

**ADOPTED REGULATION OF THE
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY
AND HEARING AID DISPENSING BOARD**

LCB File No. R129-15

Effective June 28, 2016

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

AUTHORITY: §§1, 2, 9-13, 17-20 and 24, section 17 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.132); §3, sections 17 and 25 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at pages 2296 and 2298 (NRS 637B.132 and 637B.194); §§4-8, sections 17, 25 and 28 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at pages 2296, 2298 and 2299 (NRS 637B.132, 637B.194 and 637B.235); §§14 and 21-23, sections 17 and 18 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.132 and 637B.191); §15, section 18 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.191); §16, NRS 637B.230, as amended by section 51 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2307.

A REGULATION relating to professions; establishing provisions concerning the examination given to persons who wish to engage in the practice of fitting and dispensing hearing aids; establishing provisions concerning a program of in-service training for apprentice hearing aid specialists; authorizing a hearing aid specialist or dispensing audiologist to delegate certain duties to certain persons not licensed to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids; establishing certain duties of hearing aid specialists and dispensing audiologists; requiring licensees to prepare and retain certain client records; establishing provisions concerning requirements for continuing education; establishing provisions concerning the renewal and reinstatement of certain expired licenses; establishing certain fees to be charged and collected by the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 115 of the 78th Legislative Session combined the Board of Hearing Aid Specialists with the Board of Examiners for Audiology and Speech Pathology to create the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board. (NRS 637B.100, as amended by section 44 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2303)

In addition to an active license to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids, existing law establishes limited, provisional and temporary licenses to practice those professions. (NRS 637B.200, as amended by section 50 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2306; sections 21 and 22 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2297 (NRS 637B.202 and 637B.201)) **Section 2** of this regulation defines the term “standard license” to mean a license to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids that is not a provisional license, a temporary license or a limited license.

Existing law requires the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board to adopt regulations regarding the practice of fitting and dispensing hearing aids, including, without limitation: (1) the licensing of hearing aid specialists and apprentices; (2) the educational and training requirements for hearing aid specialists and apprentices; (3) an examination concerning the practice of fitting and dispensing hearing aids; and (4) a program of in-service training for apprentice hearing aid specialists. (Section 25 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2298 (NRS 637B.194)) Existing law also requires the Board to adopt regulations setting forth requirements for the supervision of a licensed apprentice by a sponsor who is a hearing aid specialist or dispensing audiologist and the responsibilities of the apprentice and sponsor. (Sections 25 and 28 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at pages 2298 and 2299 (NRS 637B.194 and 637B.235)) **Section 3** of this regulation establishes provisions concerning the examination given to persons who wish to engage in the practice of fitting and dispensing hearing aids, and **sections 4-8** of this regulation establish provisions concerning a program of in-service training for apprentice hearing aid specialists.

Existing law requires the Board to adopt regulations establishing standards of practice for persons licensed or endorsed by the Board and any other regulations necessary to carry out the provisions of chapter 637B of NRS. (Section 17 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.132)) **Section 9** of this regulation authorizes a hearing aid specialist or dispensing audiologist to delegate certain duties to an office assistant, aide or technician who is not licensed by the Board, and **sections 10-12** of this regulation establish certain duties of hearing aid specialists and dispensing audiologists. **Section 13** of this regulation requires: (1) an audiologist or speech-language pathologist to prepare and retain health care records for each client he or she treats in accordance with the provisions of law that apply to providers of health care; and (2) a hearing aid specialist or dispensing audiologist to prepare and retain records relating to fitting, servicing and dispensing hearing aids for each client he or she treats. **Sections 17-20** of this regulation make changes to existing regulations to reflect the inclusion of hearing aid specialists and the practice of fitting and dispensing hearing aids, as applicable, in relation to Assembly Bill No. 115.

Existing law requires the Board to adopt regulations prescribing the manner in which a license or endorsement issued by the Board must be renewed, which may include requirements for continuing education. (Section 18 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.191)) **Sections 14 and 21-23** of this regulation revise and establish provisions concerning requirements for continuing education.

Existing law authorizes the Board to adopt regulations providing for the late renewal of a license and the reinstatement of an expired license. (Section 18 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2296 (NRS 637B.191)) **Section 15** of this regulation provides that a standard license or provisional license that has been expired for less than 30 days may be renewed retroactively to the date of expiration of the license if the licensee satisfies all requirements for the renewal of the license and pays a reinstatement fee.

Additionally, existing law requires the Board to charge and collect certain fees. The amounts of such fees must be determined by the Board, but cannot exceed the maximum amounts authorized by statute. (NRS 637B.230, as amended by section 51 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2307) **Section 16** of this regulation establishes the amounts of such fees.

