

ASSEMBLY BILL NO. 391—ASSEMBLYWOMAN ANDERSON

MARCH 24, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to dispensing opticians.
(BDR 54-659)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to dispensing opticians; authorizing the Board of Dispensing Opticians to employ an Executive Director; providing immunity from civil liability to the Board and any of its members for certain acts; expanding the purposes for which the Board is authorized to accept gifts, grants, donations and contributions; requiring the Board to perform certain duties relating to the issuance, renewal, reinstatement, revocation and suspension of licenses; prescribing requirements for the submission of an application for licensure; requiring the Board to adopt certain regulations relating to licensure; requiring the Board to establish a schedule of fees and charges; prescribing criteria for eligibility for a license as an apprentice dispensing optician; clarifying certain requirements relating to eligibility for a limited license as a dispensing optician; revising criteria for eligibility for a license as a dispensing optician; removing the authority of the Board to issue a special license as a dispensing optician; reorganizing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 2** of this bill makes a legislative declaration that the purpose of the
2 provisions regulating the practice of ophthalmic dispensing are to protect the public
3 safety and welfare by ensuring: (1) only competent and scrupulous people practice
4 ophthalmic dispensing in this State; and (2) persons who practice ophthalmic
5 dispensing in this State maintain an appropriate standard of professional conduct.



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Existing law creates the Board of Dispensing Opticians to regulate the practice of ophthalmic dispensing and requires the Governor to appoint members to the Board. (NRS 637.030) **Section 14** of this bill: (1) authorizes the Governor to appoint a replacement member if a vacancy occurs during a member's term; and (2) removes certain requirements relating to the removal of a member for cause. **Sections 15 and 18** of this bill reorganize provisions governing the employment of personnel by the Board, and **section 15** authorizes the Board to employ an Executive Director. **Section 4** of this bill provides that the Board and any of its members are immune from civil liability for any act performed in good faith and without malicious intent or gross negligence in the execution of any duty of the Board. **Section 16** of this bill: (1) specifically requires the Board to comply with the Open Meeting Law; (2) prescribes requirements for determining whether a quorum is present at a meeting of the Board; and (3) removes provisions designating a principal office of the Board. **Sections 16 and 28** of this bill reorganize certain provisions relating to the election of officers. **Sections 17 and 24** of this bill expand the purposes for which the Board is authorized to accept gifts, grants, donations and contributions. **Section 18**: (1) requires the Board to perform certain duties relating to the issuance, renewal, reinstatement, revocation and suspension of licenses; and (2) removes a requirement that the Board adopt a seal. **Sections 18 and 28** also reorganize provisions requiring the Board to adopt certain regulations. **Section 19** of this bill removes certain redundant requirements relating to documents which are subject to the Nevada Public Records Act.

Existing law authorizes the Board to issue a license as a dispensing optician, a special license as a dispensing optician, a limited license as a dispensing optician and a license as an apprentice dispensing optician. (NRS 637.120-637.123, 637.127) **Section 3** of this bill defines "license as a dispensing optician" for purposes of the chapter to mean a license issued to a dispensing optician who does not hold a limited license. **Section 11** of this bill makes a conforming change to indicate the proper placement of **section 3** in the Nevada Revised Statutes. **Section 12** of this bill revises the definition of "dispensing optician" to clarify that the term includes a person who holds a license as a dispensing optician or a limited license as a dispensing optician.

Section 5 of this bill requires an applicant for a license to: (1) submit an application on a form furnished by the Board; and (2) provide evidence that he or she possesses the qualifications required for the type of license for which he or she is applying. **Section 8** of this bill requires the Board to adopt regulations relating to: (1) the issuance, renewal and reinstatement of a license; (2) the placement of a license on inactive status; (3) the reactivation of a license placed on inactive status; and (4) the program of apprenticeship for apprentice dispensing opticians.

Existing law authorizes an apprentice dispensing optician to perform the services of a dispensing optician under the direct supervision of a dispensing optician, licensed ophthalmologist or licensed optometrist. (NRS 637.125) **Section 7** of this bill prescribes criteria for eligibility for a license as an apprentice dispensing optician. **Sections 7 and 22** of this bill reorganize certain provisions relating to the practice of ophthalmic dispensing by a licensed apprentice dispensing optician.

