentice dispensing optician who desires to obtain a license as a dispensing optician pursuant to NRS 637.100 must:

(a) Complete an educational program approved by the Board ***pursuant to Section 14 of this regulation or obtain an associate's degree in applied science for studies in ophthalmic dispensing from a school which is approved by the Board*** ~~which includes the following areas of instruction:~~

~~(1) Ocular anatomy, physiology and refractive anomalies of the eye;~~

~~(2) Processes of vision, especially the effect of light, lenses and prisms placed before the eye;~~

~~(3) Theoretical optics;~~

~~(4) Ophthalmic vocabulary;~~

~~(5) Ophthalmic prescription interpretation, eyeglass lens and contact lens identification, fitting and adjustment of eyeglasses and use of instruments in the analysis of eyeglass lenses and contact lenses in a practical examination; and~~

~~(6) All facets of ophthalmic dispensing procedures~~

Amend NAC 637.160 to update and streamline exam requirements

LICENSING

NAC 637.160 Examination for license as dispensing optician; meeting concerning examination; certificate to qualify for licensure. (NRS 637.070, 637.071, 637.100, 637.121)

1. An examination for a license as a dispensing optician will test the applicant's proficiency and knowledge in the following subjects:

(a) ~~*Neutralization of ophthalmic products;*~~ ***Ocular anatomy, physiology, pathology, and refraction***
(b) Ophthalmic product***s*** ~~*identification;*~~
(c) Ophthalmic instrumentation;
(d) ~~*Optical theory*~~ ***Ophthalmic optics***~~;~~
(e) Dispensing ~~*of ophthalmic products*~~ ***procedures***;
(f) The provisions of this chapter and chapter 637 of NRS; ~~***and***~~
~~*(g) Anatomy, physiology and health of the eye.*~~ ***Contact lens prefitting;***
(h) Contact lens instrumentation;
(i) Contact lens diagnostic fitting; and
(j) Contact lens dispensing and follow up

2. If an applicant for a license as a dispensing optician holds a limited license as a dispensing optician pursuant to NRS 637.121, the examination will test the applicant's proficiency and knowledge ***on the subjects listed in NAC 637.160 (g), (h), (i), and (j)*** ~~*in the following subjects:*~~
~~*(a) Neutralization of ophthalmic products; Pre fitting of contact lenses*~~
~~*(b) Instrumentation and fitting;*~~
~~*(c) Basic contact lens; and*~~
~~*(d) The provisions of this chapter and chapter 637 of NRS.*~~

Amend NAC 637.235 to interpret the term "crime involving moral turpitude"

STANDARDS OF PRACTICE; PENALTIES

NAC 637.235 Grounds for disciplinary action: "Other conduct which the Board has determined is unethical or unprofessional" interpreted. (NRS 637.070, 637.125, 637.150)

As used in subparagraph 1 of paragraph a of subsection 6 of NRS 637.150, the Board will interpret the term "crime involving moral turpitude" to mean any felony or gross misdemeanor offense for which an applicant or licensee has been convicted within the immediately preceding 10 years.