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

Sec. 2. *“Standard license” means a license to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids that is not a provisional license, a temporary license or a limited license.*

Sec. 3. 1. *The examination prescribed by the Board pursuant to section 25 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2298 (NRS 637B.194), must consist of a written portion and a practical portion. The examination may also include a portion that tests the familiarity of an applicant with the provisions of this chapter and chapter 637B of NRS and all other federal laws and regulations relevant to the practice of fitting and dispensing hearing aids in this State.*

2. To be eligible to take the examination set forth in subsection 1, an applicant must:

(a) File a completed application with the Executive Director of the Board; and

(b) Pay the examination fee prescribed by NAC 637B.030.

3. The Board will establish the passing score for the examination set forth in subsection 1.

4. If an applicant does not achieve a passing score on the examination set forth in subsection 1, as established by the Board pursuant to subsection 3, he or she may retake the examination upon payment of the examination fee prescribed by NAC 637B.030.

5. The Board may approve and accept a passing score obtained on a written examination taken within the immediately preceding 12 months if the examination taken by the applicant was substantially the same as the written portion of the examination prescribed by the Board.

Sec. 4. 1. *The in-service training of a person who has been issued an apprentice license by the Board pursuant to section 27 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2299 (NRS 637B.195), must consist of:*

(a) An academic portion, as set forth in section 5 of this regulation; and

(b) An on-site training and work experience portion which is competency-based, as set forth in section 6 of this regulation.

2. An apprentice shall participate in the in-service training set forth in subsection 1 under the direct supervision of a sponsor for a minimum of 2 years and, in accordance with section 31 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2300 (NRS 637B.238), may not serve as an apprentice for more than 3 years without passing the examination set forth in section 3 of this regulation.

Sec. 5. 1. *The academic portion of the in-service training of an apprentice required by section 4 of this regulation must be specific to the training and education necessary to perform competently the duties and responsibilities necessary for the practice of fitting and dispensing hearing aids and must include, without limitation, training and education concerning:*

(a) Laws and rules relating to ethics;

(b) Federal laws and rules governing hearing aids;

- (c) Infection controls;*
- (d) Basic hearing science;*
- (e) Hearing instrument science and fitting practices; and*
- (f) Audiometric testing and masking.*

2. Except as otherwise provided in subsection 3, a customized program of academic training and a proposed curriculum must be submitted to the Board for evaluation and approval.

3. A program of academic training accepted by the National Board for Certification in Hearing Instrument Sciences, the International Hearing Society or an accredited institution of higher education that meets the minimum requirements of subsection 1 does not require the approval of the Board.

4. The Board will maintain a list of approved programs of academic training.

Sec. 6. *1. The on-site training and work experience portion of the in-service training of an apprentice required by section 4 of this regulation must consist of a minimum of 16 hours per week and 30 weeks per year and may be completed in conjunction with the academic portion of the in-service training set forth in section 5 of this regulation.*

2. The on-site training and work experience portion must include, without limitation, the evaluation of the apprentice's achievement of core competencies concerning:

- (a) Sanitation protocols;*
- (b) The identification and documentation of the needs of a client;*
- (c) Visual inspections of the ear and otoscopic examinations;*
- (d) Audiometric testing;*
- (e) The results of hearing evaluations;*

(f) Ear impressions, preparations and molds;

(g) Physical and electronic checks of hearing aids;

(h) The fitting, programming, troubleshooting, adjusting and repairing of hearing aids;

and

(i) Client documentation.

3. An apprentice and his or her sponsor shall jointly:

(a) Review the progress of the apprentice in achieving each core competency set forth in subsection 2; and

(b) Document the proficiency of the apprentice in each core competency, by signature and date, on a form provided by the Board.

4. The Board may require a sponsor to provide to the Board:

(a) A report on the training of and core competencies achieved by an apprentice; and

(b) Proof of compliance with the supervisory responsibilities of the sponsor.

Sec. 7. 1. To be eligible to act as a sponsor of an apprentice, a hearing aid specialist or dispensing audiologist must:

(a) Hold a standard license that is on active status;

(b) Have experience as a hearing aid specialist or dispensing audiologist for a minimum of 3 years; and

(c) Be in good standing with the Board and have no record of disciplinary action.

2. A hearing aid specialist or dispensing audiologist shall not sponsor more than two apprentices at one time, and an apprentice shall not have more than two sponsors at one time.

Sec. 8. 1. A sponsor of an apprentice shall:

(a) Except as otherwise provided in subsection 3, provide direct supervision to the apprentice;

(b) Determine the competency level of the apprentice to perform tasks relating to fitting and dispensing hearing aids;

(c) Evaluate the work of the apprentice;

(d) Document the training provided to and the direct supervision of the apprentice; and

(e) Provide written notification to the Board if:

(1) The apprentice is no longer under the sponsorship of the sponsor;

(2) The apprentice withdraws from or terminates his or her in-service training;

(3) The sponsor withdraws as a sponsor for the apprentice;

(4) The apprentice has completed 1 year of in-service training under the direct supervision of the sponsor and the sponsor believes that the apprentice is competent to work without physical on-site supervision; or

(5) The apprentice successfully completes all the requirements for in-service training.