Existing law provides that, in order to be eligible to hold a limited license as a dispensing optician, a person must have held such a license on February 1, 2004. Existing law: (1) authorizes the holder of such a license to practice ophthalmic dispensing; and (2) prohibits the holder of such a license from selling, furnishing or fitting contact lenses. (NRS 637.121) **Section 21** of this bill clarifies that, in order to be eligible for a limited license as a dispensing optician, a person must have held such a license since February 1, 2004. A person who held such a license on that date whose license expired at any time after that date is not eligible to hold a



limited license as a dispensing optician. **Section 21** also removes certain requirements relating to a limited license as a dispensing optician, and **section 8** of this bill instead requires the Board to adopt regulations governing such a license. **Section 22** of this bill clarifies that a holder of a limited license as a dispensing optician may not supervise an apprentice dispensing optician in the performance of any service relating to dispensing contact lenses.

Section 20 of this bill revises the qualifications required for a license as a dispensing optician by: (1) removing certain requirements relating to the moral character of an applicant; (2) removing certain requirements relating to examinations, coursework and training and instead requiring an applicant to satisfy criteria prescribed by regulations adopted by the Board pursuant to **section 8**; and (3) revising the required amount of time an applicant must serve as an apprentice dispensing optician.

Existing law requires the Board to issue a special license as a dispensing optician to certain applicants who: (1) have an active license as a dispensing optician issued by the District of Columbia or any state or territory of the United States; or (2) have not less than 5 years of experience as a dispensing optician. (NRS 637.127) **Section 28** removes this type of license and instead **section 6** of this bill authorizes the Board to waive certain requirements for the issuance of a license as a dispensing optician if an applicant submits to the Board proof that he or she: (1) is a graduate of a foreign school and has acquired certain education and experience in ophthalmic dispensing; (2) holds an active license as a dispensing optician in the District of Columbia or any state or territory of the United States whose requirements for licensure are at least equivalent to the requirements for licensure in this State; or (3) has at least 5 years of work experience in the practice of ophthalmic dispensing in the District of Columbia or any state or territory of the United States whose requirements for licensure are not at least equivalent to the requirements for licensure in this State. Thus, **section 6** makes an applicant who would have been eligible for a special license eligible for a waiver from certain requirements for licensure as a dispensing optician. If the Board grants such a waiver, the applicant will be licensed as a dispensing optician.

Existing law establishes maximum fees and charges relating to licenses issued by the Board, which the Board sets by regulation. (NRS 637.110, 637.120, 637.121, 637.123, 637.140) **Sections 9, 21 and 28** establish a schedule of the maximum amount of these fees and charges in a single section of statute and maintain the maximum amount of such fees and charges set forth in existing law and regulations.

Section 23 of this bill makes certain nonsubstantive changes to provisions authorizing the Board to refuse to grant a license to an applicant or take disciplinary action against a licensee. **Sections 10, 24, 25 and 28** of this bill reorganize provisions relating to investigations conducted by the Board. **Sections 10 and 19** reorganize provisions relating to complaints and charging documents filed by the Board to initiate disciplinary action against a licensee. **Section 27** of this bill makes a conforming change as a result of this reorganization.

Existing law establishes various penalties the Board may impose against a person who engages in certain activity without holding a license. (NRS 637.181, 637.183) **Sections 25 and 26** of this bill: (1) authorize the Board to issue a citation to a person who engages in certain activities without holding a license; and (2) reorganize provisions relating to the unlicensed practice of ophthalmic dispensing.



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

Section 1. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

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

1. Only competent and scrupulous people practice ophthalmic dispensing in this State; and

2. Persons who practice ophthalmic dispensing in this State maintain an appropriate standard of professional conduct.

Sec. 3. *“License as a dispensing optician” means a license issued to a dispensing optician who does not hold a limited license as a dispensing optician.*

Sec. 4. *The Board and any of its members are immune from civil liability for any act performed in good faith and without malicious intent or gross negligence in the execution of any duties pursuant to this chapter.*

Sec. 5. 1. *A person who wishes to be licensed by the Board must:*

(a) Submit an application to the Board on a form furnished by the Board; and

(b) Provide evidence satisfactory to the Board that he or she possesses the qualifications required for the type of license for which he or she is applying.

