WARBY PARKER

Nevada Board of Dispensing Opticians
4790 Caughlin Pkwy. #241
Reno, NV 89519-0907

Re: **LCB File No. R117-26**

Dear Members of the Board:

I am writing to inform you that Warby Parker has concerns about portions of the proposed Regulation R117-26 because they are inconsistent with the Dispensing Optician statute.

Specifically, NRS 637.026, as amended by SB106, which was passed in 2023, exempts from the statutes' requirements the manufacturing and direct online sale of prescription eyewear to an intended wearer located *outside* of Nevada at the time of purchase, provided certain requirements are met. These requirements include the supervision of manufacturing by a Nevada-licensed dispensing optician, daily review of manufacturing equipment, and confirmation that lenses shipped to the wearer meet the wearer's submitted prescription. Again, this exemption only applies to glasses shipped to a wearer *outside* of Nevada.

R117-26 broadly defines an “online optical vendor”, without acknowledging the statutory exclusion for businesses or transactions. It then imposes requirements that go beyond those set forth in NRS 637.026.

For example, Section 10 of R117 requires that each online optical order be dispensed by a Nevada-licensed dispensing optician and imposes additional requirements for validating and maintaining prescriptions. Section 11 requires a dispensing optician to perform a final inspection and verification before an ophthalmic product is delivered, including when delivered via remote dispensing. NRS 637.026 expressly exempts qualifying out-of-state transactions from these requirements.

We request that the Board revise R117-26 to expressly exclude persons and transactions that qualify under the NRS 637.026 exemption. The legislature clearly intended to create a separate regulatory framework governing prescription glasses delivered to individuals located outside of Nevada. The board proposed R117-26 would exceed the Board’s authority to regulate this activity beyond the requirements set forth in R117-26.

Thank you for your attention to this matter.

Chris Utecht
General Counsel and Secretary
Warby Parker Inc.

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Professionalism Consumerism Education
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October 20, 2026

Nevada State Board of Dispensing Opticians
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RE: Comments of the National Association of Retail Optical Companies on Proposed Regulation LCB File No. R117-26 (LCB Draft Dated June 22, 2026)

Dear Members of the Board:

The National Association of Retail Optical Companies ("NAROC") respectfully submits these comments on the regulation proposed by the Nevada State Board of Dispensing Opticians ("Board"), Legislative Counsel Bureau File No. R117-26 (the "Proposed Regulation"). NAROC is a national trade association representing retail optical companies that together operate more than 10,000 locations nationwide, including multiple locations in Nevada. NAROC first submitted these comments on June 12, 2026, on the draft then designated R117-26I. This letter conforms the section references and quotations to the LCB draft dated June 22, 2026, and adds a supplement (Part IV) on changes in that draft.

NAROC submits these comments in a spirit of constructive engagement with the Board's rulemaking process. We recognize that the Proposed Regulation addresses legitimate regulatory goals—including standards of professional practice, recordkeeping, and education program oversight—and we do not take issue with the Board's authority to regulate these subjects generally. However, our review of the Proposed Regulation has identified specific provisions in Sections 7 through 11, 17, 21, and 22 that, as currently drafted, exceed the Board's delegated authority; conflict with existing Nevada statute, the Nevada Administrative Procedure Act, and federal law; and impose operational burdens on retail optical establishments and Nevada-based manufacturers that are not supported by evidence of consumer harm or consumer benefit. We address each of those provisions below.

I. MULTIPLE PROVISIONS IN SECTIONS 7 THROUGH 11, 17, 21, AND 22 CONFLICT WITH NRS 637.026, FEDERAL LAW, OR BOTH

Sections 7 through 11 of the Proposed Regulation contains several provisions that apply broadly to "an optical establishment, online optical vendor, or other employer" or "a business that dispenses ophthalmic products through remote or electronic means"—without distinguishing between Nevada-licensed optical retail establishments and Nevada-based manufacturers shipping to out-of-state customers under the exemption framework established by NRS 637.026. Requirements that the legislature and the Board have determined are appropriate for Nevada-licensed optical retail establishments serving Nevada customers are not necessarily appropriate—and in some cases are directly contrary to statute—when applied to Nevada-based manufacturers whose customers are located outside Nevada and who operate under a specific legislative exemption. The Proposed Regulation's broad definition of "online optical vendor" is also broad enough to reach Nevada-based fulfillment and warehouse centers that receive finished prescription eyewear and ship directly to out-of-state customers, regardless of whether they perform manufacturing functions. The failure to carve out Nevada-based businesses that operate under the NRS 637.026 framework from the broad applicability of these sections is the source of the legal problems we identify below. NAROC does not challenge these requirements as applied to Nevada-based optical establishments and Nevada-based online vendors serving Nevada customers, which are consistent with the Board's existing regulatory framework under Section 8 of LCB File No. R067-23 and NRS 637.090.