2. All work completed by an apprentice must be reviewed daily and signed by the sponsor and the apprentice.

3. An apprentice is not required to be under the direct supervision of a sponsor when performing any of the duties that may be delegated to an office assistant, aide or technician pursuant to subsection 1 of section 9 of this regulation.

4. An apprentice shall not maintain, run or operate an office or a satellite office in which hearing aids are fitted and dispensed without the approval of the Board.

5. As used in this section, "direct supervision" means:

(a) During the first year of the in-service training of an apprentice, being physically on-site at the same location as the apprentice.

(b) After the first year of the in-service training of an apprentice and upon attaining the approval of the Board, daily communication with the apprentice without the requirement of being physically on-site at the same location as the apprentice.

Sec. 9. 1. *Except as otherwise provided in subsection 2, a hearing aid specialist or dispensing audiologist may delegate certain duties to an office assistant, aide or technician who is not licensed pursuant to this chapter and chapter 637B of NRS and does not possess the professional or advanced training required for the practice of fitting and dispensing hearing aids if the hearing aid specialist or dispensing audiologist determines, before delegating a duty, that the office assistant, aide or technician possesses the necessary knowledge, competence, training and skills to perform the duty. The duties that may be delegated to an office assistant, aide or technician pursuant to this section include, without limitation:*

(a) Cleaning a hearing aid;

(b) Repairing or replacing a broken part of a hearing aid with the same part;

(c) Replacing a thin tube or dome with a similar size or style;

(d) Replacing filters;

(e) Returning to a client a repaired hearing aid that does not require fitting, programming or adjusting;

(f) Accepting an in-office return of a hearing aid if a receipt is provided to the client to document proof of the return; and

(g) Performing clerical, secretarial and general administrative duties, including, without limitation, providing information that is readily available to the general public.

2. A hearing aid specialist or dispensing audiologist shall not delegate any duty to an office assistant, aide or technician pursuant to this section that requires professional or advanced training for the practice of fitting and dispensing hearing aids. Duties that may not be delegated pursuant to this section include, without limitation:

(a) Removing a hearing aid from or placing a hearing aid into a client's ear;

(b) Programming, adjusting or fitting a hearing aid;

(c) Conducting an interview, examination or evaluation relating to a client's hearing or hearing loss; and

(d) Conducting any activity involving direct physical contact with a client and a hearing-related procedure or instrument.

Sec. 10. *If a hearing aid specialist or dispensing audiologist offers a client a waiver to the medical evaluation required by 21 C.F.R. § 801.421, the hearing aid specialist or dispensing audiologist shall:*

1. Verbally explain the waiver to the client before the client signs the waiver; and

2. Provide the written waiver on a form separate from any other form that the client is required to sign.

Sec. 11. *1. Except as otherwise provided in subsection 3, a hearing aid specialist or dispensing audiologist shall take the pertinent case history of, and perform personally the following minimum procedures bilaterally on, each prospective candidate for a hearing aid:*

(a) Pure-tone audiometry, including air-conduction testing and bone-conduction testing through an annually calibrated system.

(b) Live voice audiometry, only if a separate sound-treated room is available, or recorded voice audiometry, including speech-reception threshold testing, most comfortable and uncomfortable level testing, and speech discrimination testing presented through a speech audiometer.

(c) When applicable, effective masking.

(d) Before a hearing test and an ear impression is performed, an otoscopic examination of the ear canal in which the tympanic membrane is visualized.

(e) After an ear impression is performed, an otoscopic examination in which the tympanic membrane is visualized.

2. A hearing aid specialist or dispensing audiologist shall perform each procedure set forth in subsection 1 in a proper environment to obtain accurate results.

3. The minimum procedures set forth in subsection 1 are not required if the person supplies the hearing aid specialist or dispensing audiologist with complete results of the required tests which have been given within the immediately preceding 6 months by a qualified tester who is licensed pursuant to the provisions of this chapter and chapter 637B of NRS.

Sec. 12. *A hearing aid specialist or dispensing audiologist shall:*

1. Provide for the service and repair of each hearing aid he or she sells or fits.

2. Provide to each person who orders or purchases a hearing aid from the hearing aid specialist or dispensing audiologist a bill of sale that includes:

(a) The name of the hearing aid specialist or dispensing audiologist, the address of the principal place of business of the hearing aid specialist or dispensing audiologist and the number of the license of the hearing aid specialist or dispensing audiologist;

(b) A description of the make, model and serial number of the hearing aid;

(c) The amount charged for the hearing aid and, if applicable, an itemization of any amount to be deducted from any refund;

(d) The condition of the hearing aid, indicating whether it is new, used or reconditioned;

(e) Any accessories provided with the hearing aid;

(f) The name of the person or entity responsible for providing a refund; and

(g) The manner in which a hearing aid may be returned, including the business location where the hearing aid may be returned and the business hours during which the hearing aid may be returned.

