

**ADOPTED REGULATION OF THE BOARD OF EXAMINERS
FOR AUDIOLOGY AND SPEECH PATHOLOGY**

LCB File No. R219-03

Effective September 16, 2004

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

AUTHORITY: §§1-16, 22-35, 37-39 and 42, NRS 637B.150; §17, NRS 637B.150 and 637B.160; §§18-21, NRS 637B.150, 637B.220 and 637B.250; §§36, 40 and 41, NRS 637B.150 and 637B.220.

A REGULATION relating to audiology and speech pathology; providing for a person who has obtained a degree of doctor of audiology from an accredited college or university to refer to himself as a “doctor of audiology”; requiring the Board of Examiners for Audiology and Speech Pathology to appoint an Administrator to carry out the daily operations of the Board; creating application requirements for applying for licenses to practice audiology or speech pathology; creating standards of professional responsibility for audiologists and speech pathologists; defining “unprofessional conduct” and “professional incompetence”; creating a complaint process related to audiologists and speech pathologists; making various changes relating to the continuing education requirements for audiologists and speech pathologists; making various other changes relating to the licensing of audiologists and speech pathologists; and providing other matters properly relating thereto.

Section 1. Chapter 637B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 35, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Applicant” means a person who applies for any privilege, license, approval or authority from the Board.*

Sec. 4. *“Audiologist” means any person who engages in the practice of audiology.*

Sec. 5. *“Board” means the Board of Examiners for Audiology and Speech Pathology.*

Sec. 6. *“Client” means a person who receives services from an audiologist or speech pathologist.*

Sec. 7. *“Complainant” means a person filing a complaint with the Board concerning a licensee.*

Sec. 8. *“Investigator” means an investigator of the Board who is investigating a complaint filed with the Board and includes, without limitation, any member of the Board who is active in such an investigation.*

Sec. 9. *“Licensee” means any person who holds a license as an audiologist or speech pathologist pursuant to chapter 637B of NRS.*

Sec. 10. *“Party” includes:*

- 1. The respondent;*
- 2. The attorney, if any, representing the respondent; and*
- 3. The legal counsel for the Board.*

Sec. 11. *“Presiding officer” means:*

- 1. The Chairman of the Board; or*
- 2. The person appointed to chair a hearing on a formal complaint.*

Sec. 12. *“Respondent” means the licensee accused in an informal complaint or formal complaint before the Board.*

Sec. 13. *“Speech pathologist” means any person who engages in the practice of speech pathology.*

Sec. 14. *“Staff” means the staff of the Board.*

Sec. 15. *A person who has obtained a degree of doctor of audiology from an accredited college or university may refer to himself as a “doctor of audiology” and use the corresponding initials “Au.D” or “Ph.D.”*

Sec. 16. 1. *The Board will appoint a person to administrate the office of the Board. The Administrator is responsible for the daily operation of the office of the Board.*

2. The Administrator shall provide office space to maintain the principal office of the Board.

3. The Administrator is entitled to receive a salary, the amount of which will be determined by the Board.

Sec. 17. 1. *Each applicant must attach to the application his official transcript from the accredited educational institution where he obtained:*

(a) His master’s or doctorate degree in audiology or in speech pathology; or

(b) At least 60 semester credits, or equivalent quarter credits, in courses related to the normal development, function and use of speech and language or hearing, including, but not limited to, the management of disorders of speech or hearing and the legal, professional and ethical practices of audiology or speech pathology.

2. Each completed application for a license as an audiologist or speech pathologist must be accompanied by a check or money order for the appropriate fee. The check or money order must be payable to the “Board of Examiners for Audiology and Speech Pathology.”

Sec. 18. *A licensee:*

1. Shall not misrepresent, in advertising or otherwise, his education, training, type of license or certificate, qualifications, competence or service, or the results to be achieved if he provides service to a client.