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A. Section 7(3)(b) Final Inspection and Verification Requirement: Conflict with NRS 637.026

NAROC recommends that the Board strike or qualify Section 7(3)(b) to exclude Nevada-based manufacturers and other businesses operating under the NRS 637.026 exemption framework. Section 7(3)(b) subjects an optical establishment, online optical vendor or other employer to discipline pursuant to NRS 637.181 if it "[d]irects a dispensing optician or unlicensed employee to dispense an ophthalmic product that has not received a final inspection and verification by a dispensing optician," and Section 22(3) sets a fine of $1,000 for the first violation and $5,000 for each subsequent violation. This provision applies on its face to all online optical vendors regardless of business model or customer location—including businesses operating under the NRS 637.026 exemption framework for whom final per-order physical inspection and verification by a dispensing optician is not required. NRS 637.026(2) requires supervisory oversight and prescription conformance confirmation; it does not require per-order physical inspection and verification by a dispensing optician. Section 7(3)(b), applied to businesses operating under the NRS 637.026 exemption framework, imposes exactly the inspection and verification requirement the legislature chose not to mandate and is a regulation that penalizes conduct the enabling statute does not prohibit. NAROC recommends that the Board strike or qualify Section 7(3)(b) to exclude Nevada-based manufacturers and other businesses operating in compliance with NRS 637.026.

B. Section 8(1)(a) Recordkeeping Requirement: Conflict with NRS 637.026

NAROC recommends that the Board revise 8(1)(a) to exclude or qualify its application to Nevada-based manufacturers and other businesses operating under the NRS 637.026 exemption framework. Section 8(1)(a) requires that each optical establishment or online optical vendor—regardless of business model—maintain records of each optical order stating "[t]he full name and license number of the dispensing optician who created or prepared the optical order" and "[t]he full name of the dispensing optician who performed the final inspection and verification … and dispensed or delivered the optical order". This requirement presupposes individual per-order optician involvement—accurate for retail establishments but directly inconsistent with NRS 637.026(2). A manufacturer operating in full compliance with NRS 637.026(2) may have no Nevada-licensed optician individually involved in any specific order and would therefore have no Nevada license number to record—deemed noncompliant despite violating no law. As with Section 8(1)(a), the regulation eliminates the practical benefit of the statutory exemption through a recordkeeping mandate that the statute does not authorize. NAROC recommends that the Board revise Section 8(1)(a) to include an express carveout for manufacturers and other businesses operating under the NRS 637.026 exemption framework.

C. Section 8(1)(b) and (c) Recordkeeping and Product Storage Requirements: Conflict with HIPAA and NRS 637.022

NAROC recommends that the Board delete subparagraphs (b) and (c) of Section 8(1) in their entirety, as subparagraphs (d) and (e) already accomplish the Board's legitimate patient protection goals without creating the legal conflicts described below. Section 8(5)(b) requires that patient records relating to optical orders be "securely maintained and accessible only to dispensing opticians who are authorized by the optical establishment or online optical vendor … to dispense ophthalmic products". This restriction is narrower than—and in direct conflict with—the authorized access framework established by the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations ("HIPAA"). HIPAA permits access to protected health information by a broad range of workforce members for treatment, payment, and healthcare operations purposes, including billing and administrative personnel who perform no dispensing function and hold no optician license. For NAROC members who are HIPAA-covered entities—as most retail optical companies are—Section 3(5)(a) as written would prohibit access by personnel who are lawfully authorized under their HIPAA compliance programs to access those records for routine billing, claims submission, and administrative purposes. A state regulation that restricts patient record access to a narrower class of personnel than federal law authorizes is preempted to the extent of that conflict. Subparagraphs (d) and (e) already require the optical establishment or the optical online vendor to protect patient information "in accordance with

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applicable federal and state law" and to disclose it only with the patient's consent or "as required by applicable federal and state law", which encompasses HIPAA's authorized access framework; subparagraph (b) is therefore not only legally problematic in isolation but redundant of—and inconsistent with—the broader standards subparagraphs (d) and (e) correctly establish.