3. Provide to each person who purchases a hearing aid from the hearing aid specialist or dispensing audiologist a written guarantee that the person may return the hearing aid:

(a) Within 30 days after receipt of the hearing aid; or

(b) If the hearing aid is returned to the manufacturer for service or repair during the 30-day period, within 30 days after the hearing aid is returned to the possession of the person who purchased the hearing aid.

4. Schedule at least one appointment with each person who purchases a hearing aid from the hearing aid specialist or dispensing audiologist. The appointment must take place not later than 21 days after the hearing aid is delivered to the person.

5. Within 30 days after a hearing aid and all accessories that accompanied the hearing aid are returned in the same condition as that in which they were received, provide a refund to the person who purchased the hearing aid from the hearing aid specialist or dispensing audiologist.

Sec. 13. 1. *A speech-language pathologist or audiologist shall prepare and retain health care records for each client he or she treats in accordance with NRS 629.051. As used in this subsection, “health care records” has the meaning ascribed to it in NRS 629.021.*

2. A hearing aid specialist or dispensing audiologist shall prepare and retain records of fitting, servicing or dispensing a hearing aid for each client he or she treats. The records must be retained for not less than 5 years after the record is prepared and may be created, authenticated and stored in a computer system that limits access to those records or is maintained in any other form which ensures that the records are easily accessible by the hearing aid specialist or dispensing audiologist. Each record must include, without limitation:

- (a) The name, address, telephone number and date of birth of the client;*
- (b) The medical history of the client as it relates to his or her loss of hearing;*
- (c) The dates on which the hearing aid was delivered, fitted and adjusted, and notations of all procedures performed on such dates, and, if applicable, the date of return or attempted return of the hearing aid;*
- (d) Audiograms of the client;*
- (e) The specifications of the hearing aid, including the serial number of the hearing aid as indicated by the manufacturer of the hearing aid;*
- (f) The settings for the hearing aid;*
- (g) The progress and disposition of the case;*
- (h) A copy of the contract for the sale of the hearing aid; and*
- (i) A copy of any waiver of the medical evaluation required by 21 C.F.R. § 801.421.*

Sec. 14. 1. *Except as otherwise provided in subsection 2 and NAC 637B.430, a licensee who holds a standard license or provisional license shall complete continuing education in accordance with the provisions of NAC 637B.400.*

2. A person who obtains a standard license or provisional license within 12 months after graduating from an educational program accredited by an agency approved by the Board is not required to complete any continuing education before renewing his or her license for the first time.

Sec. 15. *A standard license or provisional license that has been expired less than 30 days may be renewed retroactively to the date of expiration of the license if the licensee satisfies all requirements for renewal of the license and pays the reinstatement fee prescribed by NAC 637B.030.*

Sec. 16. NAC 637B.030 is hereby amended to read as follows:

637B.030 The Board will charge and collect the following fees:

| | |
|---|---------------------------|
| 1. Application fee for license to practice speech pathology | \$100 |
| 2. Application fee for license to practice audiology | 100 |
| 3. Annual fee} | \$150 |
| <i>Fee for a standard license or provisional license</i> | <i>100</i> |
| <i>Fee for a temporary license</i> | <i>50</i> |
| <i>Fee for a limited license</i> | <i>25</i> |
| <i>Fee for renewal of a standard license or provisional license</i> | 150 <i>100</i> |
| 4. <i>Fee for renewal of a temporary license</i> | <i>50</i> |
| Reinstatement fee <i>for a standard license or provisional license</i> | |

| | |
|---|-------------------|
| <i>expired 30 days or more</i> | 75 100 |
| <i>Reinstatement fee for a standard license or provisional license</i> | |
| <i>expired less than 30 days</i> | 75 |
| <i>Examination fee</i> | 200 |
| <i>Fee for converting to a different type of license</i> | 50 |
| <i>Fee for each additional license or endorsement</i> | 50 |
| <i>Fee for obtaining license information</i> | 50 |

Sec. 17. NAC 637B.042 is hereby amended to read as follows:

637B.042 A licensee:

1. Shall not misrepresent, in advertising or otherwise, his or her education, training, type of license or certificate, qualifications, competence or service, or the results to be achieved if he or she provides service to a client.
2. Shall not engage in the practice of audiology ~~for speech~~, *speech-language* pathology *or fitting and dispensing hearing aids* while the licensee is impaired by:
 - (a) Alcohol, drugs or any other chemical; or
 - (b) A mental or physical condition that prevents him or her from safely engaging in the practice of audiology ~~for speech~~, *speech-language* pathology ~~+~~ *or fitting and dispensing hearing aids*.
3. Shall not use his or her relationship with a client to further his or her own personal, religious, political or business interests.
4. Shall set and maintain professional boundaries with clients, interns and persons with whom the licensee works.