2. *Shall not engage in the practice of audiology or speech pathology while he is impaired by:*

(a) *Alcohol, drugs or any other chemical; or*

(b) *A mental or physical condition that prevents him from safely engaging in the practice of audiology or speech pathology.*

3. *Shall not use his relationship with a client to further his own personal, religious, political or business interests.*

4. *Shall set and maintain professional boundaries with clients, interns and persons with whom he works.*

5. *Shall not give or receive, directly or indirectly, a fee, commission, rebate or other compensation for professional services that he 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 or speech pathology that is occurring.*

8. *Shall not attempt to diagnose, prescribe for, treat or provide advice for any problem which is outside of his field of competence, the scope of the practice of audiology or speech pathology or the scope of his license or certificate.*

9. *Shall base his practice upon the recognized knowledge relevant to audiology or speech pathology.*

10. *Shall critically examine and keep current with emerging knowledge relevant to the practice of audiology or speech pathology.*

11. Based upon recognized knowledge and standards for the practice of audiology or speech pathology, shall prepare and maintain in a timely manner a record for each of his clients which:

(a) Sets forth his 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 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 or speech pathology.*

Sec. 19. 1. *A licensee shall serve his 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 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 service or the results to be achieved.*

6. *A licensee shall apprise each of his clients of the risks, rights, opportunities and obligations, financial or otherwise, associated with the provision of services to the client for audiology or speech pathology.*

7. *A licensee shall seek the advice and counsel of his 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 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 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. 20. 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 license is in effect, the Board will take disciplinary action against the licensee, including, without limitation, taking action against the licensee after his 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 or speech pathology 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.*

Sec. 21. 1. *For the purposes of subsection 5 of NRS 637B.250, 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 or speech pathology which represents an extreme departure from the standard of care required from an audiologist or speech pathologist under the circumstances.*

(b) “Malpractice” means conduct in the practice of audiology or speech pathology which falls below the standard of care required from an audiologist or speech pathologist under the circumstances.

Sec. 22. 1. A person may file an accusation with the Board concerning the goods or services provided by a licensee or the activities of a licensee. Such an accusation must be on a form provided by the Board. If a complainant is the client of and is complaining about his treatment by a licensee, the Board will provide the complainant with a form for a limited waiver of confidentiality regarding his records which the complainant must sign and return to the Board. Such an accusation will not be further reviewed or processed by the staff or legal counsel until the signed limited waiver is received by the staff.

2. A complainant shall include in the accusation information that is sufficiently detailed so as to enable the respondent to prepare a response.

3. The Board will initially consider any accusation regarding a licensee as an informal complaint.

4. Except as otherwise provided in NRS 233B.120, a petition filed pursuant to NRS 233B.120 may be processed as an informal complaint.

Sec. 23. 1. Upon receipt of an informal complaint filed pursuant to section 22 of this regulation, the staff shall examine the informal complaint to determine whether it:

(a) Has been properly verified; and

(b) Alleges sufficient facts to warrant further proceedings.

2. If the staff determines that the informal complaint has been properly verified and alleges sufficient facts to warrant further proceedings, the staff shall notify the respondent by sending a copy or a summary of the informal complaint by certified mail to the respondent.

3. *The notification must set forth the alleged violations of a provision of this chapter or of chapter 637B of NRS arising in the informal complaint and request a response from the respondent for review by the Board before a hearing is set.*

4. *The transmission of the copy or summary of the informal complaint shall be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127.*

Sec. 24. 1. *Upon the receipt of a copy or summary of an informal complaint that has been filed against him pursuant to section 22 of this regulation, the respondent shall submit to the Board a written response to the informal complaint within 15 days after the date on which the informal complaint was served. Service shall be deemed to be complete when a true copy of the document, properly addressed and with postage paid, is deposited with the United States Postal Service.*

2. *A response to an informal complaint must:*

(a) *Respond to the allegations made in the informal complaint; and*

(b) *Be accompanied by all documentation that would be useful to the staff in its review of the allegations made in the informal complaint and the responses made by the respondent to those allegations.*

3. *In addition to any other disciplinary action, if the respondent fails to respond as required pursuant to subsection 1, he shall be deemed to have admitted the allegations in the informal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the respondent in the same manner as if the allegations had been proven by substantial evidence at a hearing of the Board held on the complaint.*

4. *In cases in which a response is filed as required pursuant to subsection 1, the staff shall review the informal complaint and the responses made thereto, may enlist the aid of a*

member of the Board or other qualified persons in the review and may take any other reasonable action necessary to further the review.

Sec. 25. 1. *After the initial review of the informal complaint and the responses made thereto conducted pursuant to section 24 of this regulation, the staff may:*

(a) Investigate the allegations and employ such people as they deem necessary to further the investigations;

(b) Consult with experts in the appropriate fields, including, without limitation, the employment of such persons for the purposes of an investigation or a hearing;

(c) Investigate new leads and allegations that may come to their knowledge in the course of the investigation;

(d) Enlist the aid of a member of the Board or other qualified person in the conduct of the investigation; and

(e) Take any other reasonable action necessary to further the investigation.

