



## Notice of Intent To Act Upon a Regulation

### Notice of Hearing for the Adoption of Regulations of the Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board NAC 637B LCB File R108-23

The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 637B of the Nevada Administrative Code. The hearing will be held as follows:

**Wednesday, April 24, 2024 | 4:30pm**

**Location:** Board Office, 6170 Mae Anne Avenue, Suite 1, Reno, Nevada 89523

Supporting materials relating to this meeting will be physically available but in an effort to reduce costs and preserve resources, attendees are encouraged to access electronic copies on the Board's website at <https://www.nvspeechhearing.org/about/Minutes.asp>

#### Teleconference Access

#### ZOOM VIDEO & AUDIO:

<https://us02web.zoom.us/j/86748672519?pwd=SFVzZGhIZVMYsmJyVHdTVkt1L0dBdz09>

**AUDIO ONLY BY TELEPHONE:** (669) 900-6833

**Meeting ID:** 867 4867 2519

**Passcode:** 841579

If you are outside the United States or need **toll-free audio access**, please contact the Board office at [board@nvspeechhearing.org](mailto:board@nvspeechhearing.org) to request a toll-free number no later than 3:00pm Pacific on the day of the meeting.

The proposed regulation is intended to do the following:

- **Section 1** establishes a fee of \$50 for the renewal of an inactive license and increases the examination fee from \$200 to \$250.
- **Section 2** removes the requirement for a reinstatement application to include proof of current certification from the American Board of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), or National Board for Certification in Hearing Instrument Sciences (NBC-HIS).
- **Section 3** authorizes the Board, under certain circumstances, to approve and accept a passing score on the required written exam for fitting and dispensing hearing aids taken within the immediately preceding 24 months (extended from 12 months).
- **Section 4** provides that the Board will provide by mail or electronic mail any notice to a licensee that is required by law or regulation (revised from current requirement for notice by mail).
- **Section 5** removes the requirement that the Board maintain a list of approved programs of academic training for Hearing Aid Specialist Apprentices.
- **Section 6** makes conforming changes to refer to an unlicensed assistant rather than an office assistant, aide or technician.
- **Section 7** revises the requirements for a hearing aid specialist, audiologist or dispensing audiologist to delegate certain duties to an unlicensed assistant as follows:
  - (1) Authorizes a hearing aid specialist, audiologist or dispensing audiologist to instead delegate certain duties to an unlicensed assistant;

- (2) Provides that a hearing aid specialist, audiologist or dispensing audiologist may only delegate duties to an unlicensed assistant that are within the scope of the license or endorsement they hold;
  - (3) Provides that a hearing aid specialist, audiologist or dispensing audiologist is responsible and civilly liable for any negligence or incompetence of an unlicensed assistant in performing a delegated duty; and
  - (4) Prohibits a hearing aid specialist, audiologist or dispensing audiologist from delegating certain duties to an unlicensed assistant that require professional or advanced training for the practice of audiology or fitting and dispensing hearing aids.
- **Section 8** removes obsolete references to repealed federal regulations (per the FDA Final Rule on Over-the-Counter Hearing Aids), which required a medical evaluation or patient waiver to obtain hearing aids.
  - **Section 9** removes obsolete references to repealed federal regulations as described in Section 8 and removes the requirement that all formal written communications and documents be addressed to the Board and not to individual members of the Board or its staff.

#### **ACCESSING THIS NOTICE AND THE REGULATION TO BE ADOPTED**

- A copy of this notice and the regulation to be Adopted will be on file at the State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours.
- Additional copies of the notice and the regulation to be Adopted will be available at the Nevada Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board Office, 6170 Mae Anne Ave, Suite 1, Reno, Nevada 89523 and the Board website at [www.nvspeechhearing.org](http://www.nvspeechhearing.org) for inspection and copying by members of the public during business hours.
- This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>.
- This notice and the regulation has been sent via electronic mail to all licensed Speech-Language Pathologists, Audiologists, Hearing Aid Specialists, and persons on the Board's mailing list for administrative regulations.
- Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

#### **PUBLIC COMMENT**

Persons wishing to comment upon the proposed action of the Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Board via electronic mail at [board@nvspeechhearing.org](mailto:board@nvspeechhearing.org) or regular mail at 6170 Mae Anne Avenue, Suite 1, Reno, NV 89523.

**Written submissions must be received by the Board on or before 4:30pm Pacific time on Wednesday, April 24, 2024.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions. All licensees and interested parties are encouraged to participate in the regulatory review process by attending the meeting via teleconference, phone, or in-person.