5. Shall not give or receive, directly or indirectly, a fee, commission, rebate or other compensation for professional services that the licensee has not actually and personally provided.

6. Except as otherwise provided in subsection 7, shall not disparage the qualifications of any colleague.

7. Shall report to the Board any unlicensed, unauthorized, unqualified or unethical practice of audiology ~~for speech~~, *speech-language* pathology *or fitting and dispensing hearing aids* that is occurring.

8. Shall not attempt to diagnose, prescribe for, treat or provide advice for any problem which is outside of his or her field of competence, the scope of the practice of audiology ~~for speech~~, *speech-language* pathology *or fitting and dispensing hearing aids* or the scope of his or her license or certificate.

9. Shall base his or her practice upon the recognized knowledge relevant to audiology ~~for speech~~, *speech-language* pathology ~~or fitting and dispensing hearing aids~~.

10. Shall critically examine and keep current with emerging knowledge relevant to the practice of audiology ~~for speech~~, *speech-language* pathology ~~or fitting and dispensing hearing aids~~.

11. Based upon recognized knowledge and standards for the practice of audiology ~~for speech~~, *speech-language* pathology ~~or fitting and dispensing hearing aids~~, shall prepare and maintain in a timely manner a record for each of his or her clients which:

(a) Sets forth his or her assessment of the problems of the client, plan of action for the client, course of treatment to that client and progress notes regarding the course of treatment of the client; and

(b) Includes copies of other relevant documentation, including, without limitation:

- (1) All documents relating to the informed consent given by the client;
- (2) All documents relating to the release of information regarding the client; and
- (3) All other legal documents regarding the client.

↪ As used in this subsection, “assessment” means an evaluation of the client that is based upon comprehensive information about the client.

12. Shall complete and submit any reports required by this chapter and chapter 637B of NRS, or pursuant to any rule, order or instruction of a court of competent jurisdiction, in a timely manner.

13. Shall comply with the provisions of this chapter and chapter 637B of NRS and all other applicable federal laws and regulations.

14. Shall not authorize a person under the supervision of the licensee to perform services that are outside of the scope of the license, certificate, training or experience of the person performing the services, or allow such a person to hold himself or herself out as having expertise in a field or activity in which that person is not qualified.

15. Shall notify the Board in writing within 10 days after:

(a) An action is taken against any license, certification, registration or other credential held by the licensee that was issued by another state or territory of the United States;

(b) A criminal charge is filed against the licensee;

(c) The licensee is convicted of a criminal offense, other than a traffic offense which is a misdemeanor that does not involve alcohol or controlled substances;

(d) A civil action, including, without limitation, an action for malpractice, is filed against the licensee; or

(e) A settlement or judgment is made in any civil action, including, without limitation, an action for malpractice, in any case filed against the licensee for any act relating to the practice of audiology ~~for speech~~, *speech-language* pathology ~~+~~ *or fitting and dispensing hearing aids*.

Sec. 18. NAC 637B.044 is hereby amended to read as follows:

637B.044 1. A licensee shall serve his or her clients with professional skill and competence.

2. If a licensee must act on behalf of a client who has been declared to be incompetent or if a client is otherwise found by the Board to be incapable of acting in his or her own best interest, the licensee shall safeguard the interests and rights of that client.

3. If another person has been legally authorized to act on behalf of an incompetent client, a licensee shall deal with the legal representative of the client in accordance with the best interest of the client.

4. A licensee shall not practice, condone, facilitate or collaborate with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, social, economic, health or marital status, political belief, diagnosis or physical disability, or on the basis of any preference or personal characteristic, condition or status of a person.

5. A licensee shall not misrepresent to a client the efficacy of his or her service or the results to be achieved.

6. A licensee shall apprise each of his or her clients of the risks, rights, opportunities and obligations, financial or otherwise, associated with the provision of services to the client for audiology ~~for speech~~, *speech-language* pathology ~~+~~ *or fitting and dispensing hearing aids*.

7. A licensee shall seek the advice and counsel of his or her colleagues and supervisors when such a consultation is in the best interest of the client.

8. A licensee shall terminate service to a client and a professional relationship with a client when the service and relationship are no longer required or no longer serve the needs of the client.

9. A licensee shall not withdraw his or her services precipitously, except under unusual circumstances and after giving careful consideration to all factors in the situation and taking care to minimize possible adverse effects to the client.

10. A licensee who anticipates the termination or interruption of service to a client shall notify the client as promptly as possible and seek the transfer, referral or continuation of service in relation to the needs and preferences of the client.

11. A licensee shall not influence or attempt to influence a client in any manner which could be reasonably anticipated in his or her deriving benefits of an unprofessional nature from the client during the time that the client is receiving professional services from the licensee and for 2 years after the termination of those services.

Sec. 19. NAC 637B.046 is hereby amended to read as follows:

637B.046 1. A violation of any provision of this chapter by a licensee constitutes unprofessional conduct and subjects the licensee to disciplinary action by the Board.