Section 8(1)(c) requires that prepared and verified ophthalmic products awaiting dispensing be "securely stored and accessible only to dispensing opticians who are authorized … to dispense ophthlamic products." Under NRS 637.022, ophthalmic dispensing includes the final physical inspection, verification, and issuance of final authorization to deliver—but expressly excludes the completion of sales transactions. NRS 637.022(3)(b). Once a licensed optician has performed those professional functions and issued final authorization, the physical transfer of that completed product to the consumer is not ophthalmic dispensing and requires no license. Section 8(1)(c) as drafted would prohibit an unlicensed optical sales associate from retrieving a completed, verified, licensed-optician-authorized product from will-call storage and transferring it to the waiting customer—a task containing no professional judgment, no measurement, and no fitting function—even when a licensed optician is present and directing the transaction. This routine will-call pickup practice is standard across retail optical settings, and Section 8(1)(c) as written would disrupt it without any basis in NRS 637.022.

NAROC recommends that the Board delete subparagraphs (b) and (c) of Section 8(1) in their entirety, on the basis that subparagraphs (d) and (e) already establish the correct and legally sound patient protection standard, and that (b) and (c) as drafted create preemption conflicts and exceed the Board's statutory authority. If the Board believes that specific product security or record access standards beyond those in (d) and (e) are necessary, NAROC recommends that any such standards be drafted to align expressly with HIPAA's authorized access framework and to clarify that the restriction on access to prepared and verified products applies to the professional dispensing functions defined in NRS 637.022—not to the physical transfer of a completed, authorized product to the correct patient pursuant to a licensed optician's authorization.

D. Section 10(2) Dispense Upon Valid Prescription Requirement: Conflict with the Fairness to Contact Lens Consumers Act and the FTC Contact Lens Rule

Section 10(2) provides that 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." It requires the optician to "[v]erify the authenticity, completeness and validity of the prescription", verify that the prescriber "is authorized", ensure the prescription has not expired, "take steps as necessary to verify that the prescription has not been altered and is attributable to the prescriber" when it is received remotely or electronically, and keep a copy in the Section 8 record.

NRS 637.022 explicitly permits licensed opticians to duplicate eyeglasses without a copy of the eyeglass prescription, if the patient has the actual eyewear. Additionally, the definition of a prescription in NRS 637.0235 does not require it to be written. Unless the Board has some evidence that counterfeit prescriptions are an issue, there is no reason that an optician should have to take extraordinary measures to verify further a prescription that on its face has the requisite information to prepare the eyeglass lenses. The proposed rule's additional "confirmation" steps are not required for an in-person transaction, and there is no evidence that it is needed for online or remote ordering.

Further, the definition of "ophthalmic product" under NAC 637.0095, expressly includes "[a]ll prescription and nonprescription contact lenses, including, without limitation, prepackaged contact lenses, individual contact lenses, cosmetic contact lenses and theatrical contact lenses." Section 10(2) of the Proposed Regulation therefore applies to contact lens sales—and to the extent it does, it conflicts with the Fairness to Contact Lens Consumers Act, 15 U.S.C. § 7601 et seq. ("FCLCA") and the Federal Trade Commission's (FTC) Contact Lens Rule, 16 C.F.R. Part 315.

The FCLCA and the Contact Lens Rule establish a passive verification framework for contact lens prescription verification. Under that framework, a seller may dispense contact lenses upon presentation of a valid prescription or after submitting a verification request to the prescriber and receiving either confirmation or no response within eight

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business hours. 16 C.F.R. § 315.5. The prescriber's failure to respond within that window constitutes verification by operation of law—the seller is not required to obtain affirmative confirmation of authenticity or validity before dispensing. Section 10(2)(a) and (b)'s requirement that the optician "[v]erify the authenticity, completeness and validity of the prescription" and "[v]erify that the prescription was issued by a prescriber who is authorized" imposes an active verification standard that is inconsistent with—and more burdensome than—the passive verification framework Congress and the FTC have established for contact lens sales. To the extent Section 10(2) applies to contact lens transactions, it is preempted by federal law. 16 C.F.R. § 315.11(a).