#### **ACCOMMODATIONS**

We are pleased to provide reasonable accommodations for members of the public who wish to attend the meeting and require accommodations. If special arrangements are necessary, please notify the Board Office at (775) 787-3421 within 72 hours of the meeting date and time.

**Dated:** March 19, 2024

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

**LCB File No. R108-23**

February 28, 2024

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

AUTHORITY: § 1, NRS 637B.132 and 637B.175; §§ 2-4 and 7, NRS 637B.132 and 637B.191; §§ 5 and 6, NRS 637B.132 and 637B.194; §§ 8 and 9, NRS 637B.132.

A REGULATION relating to audiology; revising certain fees relating to licensure to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids; revising provisions relating to the written examination for a license to engage in the practice of fitting and dispensing hearing aids; authorizing hearing aid specialists, audiologists or dispensing audiologists to delegate certain duties to unlicensed assistants; prohibiting a hearing aid specialist, audiologist or dispensing audiologist from delegating certain duties to an unlicensed assistant that require professional or advanced training for the practice of audiology or fitting and dispensing hearing aids; revising provisions relating to waivers of certain medical evaluations; eliminating the requirement to address certain written communications and documents to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board to adopt regulations establishing standards of practice for persons licensed or endorsed to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids. (NRS 637B.132)

Existing law requires the Board to charge and collect certain fees established by the Board, including a fee for the renewal of a license in an amount not to exceed \$100. (NRS 637B.175) Existing regulations set forth the fee for the renewal of a standard, provisional or temporary license. (NAC 637B.030) **Section 1** of this regulation establishes a fee of \$50 for the renewal of an inactive license. **Section 1** further increases the examination fee from \$200 to \$250.

Existing regulations set forth certain requirements an applicant must meet to reinstate his or her license, including that the applicant include with the application for reinstatement proof satisfactory of his or her certification by the American Board of Audiology, the American Speech-Language-Hearing Association or the National Board for Certification in Hearing Instrument Sciences or a successor organization, as applicable. (NAC 637B.0365) **Section 2** of this regulation eliminates this requirement.

Existing law requires the Board to adopt regulations regarding the examination that is required concerning the practice of fitting and dispensing hearing aids. (NRS 637B.194) Existing regulations authorize the Board, under certain circumstances, to approve and accept a passing score on a written examination taken within the immediately preceding 12 months. (NAC 637B.0373) **Section 3** of this regulation instead authorizes the Board, under certain circumstances, to approve and accept a passing score on a written examination taken within the immediately preceding 24 months.

Existing regulations provide that the Board will mail any notice to a licensee that is required by law or regulation to the last known residential address of the licensee but authorize the Board to provide notice to a licensee by electronic mail upon the written consent of the licensee. (NAC 637B.0385) **Section 4** of this regulation provides instead that the Board will provide by mail or electronic mail any notice to a licensee that is required by law or regulation.

Existing law and regulations provide that: (1) a customized program of academic training for an apprentice who is completing in-service training under the supervision of a sponsor to become eligible to apply for a license to engage in the practice of fitting and dispensing hearing aids must be submitted to the Board for evaluation and approval; and (2) the Board will maintain a list of approved programs of academic training. (NRS 637B.025; NAC 637B.0392) **Section 5** of this regulation eliminates the provision that the Board will maintain a list of approved programs of academic training.

Existing regulations authorize a hearing aid specialist or dispensing audiologist to delegate certain duties to an office assistant, aide or technician who is not licensed. (NAC 637B.0442) **Section 7** of this regulation: (1) authorizes a hearing aid specialist, audiologist or dispensing audiologist to instead delegate certain duties to an unlicensed assistant; (2) provides that a hearing aid specialist, audiologist or dispensing audiologist may only delegate duties to an unlicensed assistant that are within the scope of his or her license or endorsement issued by the Board; (3) provides that a hearing aid specialist, audiologist or dispensing audiologist is responsible and civilly liable for any negligence or incompetence of an unlicensed assistant in performing a delegated duty; and (4) prohibits a hearing aid specialist, audiologist or dispensing audiologist from delegating certain duties to an unlicensed assistant that require professional or advanced training for the practice of audiology or fitting and dispensing hearing aids. **Section 6** of this regulation makes conforming changes to refer to an unlicensed assistant rather than an office assistant, aide or technician.