2. *During an investigation of an informal complaint, the staff, or investigator, if any, may demand that a respondent produce his records or other evidence for inspection or copying, with or without prior notice to the respondent and with or without a subpoena. Unless the requested records are made confidential pursuant to law, the respondent shall not refuse any such request for records.*

3. *If the respondent initially refuses or fails to cooperate with a request for records in violation of this section, the Board may immediately suspend his license until the respondent complies with the request for records or other evidence.*

4. *If the respondent continues to refuse or fail to cooperate with a request for records or other evidence in violation of this section after the Board has suspended his license pursuant*

to subsection 3, the Board may take such further disciplinary action against the respondent as the Board determines necessary.

Sec. 26. 1. *If the staff, or investigator, if any, determines that a specific record or other specific evidence is material to or necessary for an investigation conducted pursuant to section 25 of this regulation, the staff or investigator may remove the record of evidence and provide a copy of the record or evidence to the owner of that record.*

2. If the record or other evidence can be readily copied at the location where the record or evidence is located, the staff or investigator shall make a copy of the record or evidence at that location.

3. If the record of other evidence cannot be readily copied at the location where the record of evidence is located, the staff or investigator may remove the record or evidence from that location to copy the record or evidence.

4. If the staff or investigator removes a record or other evidence to be copied pursuant to subsection 3, the staff or investigator shall provide the person to whom the record or evidence being removed belongs with a receipt for the record or evidence and, not later than 5 business days after the record or evidence is removed, provide a copy of the record or evidence to that person.

Sec. 27. 1. *When an investigation of an informal complaint conducted pursuant to section 25 of this regulation is complete, the staff, and investigator, if any, shall determine whether substantial evidence exists to sustain the alleged violation of a statute or regulation set forth in the informal complaint.*

2. *If the staff, and investigator, if any, determine that no allegation of a violation of a statute or regulation set forth in the informal complaint can be sustained, the staff shall notify, in writing, the complainant and the respondent of this determination.*

3. *If the staff, and investigator, if any, determine that a violation of a statute or regulation as alleged in the informal complaint can be sustained, the legal counsel for the Board shall:*

(a) *In compliance with NRS 622.330, offer mediation, settlement agreements, stipulations of facts and liability or informal hearings; or*

(b) *Prepare a notice of hearing and a formal complaint.*

4. *A notice of hearing and a formal complaint must:*

(a) *Be a plain statement of the facts and applicable provisions of statutes and regulations regarding the alleged acts of the respondent alleged to be in violation of the statutes and regulations governing the practice of audiology and speech pathology;*

(b) *Include the date, time and place that the Board will hear the matter, if this information is known at the time when the notice of hearing and a formal complaint are sent to the respondent; and*

(c) *Be signed by the legal counsel for the Board and, if a member of the Board was active in the investigation, by that member of the Board.*

5. *The staff shall send a notice of hearing and a formal complaint prepared pursuant to subsection 4 to the respondent by certified mail.*

Sec. 28. 1. *A respondent who receives a notice of hearing and a formal complaint pursuant to section 27 of this regulation shall file his answer to the notice of hearing and the formal complaint not later than 15 days after the date on which the notice of hearing and the formal complaint were served. Service shall be deemed to be complete when a true copy of the*

document, properly addressed and with postage paid, is deposited with the United States Postal Service.

2. An answer to a notice of hearing and a formal complaint filed by a respondent must include a response to each allegation and statement made in the notice of hearing and the formal complaint by either admitting to or denying the allegation or statement.

3. In addition to any other disciplinary action, if the respondent fails to file an answer as required pursuant to subsection 1, he shall be deemed to have admitted each allegation and statement contained in the notice of hearing and the formal complaint. Based on these admissions, the Board may enter a finding and impose appropriate discipline on the respondent in the same manner as if the allegations had been proven by substantial evidence at a hearing of the Board held on the formal complaint.