2. The application must include all information required to complete the application.

Sec. 6. *The Board may waive the requirements of paragraph (c) of subsection 1 of NRS 637.100 if an applicant submits to the Board proof that he or she:*

1. Is a graduate of a foreign school and has acquired education and experience equivalent to or greater than the requirements for the issuance of a license to engage in ophthalmic dispensing in this State;

2. Holds a corresponding valid and unrestricted license to engage in ophthalmic dispensing in the District of Columbia or any state or territory of the United States whose requirements for that license are equivalent to or greater than the requirements for the issuance of a license to engage in ophthalmic dispensing in this State; or

3. Has at least 5 years of work experience in the practice of ophthalmic dispensing from the District of Columbia or any state or territory of the United States that does not have requirements



for licensure equivalent to or greater than the requirements for the issuance of a license to engage in ophthalmic dispensing in this State.

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

(a) Be at least 18 years of age; and

(b) Be a graduate of an accredited high school or its equivalent.

2. A license as an apprentice dispensing optician:

(a) Authorizes the holder to practice ophthalmic dispensing in this State under the direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist.

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

Sec. 8. The Board shall adopt regulations:

1. Prescribing the period for which a license issued pursuant to the provisions of this chapter is valid.

2. Prescribing requirements for the renewal of a license issued pursuant to the provisions of this chapter, which may:

(a) Include requirements for continuing education; and

(b) Limit the number of times a license as an apprentice dispensing optician may be renewed.

3. Providing for the reinstatement of a delinquent license.

4. Prescribing requirements for:

(a) A person who is licensed pursuant to the provisions of this chapter to have his or her license placed on inactive status; and

(b) The reactivation of a license which has been placed on inactive status.

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

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

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

An application for a license as a dispensing optician and the examination established by the Board pursuant to this chapter \$500

An application for a license as an apprentice dispensing optician..... \$250



1	<i>The renewal of a license as a dispensing</i>	
2	<i>optician</i>	<i>\$500</i>
3	<i>The renewal of a limited license as a dispensing</i>	
4	<i>optician</i>	<i>\$200</i>
5	<i>The renewal of a license as an apprentice</i>	
6	<i>dispensing optician.....</i>	<i>\$200</i>
7	<i>The delinquency fee for a license as a</i>	
8	<i>dispensing optician.....</i>	<i>\$500</i>
9	<i>The delinquency fee for a limited license as a</i>	
10	<i>dispensing optician.....</i>	<i>\$500</i>
11	<i>The delinquency fee for a license as an</i>	
12	<i>apprentice dispensing optician.....</i>	<i>\$100</i>
13	<i>Placing a license or limited license as a</i>	
14	<i>dispensing optician on inactive status</i>	<i>\$300</i>
15	<i>The reactivation of a license that has been</i>	
16	<i>placed on inactive status.....</i>	<i>\$300</i>
17	<i>The reactivation of a limited license that has</i>	
18	<i>been placed on inactive status.....</i>	<i>\$200</i>

19 **Sec. 10.** 1. *The Board shall conduct an investigation if it*
20 *receives a written complaint that:*

21 (a) *Is signed and verified by the person filing the complaint;*
22 *and*

23 (b) *Sets forth reason to believe that a person:*

24 (1) *Without the proper license, is engaging in an activity for*
25 *which a license is required pursuant to this chapter; or*

26 (2) *Practicing as a dispensing optician or an apprentice*
27 *dispensing optician in this State has, is or is about to become*
28 *engaged in conduct which constitutes grounds for initiating*
29 *disciplinary action pursuant to NRS 637.150.*

30 2. *Except as otherwise provided in this section and NRS*
31 *239.0115, a complaint filed with the Board, all documents and*
32 *other information filed with the complaint and all documents and*
33 *other information compiled as a result of an investigation*
34 *conducted to determine whether to initiate disciplinary action*
35 *against a person are confidential, unless the person submits a*
36 *written statement to the Board requesting that such documents*
37 *and information be made public records.*

38 3. *The charging documents filed with the Board to initiate*
39 *disciplinary action pursuant to chapter 622A of NRS and all*
40 *documents and information considered by the Board when*
41 *determining whether to impose discipline are public records.*

42 **Sec. 11.** NRS 637.020 is hereby amended to read as follows:

43 637.020 As used in this chapter, unless the context otherwise
44 requires, the words and terms defined in NRS 637.021 to 637.024,



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inclusive, *and section 3 of this act* have the meanings ascribed to them in those sections.