Existing regulations: (1) set forth certain requirements concerning a waiver by a client of a medical evaluation required by federal regulations; and (2) require a hearing aid specialist or dispensing audiologist to prepare and retain a copy of any such waiver. (NAC 637B.0444, 637B.045) Those federal regulations have been repealed. (21 C.F.R. § 801.421; 87 Fed. Reg. 50, 698-01 (Oct. 17, 2022)) **Sections 8 and 9** of this regulation eliminate obsolete references to the repealed federal regulation.

Existing regulations require that all formal written communications and documents be addressed to the Board and not to individual members of the Board or its staff. (NAC 637B.700) **Section 9** further repeals this requirement.

**Section 1.** NAC 637B.030 is hereby amended to read as follows:

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

Application fee .....	\$150
Fee for a standard license or provisional license .....	100
Fee for a temporary license .....	50
Fee for a limited license .....	25
Fee for renewal of a standard license or provisional license .....	100
Fee for renewal of <del>1a</del> <i>an inactive or</i> temporary license.....	50
Reinstatement fee for a standard license or provisional license expired	
30 days or more .....	100
Reinstatement fee for a standard license or provisional license expired	
less than 30 days.....	75
Examination fee .....	<del>200</del> 250
Fee for converting to a different type of license .....	50
Fee for each additional license or endorsement.....	50
Fee for obtaining license information .....	50

**Sec. 2.** NAC 637B.0365 is hereby amended to read as follows:

637B.0365 1. An applicant for reinstatement of his or her license shall include with the application for reinstatement:

(a) Proof satisfactory that the applicant has completed the continuing education that is required of a licensee for the year immediately preceding the application for reinstatement.

(b) The fees imposed by the Board pursuant to NRS 637B.175 for the reinstatement of a license.

~~{(e) Proof satisfactory of his or her certification by the American Board of Audiology, the American Speech-Language Hearing Association or the National Board for Certification in Hearing Instrument Sciences or a successor organization, as applicable.}~~

2. The reinstatement of a license that has been expired for 30 days or more must not be retroactive.

3. An application to reinstate a license must be submitted not later than 3 years after the date on which the license expired.

**Sec. 3.** NAC 637B.0373 is hereby amended to read as follows:

637B.0373 1. The examination prescribed by the Board pursuant to 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 not sooner than 30 days after the date of the previous 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 ~~H2~~ 24 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.** NAC 637B.0385 is hereby amended to read as follows:

637B.0385 1. Each licensee shall:

(a) Maintain with the Board the licensee's current residential address, business address or other contact information, including, without limitation, the telephone number and electronic mail address of the licensee, if available.

(b) Notify the Board of any change in the information maintained pursuant to paragraph (a) not later than 30 days after the change.

2. ~~Except as otherwise provided in subsection 3, the~~ *The* Board will provide by United States mail to the last known residential address *or by electronic mail to the last known electronic mail address* of the licensee provided pursuant to paragraph (a) of subsection 1 any notice to a licensee that is required by law or regulation.

~~3. The Board may provide a notice to a licensee by electronic mail upon the prior written consent of the licensee.~~

**Sec. 5.** NAC 637B.0392 is hereby amended to read as follows:

637B.0392 1. The academic portion of the in-service training of an apprentice required by NAC 637B.0391 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.** NAC 637B.0398 is hereby amended to read as follows:

637B.0398 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}~~ *unlicensed* assistant ~~{, aide or technician}~~ pursuant to ~~{subsection 1 of}~~ NAC 637B.0442.

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. 7.** NAC 637B.0442 is hereby amended to read as follows:

637B.0442 1. Except as otherwise provided in ~~{subsection 2,}~~ *this section*, a hearing aid specialist, *audiologist* or dispensing audiologist may delegate certain duties to an ~~{office}~~ *unlicensed* 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}~~ :

*(a) The duty being delegated is within the scope of the license or endorsement of the hearing aid specialist, audiologist or dispensing audiologist; and*

*(b) The hearing aid specialist, audiologist or dispensing audiologist determines, before delegating a duty, that the ~~office~~ unlicensed assistant ~~, aide or technician~~ possesses the necessary knowledge, competence, training and skills to perform the duty.*

*2. If a hearing aid specialist, audiologist or dispensing audiologist delegates a duty to an unlicensed assistant, the hearing aid specialist, audiologist or dispensing audiologist is responsible and civilly liable for any negligence or incompetence of the unlicensed assistant in performing the duty.*