NAROC recommends that the Board revise Section 10(2) to expressly exclude contact lens transactions from its scope, or to include a savings clause providing that nothing in Section 10(2) shall be construed to require verification practices for contact lens prescriptions that are inconsistent with or more burdensome than the requirements of the FCLCA and the FTC Contact Lens Rule.

E. Sections 10(1)(a) and 11 Final Inspection and Verification Mandate for Online Sales to Out-of-State Customers: Conflict with NRS 637.026

As noted in Sections I(A) and I(B) above, the definition of "online optical vendor" is broad enough to encompass Nevada-based manufacturers that fabricate prescription eyewear and ship it directly to customers located outside Nevada. For this category of business, Section 10(1)(a)'s requirement that each optical order be dispensed by a licensed dispensing optician and Section 11's final inspection and verification mandate (which applies "whether in-person or through remote dispensing") conflict directly with NRS 637.026 for the same reasons Sections 7(3)(b) and 8(1)(a) do. A regulation that imposes requirements inconsistent with or more burdensome than the specific statutory exemption framework the legislature created exceeds the Board's delegated rulemaking authority.

F. Recommended Revisions In This Part I

NAROC recommends that the Board revise Sections 7 through 11 to:

(1) Add a general savings clause at the outset of Sections 7 through 11 clarifying that nothing in these sections shall be construed to impose requirements on Nevada-based manufacturers that exceed or conflict with the exemption framework established by NRS 637.026;
(2) Strike or qualify Sections 7(3)(b), 10(1)(a), and 11 to exclude Nevada-based businesses operating under the NRS 637.026 exemption framework, on the basis that NRS 637.026(2) already establishes the applicable standard for that category of business and the Board has no authority to impose a more burdensome standard by regulation.
(3) Delete subparagraphs (b) and (c) of Section 8(1) or revise them as described above; and
(4) Revise Section 10(2) to eliminate any reference to the need to take additional steps to verify or confirm an eyeglass prescription that on its face is complete, or to have a prescription when duplicating eyeglasses. The Board also should exclude contact lens transactions from its scope or add a savings clause preserving compliance with the FCLCA and FTC Contact Lens Rule.

II. THE MANAGER LICENSING FRAMEWORK IN SECTION 21 CREATES DISPROPORTIONATE ENFORCEMENT EXPOSURE AND CONFLICTS WITH THE NEVADA ADMINISTRATIVE PROCEDURE ACT

NAROC does not dispute that the manager of an optical establishment must hold a valid Nevada optician license—that is the statutory requirement under NRS 637.090. Nor do we object to the core provisions already adopted in NAC 637.2325. Our concerns are directed specifically to the new enforcement architecture proposed in Section 21, subsections 6 through 11 (amending NAC 637.2325), and the related fines in Section 22.

A. Section 21(8) Rebuttable Presumption: Provision is Overbroad and Conflicts with Ordinary Business Practices

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The Proposed Regulation creates a rebuttable presumption that an unlicensed individual is performing prohibited managerial duties if he or she, among other things, "routinely opens or closes the optical establishment, prepares work schedules or assigns responsibilities for licensed and unlicensed employees," "communicates with regulatory agencies, vendors or other third parties on behalf of the optical establishment," or "performs managerial duties during any period in which a manager is absent or unavailable". The presumption also arises where 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" or "directs or provides instruction to licensed or unlicensed employees concerning the operation of the optical establishment". These activities describe ordinary retail operations performed by hourly shift supervisors, compliance and legal professionals, corporate buyers, and other general business managers throughout the industry. The presumption sweeps in routine supervisory conduct and corporate management functions that bears no relationship to the practice of ophthalmic dispensing—the professional activity NRS Chapter 637 was enacted to regulate. The regulation as drafted provides no meaningful safe harbor for ordinary coverage arrangements during breaks, shift transitions, or short-term absences for non-dispensing related managerial functions.