Sec. 12. NRS 637.0215 is hereby amended to read as follows:
637.0215 “Dispensing optician” means a person ~~engaged in the practice of ophthalmic~~ *who holds a license as a dispensing optician or a limited license as a dispensing optician.*

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 637.030 is hereby amended to read as follows:
637.030 1. The Board of Dispensing Opticians, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

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

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

(1) A dispensing optician; or

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

3. The Governor ~~after hearing~~ may remove any member for cause.

4. If a vacancy occurs during a member’s term, the Governor may appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

Sec. 15. NRS 637.045 is hereby amended to read as follows:

637.045 1. Each member of the Board is entitled to receive:

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

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

2. *The Board may:*

(a) Employ an Executive Director and any other employees as it deems necessary, establish their duties and fix their salaries; and

(b) Contract with investigators, lobbyists and any other persons required to carry out its duties and secure the services of attorneys and other professional consultants as it may deem necessary to carry out the provisions of this chapter.

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



Sec. 16. NRS 637.050 is hereby amended to read as follows:

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

~~—2.} The Board shall {meet} :~~

(a) Meet at least once ~~{in the fall of}~~ each year on a date determined by the Board ~~{, at which time candidates applying for licensing must be examined and their qualifications determined.~~

~~—3. In addition to the meeting required by subsection 2, the Board may hold such other meetings as it may deem advisable. The time and place of all such meetings must be determined by the Board.} ;~~

(b) Elect a President, Vice President, Secretary and Treasurer from its membership; and

(c) Comply with the provisions of chapter 241 of NRS.

2. A majority of the members of the Board constitutes a quorum.

Sec. 17. NRS 637.060 is hereby amended to read as follows:

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

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

~~{2.}~~ **3.** In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect administrative fines therefor and deposit the money therefrom in banks, credit unions, savings and loan associations or savings banks in this State.

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



Sec. 18. NRS 637.070 is hereby amended to read as follows:

637.070 1. The Board *shall, pursuant to the provisions of this chapter:*

(a) *Review and evaluate applications for the licensing of dispensing opticians and apprentice dispensing opticians;*

(b) *License qualified applicants;*

(c) *Issue, renew, reinstate, revoke, suspend and deny licenses, as appropriate;*

(d) *Enforce the provisions of this chapter and any regulations adopted pursuant thereto;*

(e) *Investigate any complaints filed with the Board;*

(f) *Impose any penalties the Board determines are required to administer the provisions of this chapter; and*

(g) *Transact any other business necessary to carry out the provisions of this chapter.*

2. The Board may ~~adopt~~ :

(a) *Adopt* such rules and regulations as it may deem necessary to carry out the provisions of this chapter ~~;~~

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

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

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

(1) *Establishing standards of practice for persons licensed pursuant to this chapter.*

(2) *Setting forth minimum standards for lenses, frames, specially fabricated optical devices and other ophthalmic devices dispensed by a dispensing optician. Such standards must be consistent with the minimum standards of quality approved by the American National Standards Institute.*

(3) *Establishing standards related to the dispensing of prescription ophthalmic lenses.*

(b) *Transact any other business* necessary to *enable the Board to* carry out ~~[the provisions of] its duties pursuant to~~ this chapter.

Sec. 19. NRS 637.085 is hereby amended to read as follows:

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

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



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

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

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

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

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

~~{(d)}~~ 4. Any other information or ~~{records}~~ *record* in the possession of the Board ~~†~~.

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

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

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

Sec. 20. NRS 637.100 is hereby amended to read as follows:

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

(a) ~~{s}~~ *Be* at least 18 years of age.