2. If a licensee violates any provision of this chapter or engages in any other kind of unprofessional conduct while his or her license is in effect, the Board will take disciplinary action against the licensee, including, without limitation, taking action against the licensee after his or her license has expired or been suspended.

3. If a board or entity in this State or in another state which has issued a license, certificate, registration or other credential to a licensee for the practice of audiology ~~for speech~~, *speech-language pathology or fitting and dispensing hearing aids* or a related field revokes or suspends

the license, certificate, registration or other credential, or takes any other disciplinary action against the licensee, the revocation, suspension or disciplinary action is a ground for disciplinary action by the Board against the licensee for unprofessional conduct.

4. The failure of a licensee to comply with a stipulation, agreement, advisory opinion or order issued by the Board constitutes unprofessional conduct and is a ground for disciplinary action by the Board against the licensee.

5. In addition to the acts specified in this section and subsection 2 of NRS 637B.250, as amended by section 53 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2308, the following acts constitute unprofessional conduct and are grounds for disciplinary action by the Board against a licensee or an applicant for a license, as applicable:

(a) Engaging in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids when unable to do so with reasonable skill and safety to a client because of the use of alcohol or any controlled substance or any mental or physical condition or illness.

(b) Committing negligence in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids.

(c) Allowing another person to use the license issued to the licensee.

(d) Failing to report or otherwise concealing information relating to a violation of this chapter or chapter 637B of NRS that could result in harm to the public health and welfare.

(e) Intentionally making or filing a false or misleading report.

(f) Failing to file or intentionally obstructing or attempting to obstruct another person from filing a report required by law or a third person.

(g) Intentionally harassing, abusing or intimidating a client, employer, employee, colleague or other person, either physically or verbally, including, without limitation, committing sexual harassment.

(h) Failing to notify the Board of disciplinary action imposed upon the licensee or the applicant for a license by a regulatory authority in another jurisdiction.

(i) Divulging, without the consent of a client, information gained within the context of the professional relationship with the client, unless the divulging of such information is otherwise required by law.

(j) Failing to obtain the informed consent of a client before engaging in scientific research involving the client.

(k) Referring or appearing to refer a client to a third person in exchange for receiving a fee or other consideration from the third person.

(l) Advertising in a manner that tends to deceive or mislead the public, including, without limitation, making a false or misleading statement or representation in the advertisement or solicitation of services.

(m) Making or providing false statements or omitting relevant information in connection with an application for a license or the renewal of a license.

(n) Misrepresenting or falsifying credentials, including, without limitation, credentials relating to education, training, experience or areas of competency.

(o) Practicing or offering to practice beyond the scope required by law.

(p) Performing any professional service that the licensee knows he or she is not competent to perform.

(q) Knowingly advertising a model or type of hearing aid for sale that cannot be purchased by a member of the general public.

(r) Advertising a product or using a name or trademark in a manner that falsely implies the existence of a relationship between the licensee and the manufacturer of a product.

Sec. 20. NAC 637B.048 is hereby amended to read as follows:

637B.048 1. For the purposes of *paragraph (d) of* subsection ~~1~~ *1* of NRS 637B.250, *as amended by section 53 of Assembly Bill No. 115, chapter 404, Statutes of Nevada 2015, at page 2308*, the Board will interpret the term “professional incompetence” to mean a lack of knowledge, skill or ability in discharging a professional obligation and to include, without limitation, malpractice and gross negligence.

2. As used in this section:

(a) “Gross negligence” means conduct in the practice of audiology ~~for speech~~, *speech-language pathology or fitting and dispensing hearing aids* which represents an extreme departure from the standard of care required from an audiologist ~~for speech~~, *speech-language pathologist or hearing aid specialist* under the circumstances.

(b) “Malpractice” means conduct in the practice of audiology ~~for speech~~, *speech-language pathology or fitting and dispensing hearing aids* which falls below the standard of care required from an audiologist ~~for speech~~, *speech-language pathologist or hearing aid specialist* under the circumstances.

Sec. 21. NAC 637B.400 is hereby amended to read as follows:

637B.400 1. ~~As~~ *Except as otherwise provided in NAC 637B.430 and subsection 2 of section 14 of this regulation, as* a prerequisite for each renewal of a *standard license or provisional* license, ~~to practice audiology or speech pathology,~~ a licensee must complete,

during the annual period immediately preceding the renewal, at least 15 hours of continuing education approved by the Board ~~[, unless the licensee has been granted a waiver or deferral pursuant to NAC 637B.430.]~~ *that directly pertains to the profession in which he or she holds a license issued by the Board. If the licensee is a dispensing audiologist, at least 5 of the 15 hours of continuing education must directly relate to the practice of fitting and dispensing hearing aids.*

2. Legible copies of all receipts, records of attendance, certificates and any other evidence of a licensee's completion of a course of continuing education must be retained by the licensee and made available to the Board for inspection for not less than 3 years after the completion of the course.