Sec. 29. *The Board may join two or more formal complaints into one formal complaint if:*

1. The causes of action of each formal complaint are against the same person and deal with substantially the same or similar violations of statutes and regulations; and

2. The joining of the formal complaints will serve the best interests of the Board, complainants and respondent.

Sec. 30. *1. Not later than 10 days after a respondent files an answer to a formal complaint pursuant to section 28 of this regulation, the legal counsel for the Board and the respondent shall exchange:*

(a) A copy of all documents and other evidence that are reasonably available to the party and that the party reasonably anticipates will be used by the party at the hearing; and

(b) A written list of all persons who the party reasonably anticipates will be called to testify at the hearing by the party. The list must include the name and address of each potential witness and a general description of the anticipated subject matter of his testimony.

2. If, after initially providing the documents and list of witnesses pursuant to subsection 1, a party reasonably anticipates that other documents or witnesses will be used in support of his position, or if any of the documents or information previously provided changes, the party shall supplement and update his submission to the other parties.

3. If a party fails to provide documentation or information as required by this section, the presiding officer shall exclude the undisclosed document or the testimony of the witness at the hearing, unless the party seeking to include the document or witness demonstrates to the Board that the evidence or witness was not available upon diligent investigation before the date on which the exchange was required and that the evidence or witness was given or communicated to the other parties immediately after it was obtained.

Sec. 31. *Discovery may only be done in accordance with the provisions of sections 22 to 35, inclusive, of this regulation. The Board will not allow for the taking of depositions.*

Sec. 32. *The presiding officer may order a prehearing conference and may enter such prehearing orders as the presiding officer determines are appropriate for the efficient conduct of the hearing, including, without limitation:*

- 1. The exchange of written direct testimony of witnesses;*
- 2. The exclusion of particular testimony or evidence;*
- 3. The admission of particular testimony and other exhibits by agreement of the parties;*
- 4. The advance marking of all exhibits;*

5. *The exchange by the parties of written prehearing statements or briefs similar to pretrial statements filed in district court; and*

6. *Settlement negotiations. Settlement negotiations, and the statements of parties relating thereto, made at a prehearing conference are not admissible in evidence at the hearing unless the parties agree and the agreement is incorporated in a prehearing order.*

Sec. 33. 1. *A motion concerning any matter before the Board must be made in writing, unless the motion is made during the hearing on that matter. The presiding officer may deny as untimely:*

(a) Any motion made during a hearing if the motion could have reasonably been made before the hearing; and

(b) Any motion that is filed on a date that does not provide the opposing parties a reasonable time to respond.

2. *A written motion must set forth the nature of the relief sought by and the grounds for the motion.*

3. *A party may oppose a written motion by filing a written response to the motion with the Board and all the parties to the proceeding to which the motion relates within 10 days after the written motion is filed.*

4. *If a written response to a motion is filed, the party who made the motion may file and serve a written reply to the response.*

5. *Except as otherwise provided in this section, the presiding officer shall rule on all written motions on a matter at or before the hearing scheduled on the matter. The presiding officer may rule on a motion without oral argument or may allow oral arguments to be made*

before ruling on the motion. If the presiding officer allows oral arguments on a written motion to be made, the presiding officer shall set a time and date for hearing the oral arguments.

6. The presiding officer may require the Board to vote to decide a motion.

Sec. 34. *1. The presiding officer shall call the hearing to order and proceed to take the appearances on behalf of the Board or respondent.*

2. The notice of hearing, any petition, answer, response or written stipulation and, if the hearing concerns a disciplinary proceeding, the complaint or any other responsive pleading become a part of the record without being read into the record, unless a party requests that the document be read into the record.

3. The legal counsel for the Board shall present the evidence for the Board first and, if the Board allows closing arguments, shall present the closing arguments for the Board last.

4. Unless otherwise ordered by the presiding officer, and except as otherwise provided in this section, the order of presentation is as follows:

(a) Opening statement by the legal counsel for the Board.

(b) Opening statement by the respondent or the attorney for the respondent who may choose to make the opening statement at the beginning of the respondent's case.

(c) For each witness offered by the legal counsel for the Board:

(1) Direct examination by the legal counsel for the Board;

(2) Cross-examination by the respondent or the attorney for the respondent;

(3) Redirect examination by the legal counsel for the Board;

(4) Recross-examination by the respondent or the attorney for the respondent; and

(5) Examination by the members of the Board.

(d) For each witness offered by the respondent, the same order as for witnesses offered by the legal counsel for the Board.

(e) If applicable, closing arguments by the respondent or the attorney for the respondent.