B. Section 21(9) Burden-Shifting and Evidentiary Standard: Provisions Conflict with NRS 233B.121(9) and NRS 233B.125

Section 21(9) permits an optical establishment to overcome the presumption only "if the optical establishment presents clear and convincing evidence that an unlicensed person does not perform managerial duties or exercise managerial authority". This provision conflicts with two independent provisions of the Nevada Administrative Procedure Act, both of which expressly establish the preponderance of the evidence as the applicable evidentiary standard in administrative contested cases. NRS 233B.121(9) provides that findings of fact in a contested case "must be based exclusively on a preponderance of the evidence and on matters officially noticed." NRS 233B.125 independently provides that findings of fact and decisions in contested cases "must be based upon a preponderance of the evidence." NRS 622A.370(1) likewise provides that, in hearings under that chapter, "[t]he prosecutor has the burden of proof" and the standard of proof is "a preponderance of the evidence". Together, these provisions establish preponderance as the evidentiary standard at every stage of a contested case proceeding—from the hearing itself through the final decision and order.

Clear and convincing evidence is a materially higher standard, one that Nevada courts apply in specific contexts where the legislature has expressly required it. Neither NRS Chapter 637 nor any other provision of which NAROC is aware authorizes the Board to depart from the APA's preponderance standard by regulation. The Board cannot impose a clear-and-convincing evidentiary burden—or shift the burden of proof to the respondent at that standard—in contested case proceedings where the legislature has established the applicable standard by statute. NAROC respectfully requests that the Board direct its legal counsel to assess Section 21(9) for consistency with NRS 233B.121(9) and NRS 233B.125; at a minimum, any retained presumption provision must conform to the preponderance standard the APA requires.

C. The Per-Day Fine Schedule Creates Undue Exposure

Under Section 21(11), "[e]ach day, or portion thereof" that an optical establishment violates paragraph (a) of subsection 1 is a separate violation, and Section 22(4) sets fines of $100 per day for a violation continuing 1 to 7 days, $200 per day for 8 to 30 days, and $500 per day for 31 days or more. The schedule does not say whether the higher rate applies to every day of a long violation or only to the days within each tier. A single 31-day gap at one location would produce a fine of $5,800 under the second reading and $15,500 under the first. Section 22(3) separately imposes $1,000 for a first violation of Section 7(3)(b) and $5,000 for each subsequent violation, without defining the unit of violation. These fines would expose large multi-location retailers to substantial liability for operational gaps that may arise without willful intent, particularly during periods of manager absence or turnover. Fines of this magnitude are appropriate for willful or repeated violations; applied to first-time or inadvertent violations, they are disproportionate to the harm the regulation is designed to prevent.

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D. Recommended Revisions In This Part II

NAROC recommends that the Board:

(1) Narrow the rebuttable presumption in Section 21(8) to conduct that directly involves supervision of ophthalmic dispensing activities, rather than general business management;
(2) Revise Section 21(9) to conform to the preponderance of the evidence standard required by NRS 233B.121(9) and NRS 233B.125, and eliminate or narrow the burden-shifting mechanism accordingly;
(3) Include a notice-and-cure period for first-time violations before the daily fine accrual under Section 22(4) begins, and clarify how Sections 22(3) and 22(4) count violations; and
(4) Define "managerial duties" and "managerial authority" as described in Part IV below.

III. THE PROPOSED FEE INCREASE IN PART V SHOULD BE SUPPORTED BY A TRANSPARENT FINANCIAL ANALYSIS

Section 17 (amending NAC 637.220) proposes to increase the annual dispensing optician renewal fee from $350 to $500—a 43% increase. NAROC does not dispute that the Board has authority to adjust fees within the statutory ceiling, nor does it take issue with the Board's need to maintain adequate operating reserves. Our objection is to the proposed fee level itself, which is disproportionate when measured against the renewal fees charged to other licensed professionals in Nevada, and against the educational requirements and earning capacity of the professionals who will bear it.

Section 17 also doubles the initial application and annual renewal fees for apprentice dispensing opticians (from $100 to $200 each), raises the initial application fee for a dispensing optician from $150 to $250, and establishes a new $250 fee for the examination described in NAC 627.160. A $200 annual fee for an entry-level apprentice is eight times the $25 annualized fee paid by Nevada certified nursing assistants and pharmacy technicians.