3. The Board will conduct random audits of licensees to ensure compliance with the requirements of this section.

4. If a licensee completes more than the required number of hours of continuing education during one licensing period, the licensee is not allowed to credit the excess hours toward the required education for a subsequent period.

5. For the purposes of subsection 1, a course approved by the International Institute for Hearing Instruments Studies of the International Hearing Society, American Academy of Audiology, American Speech-Language-Hearing Association, Academy of Doctors of Audiology or Educational Audiology Association is deemed to be approved by the Board.

Sec. 22. NAC 637B.420 is hereby amended to read as follows:

637B.420 1. ~~Except as otherwise provided in subsection 2,~~ *In addition to any course deemed to be approved by the Board pursuant to subsection 5 of NAC 637B.400,* the Board will

accept the following kinds of activities for credit toward fulfilling its requirement for continuing education : ~~{if the activities are related to the subjects prescribed in NAC 637B.410:}~~

(a) Attendance at a course or program conducted by a university, school district, hospital or similar entity.

(b) Attendance at a workshop, seminar, demonstration, meeting or lecture.

(c) Making a presentation at a workshop, seminar or similar function. Credit is allowed for time spent on both preparation and presentation. The greatest number of hours allowed for presentation is 8 hours during any one licensing period. Credit claimed for preparation may not exceed 50 percent of the number of hours credited for presentation.

(d) Publication of material in a professional journal or equivalent periodical or work. The Board will determine the number of hours allowed for credit under this paragraph, but the greatest number of hours allowed is 8 hours during any one licensing period.

(e) Participation in a planned observation or visit which is part of a clinical program if prior written approval for the activity is obtained from the ~~{Board's committee on continuing education.}~~ *Board.*

(f) Completion of an Internet course.

2. The Board will ~~{accept courses, seminars, workshops or conferences in the management of a practice offered by:~~

~~—(a) A speech language or hearing association approved by the Board; and~~

~~—(b) A college or university approved by the Board.~~

~~➔ If a licensee wishes to attend and receive credit for any other course, seminar, workshop or conference in the management of a practice, the licensee must obtain written approval from the Board's committee on continuing education at least 15 days before the course, seminar,~~

~~workshop or conference is offered.]~~ *consider a written request from a licensee that the Board approve credit for any continuing education not specified in subsection 1 if the request is submitted to the Board before the date of renewal of the license.*

3. If a written request submitted pursuant to subsection 2 is not granted, the Board may grant additional time for the licensee to fulfill any required continuing education that he or she has not completed.

Sec. 23. NAC 637B.430 is hereby amended to read as follows:

637B.430 ~~{A licensee may petition the Board for a waiver or deferral of}~~

1. The Board may waive all or part of the ~~{required hours of}~~ requirements for continuing education ~~{in a particular year. The Board may grant such a waiver or deferral if it finds the licensee has a hardship or circumstance beyond his or her control which has prevented the licensee from completing the required number of hours of continuing education.}~~ for a licensee who holds a standard license or provisional license if the licensee:

(a) Submits a written request for a waiver; and

(b) Provides proof satisfactory to the Board of an extenuating circumstance that does not allow the completion of the required continuing education.

2. If a waiver is granted pursuant to this section, the unfulfilled requirements for continuing education will be added to the requirements for continuing education for the licensee for the following year.

3. If a waiver is not granted pursuant to this section, the Board may grant additional time for the licensee to fulfill any required continuing education that he or she has not completed.

4. As used in this section, “extenuating circumstance” includes, without limitation:

(a) Extreme illness or injury;

(b) Extreme financial or familial hardship; or

(c) Military service.

Sec. 24. NAC 637B.002, 637B.0065 and 637B.410 are hereby repealed.

TEXT OF REPEALED SECTIONS

637B.002 “Audiologist” defined. (NRS 637B.150) “Audiologist” means any person who engages in the practice of audiology.

637B.0065 “Speech pathologist” defined. (NRS 637B.150) “Speech pathologist” means any person who engages in the practice of speech pathology.

637B.410 Subjects; limitation on acceptance. (NRS 637B.150, 637B.220)

1. The required education must be in the subject of audiology or speech pathology or in a related subject, such as:

- (a) Special education;
- (b) Clinical management;
- (c) Neurology;
- (d) Psychology;
- (e) Health sciences;
- (f) Hearing aids; or
- (g) The management of a practice.

2. The Board will accept no more than 8 hours of continuing education in the management of a practice for any one licensing period.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS
233B.066**

LCB FILE R129-15

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 637B.

1. A clear and concise explanation of the need for the adopted regulation.

Assembly Bill No. 115 of the 78th Legislative Session combined the Board of Hearing Aid Specialists with the Board of Examiners for Audiology and Speech Pathology to create the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board.

The need and purpose of the proposed regulation is to protect the public health, safety and welfare by ensuring that only qualified and competent speech-language pathologists, audiologists and hearing aid specialists are licensed in the state.