(b) ~~{s of good moral character.}~~

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

~~{(d) Has}~~

~~(c) Except as otherwise provided in section 6 of this act, have passed {the} any examination {of} or obtained any certificate required by regulations adopted by the {American} Board {of Opticianry.}~~

~~—(e) Has}~~ *pursuant to section 8 of this act for the issuance of a license as a dispensing optician.*

(d) Have done either of the following:



(1) ~~{Served}~~ *Successfully completed an educational program on the theory of ophthalmic dispensing approved by the Board and served* as an apprentice dispensing optician for not less than ~~{3}~~ *2* years in ~~{an optical establishment where prescriptions for spectacles or contact lenses from given formulae are fitted and filled under the direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist for the purpose of acquiring experience in ophthalmic dispensing and has passed an educational program on the theory of ophthalmic dispensing approved}~~ *accordance with regulations adopted* by the Board ~~{;}~~ *pursuant to section 8 of this act;* or

(2) ~~{Successfully completed a course of study in a school which offers a}~~ *Been awarded an associate's* degree ~~{of associate}~~ in applied science for studies in ophthalmic dispensing *by a school which is* approved by the Board and ~~{has had 1 year of ophthalmic experience}~~ *served* as an apprentice dispensing optician ~~{under the direct supervision of a licensed dispensing optician, licensed ophthalmologist or licensed optometrist.~~

— (f) Has done all of the following:

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

— (2) ~~Completed at least 100 hours of training and experience in the fitting of and filling of prescriptions for contact lenses under the direct supervision of a licensed dispensing optician authorized to fit and fill prescriptions for contact lenses, a licensed ophthalmologist or a licensed optometrist;~~

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

— (4) ~~Passed the practical examination on the fitting of and filling of prescriptions for contact lenses adopted by the Board.}~~ *for not less than 1 year in accordance with regulations adopted by the Board pursuant to section 8 of this act.*

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

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

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

— (c) ~~The issuance of licenses to apprentice dispensing opticians.}~~

A license as a dispensing optician:

(a) *Authorizes the holder to practice ophthalmic dispensing in this State.*

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



Sec. 21. NRS 637.121 is hereby amended to read as follows:

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

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

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

3. A person practicing ophthalmic dispensing pursuant to a limited license ~~is~~

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

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

4. A limited license as a dispensing optician ~~is~~

~~—(a) Expires on January 31 of each year.~~

~~—(b) May be renewed before its expiration upon:~~

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

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

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

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

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

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



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

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

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

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

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

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

17 ~~—9. The Board shall adopt any other regulations it determines~~
18 ~~are necessary to carry out the provisions of this section.]~~ **must at all**
19 **times be conspicuously displayed at the holder's place of practice.**

20 **Sec. 22.** NRS 637.125 is hereby amended to read as follows:

21 637.125 1. A person may not employ another person to
22 perform the services of a dispensing optician unless the other
23 person:

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

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

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

33 ~~—3. If]~~ **Except as otherwise provided in subsection 4, if** a person
34 is licensed by the Board as an apprentice dispensing optician, a
35 licensed dispensing optician, licensed ophthalmologist or licensed
36 optometrist must:

37 (a) Directly supervise all work done by the apprentice
38 dispensing optician.

39 (b) Be ~~[in attendance]~~ **physically present** whenever the
40 apprentice dispensing optician is engaged in ophthalmic dispensing.

41 ~~[(c) Post the license of the apprentice dispensing optician in a~~
42 ~~conspicuous place where the apprentice dispensing optician works.~~

43 ~~—4.]~~ **3.** A licensed dispensing optician may not have under his or
44 her supervision more than two licensed apprentice dispensing
45 opticians at any one time.



~~15. A licensed dispensing optician or a person who employs a licensed dispensing optician may employ other persons to assist in consulting on optical fashions, and a licensed dispensing optician may supervise such other persons. Such other persons:~~

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

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

~~6. The Board may adopt regulations to carry out the provisions of this section.]~~

4. A holder of a limited license as a dispensing optician may not supervise an apprentice dispensing optician in the performance of any service relating to dispensing contact lenses.