Nevada licenses a broad range of healthcare and professional practitioners, and the renewal fees charged to those practitioners provide a useful benchmark for assessing whether the proposed optician fee is proportionate and reasonable. The table below summarizes the current renewal fees, renewal cycles, and annualized fee amounts for a cross-section of Nevada-licensed professionals:

Licensed Professional	Renewal Fee	Renewal Cycle	Amount Per Year
Advanced Practice Registered Nurse (APRN)	$200 (or $300 with simultaneous RN renewal)	2 years	$100 (or $150 with simultaneous RN renewal)
Attorney (JD)	$250 to $450 (depending on years of admission)	1 year	$250 to $450 (depending on years of admission)
Allopathic Medical Doctor (MD)	$800	2 years	$400
Certified Nursing Assistant (CNA)	$50	2 years	$25
Dispensing Optician (LDO)	**Proposed = $500**	**1 year**	**Proposed = $500**
Licensed Practical Nurse (LPN)	$100	2 years	$50
Optometrist (OD)	$900 (license renewal and one practice location)	2 years	$450 (license renewal and one practice location)
Osteopathic Doctor (DO)	$350	1 year	$350
Pharmacist (RPh)	$200	2 years	$100
Pharmacy Technician (PT)	$50	2 years	$25

National Association of Retail Optical Companies
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Physician Assistant (PA)	$400	2 years	$200
Registered Nurse (RN)	$100	2 years	$50

As the table illustrates, the proposed $500 annual renewal fee for dispensing opticians is strikingly disproportionate when viewed against the fees charged to other Nevada-licensed practitioners—particularly when considered alongside the educational requirements and earning potential for each profession.

Nevada-licensed physicians hold doctoral degrees, complete residency training of three to seven years beyond medical school and earn median annual incomes well above $200,000—yet pay $400 per year on an annualized basis for their license renewal fees. Nevada-licensed optometrists hold doctoral degrees in optometry, are practitioners who examine patients and write the prescriptions that dispensing opticians fill, and earn an annual mean wage of $122,610 in Nevada according to the U.S. Bureau of Labor Statistics ("BLS") Occupational Employment and Wage Statistics for Nevada (May 2023)—yet pay $450 per year on an annualized basis, less than the proposed dispensing optician fee. Nevada-licensed pharmacists hold doctoral degrees in pharmacy and earn an annual mean wage of $131,820 in Nevada. Nevada-licensed attorneys complete three years of post-graduate law school and earn an annual mean wage of $159,840 in Nevada. Nevada-licensed registered nurses complete two to four years of nursing education and earn an annual mean wage of $97,700 in Nevada. Every one of these professions pays less than the proposed $500 annual renewal fee on an annualized basis—in some cases, substantially less.

Perhaps the most telling comparison is to Nevada-licensed pharmacy technicians, who occupy a role in the pharmacy setting that is structurally analogous to that of dispensing opticians in the optical setting: both handle prescription products in a direct patient-facing retail healthcare environment, and both are required to complete training programs and pass a certification examination to obtain licensure, without a degree requirement beyond the certificate or associate's level. According to the same BLS data, pharmacy technicians earn an annual mean wage of $44,850 in Nevada—making them near wage peers of dispensing opticians—yet pay $25 on an annualized basis under Nevada's current $50 biennial registration fee structure. That is a 20-to-1 fee differential between two professions at broadly comparable levels of credential, training, and earning capacity, with no apparent justification rooted in the cost of regulating either profession, the complexity of the licensed activity, or the practitioner's ability to pay.

According to BLS data for Nevada, dispensing opticians earn a median hourly wage of $22.00 and an annual mean wage of $52,900. NAROC acknowledges that the BLS occupation code for dispensing opticians captures all workers performing that job function regardless of licensure status—including apprentice opticians and NRS 637.025 exempt practitioners—and that fully licensed dispensing opticians likely earn somewhat above the reported mean. Even so, a fully licensed dispensing optician earning meaningfully above the BLS mean would still pay a higher annual renewal fee than a Nevada optometrist earning $122,610, a Nevada pharmacist earning $131,820, or a Nevada attorney nearing $159,840. The disproportion is structural and persists across a wide range of plausible earning assumptions.