The proposed regulation will provide clarity for the public, individuals and licensees through regulation regarding provisions concerning the examination given to persons who wish to engage in the practice of fitting and dispensing hearing aids; establishing provisions concerning a program of in-service training for apprentice hearing aid specialists; authorizing a hearing aid specialist or dispensing audiologist to delegate certain duties to certain persons not licensed to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids; establishing certain duties of hearing aid specialists and dispensing audiologists; requiring licensees to prepare and retain certain client records; establishing provisions concerning requirements for continuing education; establishing provisions concerning the renewal and reinstatement of certain expired licenses; establishing certain fees to be charged and collected by the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board; and providing other matters properly relating thereto.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the proposed regulation, notices of workshops and notices of intent to act upon the regulation were sent by U.S. mail to persons who were known to have an interest in speech-language pathology, audiology and the fitting and dispensing of hearing aids as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, www.nvspeechhearing.org, mailed to all county libraries in Nevada and posted at the following locations:

Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board
Administrative Office
6160 Mae Anne Ave., Suite 3, Reno, Nevada 89523
Office of the Attorney General, 100 North Carson Street, Carson City, Nevada 89701

Office of the Attorney General, 5420 Kietzke Lane, Ste 202, Reno, Nevada 89511
Office of the Attorney General, Grant Sawyer State Office Building,
555 E. Washington Avenue #3900, Las Vegas, Nevada 89101
Washoe County Court House, 75 Court Street, Reno, Nevada 89520
Washoe County Clerk, 1001 E. 9th St. Bldg A, P.O. Box 30083, Reno, Nevada 89502

A Workshop was held to solicit comments on the proposed regulations on November 21, 2015. There were ten (10) individuals representing small businesses and the public in attendance at the workshop, no written comments were received. Thereafter, on or about March 25, 2016, a Notice of Intent to Act Upon Regulations was issued.

A Public Hearing was held on April 30, 2016; no oral comments were heard; there was one written comment received.

A copy of this summary of the public response to the adopted regulation may be obtained from the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, P.O. Box 34540, Reno, Nevada 89533-4540, 775-787-3421, or email to board@nvspeechhearing.org.

3. The number of persons who:

| | | |
|--|------------------------------|----|
| (a) Attended each workshop: | Las Vegas, November 21, 2015 | 10 |
| (b) Attended public hearing: | Reno, April 30, 2016 | 1 |
| (c) Testified at hearing: | Reno, April 30, 2016 | 0 |
| (d) Submitted written comments: | | 1 |

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

| | |
|--|--|
| (a) Name; | Paula Berkley |
| (b) Telephone number; | 775-323-7430 |
| (c) Business address; | 908 Nixon Ave, Reno, NV 89502 |
| (d) Business telephone number; | 775-323-7430 |
| (e) Electronic mail address; | paulaberkley@gmail.com |
| (f) Name of entity or organization represented. | Paula Berkley & Associates |

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. No comments were received from businesses.

A copy of this summary of the public response to the adopted regulations may be obtained from the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, P.O. Box 34540, Reno, Nevada 89533-4540, 775-787-3421, or email to board@nvspeechhearing.org.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board adopted the regulation on April 30, 2016 and included all of the changes suggested at the workshop on November 21, 2015. The written comments received as a result of the Notice of Public Hearing on April 30, 2016, was considered by the Board prior to adoption of the regulation; the questions raised in the written comments were addressed in SB115 and did not require a regulatory change, one comment requesting the addition of a criteria for extenuating circumstances for exemption from continuing education was determined not necessary as the regulation does not exclude other criteria for a determination of extenuating circumstances.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects

There will be no adverse economic effect of these adopted regulations on the businesses which it is to regulate (speech-language pathologists, audiologists, hearing aid specialists) or the public. The adopted regulations will benefit the speech-language pathology, audiology and hearing aid dispensing practitioners and the public by providing clarity to the regulations.

(b) Both immediate and long-term effects.

Direct effect will be to improve and clarify existing law and regulatory requirements. Businesses may experience the indirect effect of having more knowledgeable practitioners.

Long-term effect will be clarity and consistency in regulation and licensing of speech-language pathologist, audiologist and hearing aid specialists in Nevada.

8. The estimated cost to the agency for enforcement of the adopted regulations.

There are no additional costs involved in the enforcement of these adopted regulations.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board is not aware of any similar federal, state or local standards regulating speech-language pathology, audiology and hearing aid dispensing professions. These adopted regulations do not duplicate any federal, state or local standards.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board is not aware of any similar federal regulations of the same activity in which the adopted regulations are more stringent.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulation revises the licensing fee structure to conform with AB115 revisions to NRS, standardizing the fee structure for all professions. The annual revenue from all fees is estimated at \$130,000; fees will be utilized to support the Board functions to license and regulate the professions of Speech-Language Pathology, Audiology and Hearing Aid Specialists.