Sec. 23. NRS 637.150 is hereby amended to read as follows:

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

~~— (a) Has~~ *has* been adjudicated insane ~~is~~

~~— (b) Habitually~~ *, habitually* uses any controlled substance or intoxicant ~~is~~

~~— (c) Has~~ *or has* been *diagnosed with a medical or mental health condition that is likely to impede the safe practice of ophthalmic dispensing, the Board may, in the case of an applicant, refuse to grant the applicant a license or, in the case of a holder of a license, place the holder on probation, suspend or revoke the holder's license, or take any combination of these actions.*

2. If the Board finds, after notice and a hearing as required by law, that an applicant or holder of a license is guilty of unprofessional conduct which has endangered or is likely to endanger the public health, safety or welfare, the Board may, in the case of an applicant, refuse to grant the applicant a license or, in the case of a holder of a license, place the holder on probation, reprimand the holder publicly, require the holder to pay an administrative fine of not more than \$10,000 for each act constituting grounds for disciplinary action, suspend or revoke the holder's license, or take any combination of these disciplinary actions.

3. The Board may reinstate a revoked license pursuant to the provisions of chapter 622A of NRS upon application by the person to whom the license was issued.

4. Notwithstanding the provisions of chapter 622A of NRS, if the Board receives a report pursuant to subsection 5 of NRS 228.420, a disciplinary proceeding regarding the report must be commenced within 30 days after the Board receives the report.

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



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

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

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

(a) Being convicted of ~~felony~~:

(1) Any crime involving moral turpitude;

~~[(d) Has been convicted of violating] or~~

(2) Violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

~~[(e) Has advertised]~~

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

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

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

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

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

~~—(i) Has violated] a material fact;~~

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

(e) Violating any provision of this chapter or any regulation of the Board ~~;~~

~~—(j) Has violated any provision of] adopted pursuant to~~ this chapter;

~~[(k) Is incompetent;~~

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

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

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

~~—(o) Has operated] and~~

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

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



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(2) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160, ~~the Board may, in the case of an applicant, refuse to grant the applicant a license, or may, in the case of a holder of a license, place the holder on probation, reprimand the holder publicly, require the holder to pay an administrative fine of not more than \$10,000, suspend or revoke the holder's license, or take any combination of these disciplinary actions.~~

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

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

~~4. The~~ provisions of *this* paragraph ~~{(c) of subsection 1}~~ apply to an owner or other principal responsible for the operation of the medical facility.

~~{5. As used in this section, "preponderance of the evidence" has the meaning ascribed to it in NRS 233B.0375.}~~

Sec. 24. NRS 637.154 is hereby amended to read as follows:

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

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

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

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

5. *If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling*



compliance with the subpoena, and upon failure to obey the order the person must be dealt with as for contempt of court.

Sec. 25. NRS 637.181 is hereby amended to read as follows:

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

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

~~(a) Made in writing; and~~

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

~~2. If~~, *if* the Board determines that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter, the Board ~~§~~ *may*:

~~{(a) Shall issue}~~

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

~~{(b) May, after notice and opportunity for a hearing, impose upon}~~

2. Issue a citation to the person. A citation issued pursuant to this subsection must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this section.

3. Assess against the person an administrative fine of not more than \$10,000. The imposition of an administrative fine is a final decision for the purposes of judicial review.

~~{3. An administrative fine imposed pursuant to this section is in addition to}~~

4. Impose any ~~{other penalty provided in this chapter.~~

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

Sec. 26. NRS 637.183 is hereby amended to read as follows:

637.183 ~~{1. The}~~ *If the* Board ~~{may impose an administrative fine against}~~ *determines that* a person who is not *required to be* licensed pursuant to the provisions of this chapter ~~{if~~:

~~(a) The person violates}~~ *is violating* any provision of NRS 637.125 or any regulation adopted by the Board to carry out the provisions of that section ~~{, or~~

~~{(b) The person employs}~~ *employing* a ~~{dispensing optician, apprentice dispensing optician or other person and the dispensing optician, apprentice dispensing optician or other person,}~~ *licensee who*, in the course of his or her employment or apprenticeship,



violates any provision of NRS 637.125 or any regulation adopted by the Board to carry out the provisions of that section ~~f-~~

~~—2. The, the~~ Board may ~~impose a separate administrative fine against the person for each act that constitutes a separate violation.~~

~~—3. In the first administrative proceeding brought against the person pursuant to this section, the Board may impose, for each act that constitutes a separate violation,]:~~

1. Issue and serve on the person an order to cease and desist from engaging in the activity.

2. Issue a citation to the person. A citation issued pursuant to this subsection must be in writing, describe with particularity the nature of the violation and inform the person of the provisions of this section.