3. The duties that may be delegated to an ~~office~~ unlicensed assistant ~~, aide or technician~~ pursuant to this section include, without limitation:

- (a) Cleaning ~~the~~ hearing ~~aid;~~ *aids and amplification devices;*
- (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.;~~
- (h) Greeting, escorting and scheduling clients;*

- (i) Packaging and mailing orders of earmolds, repaired devices and returns to manufacturers or laboratories;*
- (j) Maintaining inventories of supplies and checking the function of equipment;*
- (k) Performing checks on hearing aids and other amplification devices;*
- (l) Performing troubleshooting and minor repairs to hearing aids, earmolds and other amplification devices;*
- (m) Performing electroacoustic analysis of hearing aids and other amplification devices;*
- (n) Demonstrating alerting and assistive listening devices;*
- (o) Verbally instructing a client in proper ear hygiene;*
- (p) Assisting a hearing aid specialist, audiologist or dispensing audiologist with treatment programs;*
- (q) Assisting a hearing aid specialist, audiologist or dispensing audiologist with setup and technical tasks;*
- (r) Preparing materials for an ear impression;*
- (s) Maintaining and restocking test and treatment rooms;*
- (t) Performing equipment maintenance and biological checks;*
- (u) Performing infection control duties within the clinic;*
- (v) Assisting a client in completing a case history or other relevant forms;*
- (w) Interacting with a manufacturer or supplier of hearing instruments regarding the status of an order or repair; and*
- (x) Translating and interpreting only if the unlicensed assistant is fluent in a language other than English and has the necessary training and skills to perform such translation or interpretation.*

*4. The following duties that involve direct physical contact with a client or a hearing-related procedure or instrument may be delegated to an unlicensed assistant pursuant to this section:*

*(a) Instructing a client in the proper use and care of hearing aids and other amplification devices;*

*(b) Conducting hearing and tympanometric screening on older children and adults without interpretation;*

*(c) Conducting an otoacoustic emission screening;*

*(d) Performing a nondiagnostic otoscopy;*

*(e) Performing a pure-tone audiologic reassessment on an established client;*

*(f) Preparing a client for electronystagmography and videonystagmography or evoked testing;*

*(g) Assisting a hearing aid specialist, audiologist or dispensing audiologist in testing the hearing of a pediatric client; and*

*(h) Performing a pure-tone hearing screening and universal newborn hearing screening test.*

5. A hearing aid specialist, **audiologist** or dispensing audiologist shall not delegate any duty to an ~~office~~ **unlicensed** assistant ~~[-aide or technician]~~ pursuant to this section that requires professional or advanced training for the practice of **audiology or** 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~~ *Except for the duties that may be delegated to an unlicensed assistant pursuant to subsection 4, conducting* any activity involving direct physical contact with a client and a hearing-related procedure or instrument ~~;~~;

*(e) Determining case selection or evaluation protocols;*

*(f) Interpreting observations or data into a diagnostic statement of a clinical management strategy or procedure;*

*(g) Participating in a team or case conference or on any interdisciplinary team without the presence of a supervising audiologist or an audiologist designated by the supervising audiologist;*

*(h) Writing, developing or modifying a client's individualized treatment plan;*

*(i) Assisting a client without following the treatment plan prepared by the respective hearing aid specialist, audiologist or dispensing audiologist without proper supervision;*

*(j) Composing or signing any formal document such as a treatment plan, reimbursement form, progress note or other report, as applicable;*

*(k) Transmitting or disclosing clinical information, either verbally or in writing, to anyone, including, without limitation, the client, without the approval of the supervising hearing aid specialist, audiologist or dispensing audiologist;*

*(l) Selecting a client for treatment services or discharging a client from treatment services;*

*(m) Counseling or consulting with a client, a family member of a client or others regarding the client's status or treatment services or making referrals for additional services; and*

*(n) An unlicensed assistant referring to himself or herself, either verbally or in writing, with a title other than one designated by the supervising hearing aid specialist, audiologist or dispensing audiologist.*

**Sec. 8.** NAC 637B.045 is hereby amended to read as follows:

637B.045 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; *and*

(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. 9.** NAC 637B.0444 and 637B.700 are hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**637B.0444 Requirements concerning waiver by client of medical evaluation. (NRS 637B.132)** If a hearing aid specialist or dispensing audiologist offers a client a waiver of 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.

**637B.700 Address for written communications and documents to Board. (NRS 637B.132)** All formal written communications and documents must be addressed to the Board and not to individual members of the Board or its staff.