The size of the Board's active licensee population is itself relevant context. According to the Board's own published roster, current as of February 2026, there are approximately 428 active licensed dispensing opticians in Nevada—including both standard and limited licenses. The 2023 BLS data classifies approximately 1,170 workers statewide under the dispensing optician occupation code, a figure that includes individuals exempt from Board licensure under NRS 637.025. The practical effect of this exemption is that a substantial portion of the people performing ophthalmic dispensing in Nevada have never been subject to Chapter 637 licensure requirements and have never contributed to the Board's fee base—a deliberate legislative choice that limits the Board's jurisdiction to retail optical establishments and online vendors rather than the full universe of practitioners performing ophthalmic dispensing in the state.

That structural limitation is not a problem the Board can solve through its fee schedule. Asking the licensed population—approximately 428 active licensees earning a median hourly wage around $22.00 to $26.00—to bear renewal fees that exceed those paid by more extensively credentialed and more highly compensated licensed professionals across Nevada does not address the underlying jurisdictional constraint. If the Board cannot maintain financial viability within a fee structure that is proportionate to its licensee's earning capacity, that is a structural question the legislature—not the Board's fee schedule—is the appropriate body to address.

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NAROC recommends that the Board revise the proposed fee ceiling downward to a level that is proportionate to the earning capacity of dispensing opticians and consistent with the fee structure Nevada applies to comparable licensed professionals—and that the Board provide a documented basis for whatever fee level it adopts, including an explanation of how that level was benchmarked against the fees charged to other Nevada-licensed professionals, other states that license or credential opticians, and the earning capacity of the optician workforce the Board regulates.

IV. THE JUNE 22, 2026 DRAFT EXTENDS THE MANAGER PROVISIONS BEYOND OPHTHALMIC DISPENSING AND CODIFIES FIXED EQUIPMENT LISTS

In reviewing the June 22, 2026 draft, which was published after NAROC submitted its first letter to the Board, NAROC identified the following additional provisions that warrant revision. They build on the concerns in Part II and, as with those concerns, are directed to provisions that extend beyond the practice of ophthalmic dispensing, which is the activity NRS Chapter 637 regulates.

A. Section 21(1)(b) Manager Duties: Provision Extends Beyond Ophthalmic Dispensing and Relies on Undefined Terms

Section 21(b) strikes the manager's responsibility for "overseeing all aspects of ophthalmic dispensing" and substitutes responsibility for "all day-to-day and on-site management duties at the optical establishment". Section 21(1)(b)(5) through (7) then add duties of "[s]upervising, scheduling, evaluating and disciplining licensed and unlicensed employees"; "[m]aking decisions relating to operations, staffing or professional practice that affect the optical establishment"; and "[e]nsuring compliance with applicable regulations, recordkeeping requirements, audits, inspections and the implementation of policies and procedures required by this chapter". None of these added duties is limited to ophthalmic dispensing as defined in NRS 637.022.

This matters because the terms "managerial duties" and "managerial authority", which drive the circumvention rules in Section 21(7), the rebuttable presumption in Section 21(8) and (9), and the per-day violation in Section 21(11), are never defined. Because scheduling and supervising staff are now listed among the manager's duties, the presumption in Section 21(8)(b) and (c) reaches any shift lead who prepares a schedule or directs employees, regardless of whether that person has any role in ophthalmic dispensing. To the extent that Section 21 treats business functions that are not ophthalmic dispensing as duties that only a licensed optician may perform, it extends the licensing requirement beyond what the legislature has authorized.

B. Sections 21(7) and 21(10) Circumvention Rules and Title-Blind Test: Provisions Could Reach Corporate and Business Functions

Section 21(7) treats as circumvention the assignment of "managerial duties" to an unlicensed person titled "office manager, operations manager, store lead, administrator or consultant", or whose duties are described as "temporary, incidental, clerical, advisory or administrative in nature". Section 21(10) directs the Board to consider the duties performed and authority exercised "without regard to job title or contractual designation of the unlicensed person or the reporting structure of the optical establishment". Without a definition of "managerial duties" that is tied to ophthalmic dispensing, these provisions could reach corporate legal, compliance, operations, and administrative staff who never supervise the performance of ophthalmic dispensing. A multi-location retailer cannot determine from the text which of its ordinary business roles would be treated as an unlicensed manager.