3. Assess against the person an administrative fine of not more than \$1,000. The imposition of an administrative fine is a final decision for the purposes of judicial review.

~~4. In the second and any subsequent administrative proceeding brought against the person pursuant to this section, the Board may impose, for each act that constitutes a separate violation, an administrative fine of not more than \$5,000.]~~ *Impose any combination of the penalties set forth in subsections 1, 2 and 3.*

Sec. 27. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,



1 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
2 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
3 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
4 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
5 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
6 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
7 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
8 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
9 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
10 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
11 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
12 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
13 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
14 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
15 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
16 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
17 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
18 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
19 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
20 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
21 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
22 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
23 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
24 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
25 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
26 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
27 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
28 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
29 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
30 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
31 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
32 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
33 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
34 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
35 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
36 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
37 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
38 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
39 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
40 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
41 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
42 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
43 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
44 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
45 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,



1 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
2 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
3 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
4 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
5 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
6 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
7 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
8 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
9 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
10 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
11 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
12 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
13 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and**
14 **section 10 of this act**, sections 35, 38 and 41 of chapter 478,
15 Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of
16 Nevada 2013 and unless otherwise declared by law to be
17 confidential, all public books and public records of a governmental
18 entity must be open at all times during office hours to inspection by
19 any person, and may be fully copied or an abstract or memorandum
20 may be prepared from those public books and public records. Any
21 such copies, abstracts or memoranda may be used to supply the
22 general public with copies, abstracts or memoranda of the records or
23 may be used in any other way to the advantage of the governmental
24 entity or of the general public. This section does not supersede or in
25 any manner affect the federal laws governing copyrights or enlarge,
26 diminish or affect in any other manner the rights of a person in any
27 written book or record which is copyrighted pursuant to federal law.

28 2. A governmental entity may not reject a book or record
29 which is copyrighted solely because it is copyrighted.

30 3. A governmental entity that has legal custody or control of a
31 public book or record shall not deny a request made pursuant to
32 subsection 1 to inspect or copy or receive a copy of a public book or
33 record on the basis that the requested public book or record contains
34 information that is confidential if the governmental entity can
35 redact, delete, conceal or separate, including, without limitation,
36 electronically, the confidential information from the information
37 included in the public book or record that is not otherwise
38 confidential.

39 4. If requested, a governmental entity shall provide a copy of a
40 public record in an electronic format by means of an electronic
41 medium. Nothing in this subsection requires a governmental entity
42 to provide a copy of a public record in an electronic format or by
43 means of an electronic medium if:

44 (a) The public record:

45 (1) Was not created or prepared in an electronic format; and



(2) Is not available in an electronic format; or
(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or
(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 28. NRS 637.010, 637.040, 637.041, 637.073, 637.075, 637.110, 637.115, 637.120, 637.123, 637.127, 637.135, 637.140, 637.155, 637.170 and 637.175 are hereby repealed.

Sec. 29. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 28, inclusive, of this act become effective:

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

(b) On October 1, 2021, for all other purposes.

LEADLINES OF REPEALED SECTIONS

637.010 Short title.

637.040 Election of officers; issuance of subpoenas; administration of oaths.

637.041 Enforcement of subpoenas issued by Board.

637.073 Regulations setting minimum standards for optical and ophthalmic devices.

637.075 Fiscal year.

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



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637.115 Board to maintain public records concerning applicants.

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

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

637.127 Special license as dispensing optician.

637.135 Dispensing optician: Continuing education.

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

637.155 Hearing on report of certain violations.

637.170 Reinstatement of revoked license; fee.

637.175 Expiration of prescriptions.