C. Section 21(8)(f) Rebuttable Presumption: Factor Duplicates Section 21(3)

Section 21(8)(f) creates a rebuttable presumption of unlicensed management where "[a] manager of the optical establishment is present only intermittently, remotely or in a nominal capacity". Section 21(3) already requires the manager to be on duty during the hours the optical establishment is engaged in ophthalmic dispensing, unless the

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manager assigns another dispensing optician to act as the substitute manager. The presumption in Section 21(8)(f) is therefore duplicative of a requirement the Board can already enforce directly, and, as drafted, it is not limited to periods in which ophthalmic dispensing is occurring.

D. Section 9(1)(d) and (e) Equipment Requirements: Itemized Lists Are Redundant of the Performance Standard in Section 9(2)

Section 9(1)(d) and (e) list the specific equipment (a lens clock, lensometer and pupilometer, and, for establishments that fit contact lenses, a slit lamp, keratometer or autorefractor, contact lens loupe, thickness gauge, diameter gauge, fluorescein dye and trial contact lenses) that must be at the place of dispensing. Section 9(2), however, already requires that equipment used for dispensing be "[a]ppropriate for its intended purpose", "[p]roperly maintained, calibrated and in good working order", and "[c]apable of producing ophthalmic products that meet the standards adopted by reference in NAC 637.239". That performance standard accomplishes the Board's patient-protection goal. The itemized list adds nothing to it and would require continued use of specific devices as technology evolves, including digital and software-based tools that can perform the same functions. NAROC's separate comments under Executive Order 2026-003 make the same recommendation as to the existing equipment rule, NAC 637.233.

E. Sections 21(2) and 21(5) One-Establishment Limit and "Deemed Violation" Rule: Addressed in NAROC's Separate Submission

Section 21(2) retains the rule that a dispensing optician shall not manage more than one optical establishment, and Section 21(5) retains the rule that a person with supervisory authority over a manager who intentionally influences or attempts to influence the manager's decisions relating to ophthalmic dispensing "shall be deemed to have violated the provisions of NRS 637.090". NAROC's comments on these provisions, including its recommendation that the Board repeal Section 21(5), are set out in its separate submission under Executive Order 2026-003, and NAROC asks that they be considered in connection with this rulemaking.

F. Recommended Revisions In This Part IV

NAROC recommends that the Board:

(1) Revise Section 21(1)(b) to limit the manager's day-to-day management duties to ophthalmic dispensing, for example by providing that the manager "[i]s responsible for all day-to-day and on-site management duties relating to ophthalmic dispensing at the optical establishment", and by revising paragraphs (5) through (7) to read: "(5) Supervising, scheduling, evaluating, and disciplining employees with respect to the performance of ophthalmic dispensing; (6) Making decisions relating to ophthalmic dispensing that affect the optical establishment; and (7) Ensuring compliance with regulations, recordkeeping requirements, audits, and inspections relating to ophthalmic dispensing";
(2) Add a definition providing that, "[a]s used in this section, 'managerial duties' and 'managerial authority' mean the duties and authority described in paragraph (b) of subsection 1 and do not include business functions that are not ophthalmic dispensing", so that Sections 21(7), (8), (9), (10), and (11) apply only to ophthalmic dispensing;
(3) Delete Section 21(8)(f) or limit it to periods in which ophthalmic dispensing is occurring;
(4) Delete the itemized equipment lists in Section 9(1)(d) and (e) and rely on the performance standard in Section 9(2); and
(5) Repeal Section 21(5) and eliminate the one-establishment limit in Section 21(2), as set out in NAROC's separate submission under Executive Order 2026-003.

CONCLUSION

NAROC appreciates the Board's efforts to modernize Chapter 637 and to address standards of practice for both brick-and-mortar and online dispensing. The provisions addressed above, however, warrant revision—both to address their

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legal vulnerabilities and to avoid imposing burdens on Nevada optical establishments and Nevada-based manufacturers that exceed what the legislature has authorized and that are not supported by evidence of consumer harm.

Thank you for the opportunity to share our concerns and recommendations with the Board on this Proposed Rulemaking.

Respectfully submitted,

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