(f) If applicable, closing arguments by the legal counsel for the Board.

5. A member of the Board may, at any time during the hearing:

(a) Question a witness; and

(b) Request or allow additional evidence, including additional testimony or documentary evidence.

6. A consolidated hearing before the Board will proceed in the same manner as described in this section with the order of the parties and evidence to be determined in the discretion of the presiding officer.

7. Posthearing briefs may be allowed by the presiding officer or upon a majority vote of the members of the Board. If such briefs are allowed, the Board will establish a time by when such briefs must be submitted.

Sec. 35. 1. *Except as otherwise provided in subsection 2, a party may appear at a hearing in person or by an attorney.*

2. A party shall attend a hearing on the merits in person unless the presiding officer waives the requirement of the attendance of the party.

3. In addition to any other disciplinary action, if a party who is required to attend a hearing in person fails to do so without having obtained a waiver of the requirement of his attendance pursuant to subsection 2, the Board may:

(a) Determine that his failure to attend the hearing in person shall be deemed:

(1) An admission of all matters and facts contained in the record with respect to the party; and

(2) A waiver of the right to an evidentiary hearing; and

(b) Take action based upon the admission or upon any other evidence, including affidavits, without any further notice or a hearing.

4. If a party retains an attorney to represent him before the Board, the attorney shall so notify the Board not later than 10 days after he is retained. Thereafter:

(a) The attorney shall sign all motions, oppositions, notices, requests and other papers, including requests for subpoenas; and

(b) The Board will serve all notices, motions, orders, decisions, and any other papers or pleadings upon the attorney.

5. An attorney appearing as counsel in any proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must be otherwise authorized to practice law in this State.

Sec. 36. NAC 637B.010 is hereby amended to read as follows:

637B.010 1. The “ Code of Ethics ” of the American Speech-Language-Hearing Association, in effect on January 1, ~~[1982,]~~ 2003, is hereby adopted by reference as the standards for ethical conduct of licensed audiologists and speech pathologists, except ~~§~~:

~~—(a) Wherever the word “Association” appears, insert the words “Board of Examiners for Audiology and Speech Pathology” in lieu thereof.~~

~~—(b) Wherever]~~ *wherever* the word “individual” appears, insert the word “licensee” in lieu thereof.

~~[(c) Under the heading Principle of Ethics II, delete the sentence “Individuals shall maintain high standards of professional competence.”.~~

~~—(d) In paragraph A under the heading Principle of Ethics II, delete “which are provided by the Association’s program for certification of clinical competence.” and insert “and be licensed and in good standing pursuant to chapter 637B of NRS.”.~~

~~—(e) Delete Ethical Proscription 2 under the heading Principle of Ethics II.~~

~~—(f) In Ethical Proscription 3 under the heading Principle of Ethics II, delete “certified clinician to anyone unqualified.” and insert “licensee.”.~~

~~—(g) Delete Matter of Professional Propriety 1 under the heading Principle of Ethics IV.]~~

2. A copy of the Code may be obtained at no charge ~~[from]~~ :

(a) *From the State of Nevada, Board of Examiners for Audiology and Speech Pathology, ~~[University of Nevada, School of Medicine,] P.O. Box 70550, Reno, Nevada ~~[89557.] 89570-0550; or~~~~*

(b) By telephone at 775.857.3500.

Sec. 37. NAC 637B.050 is hereby amended to read as follows:

637B.050 1. NAC 637B.050 to 637B.390, inclusive ~~[:]~~, *and sections 2 to 35, inclusive, of this regulation:*

(a) Govern all practice and procedure before the Board . ~~[of Examiners for Audiology and Speech Pathology.]~~

(b) Will be liberally construed to secure a just, speedy and economical determination of all issues presented to the Board.

2. In special cases, where good cause appears, the Board may permit deviation from NAC 637B.050 to 637B.390, inclusive, *and sections 2 to 35, inclusive, of this regulation*, insofar as it may find compliance therewith to be impractical or unnecessary.

3. If any provision of NAC 637B.050 to 637B.390, inclusive, *and sections 2 to 35, inclusive, of this regulation* or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions or applications to the extent they can be given effect.

Sec. 38. NAC 637B.080 is hereby amended to read as follows:

637B.080 Additional information with reference to proceedings before the Board or the status of any matter may be secured by applying to the ~~[Board's Secretary-Treasurer at its principal office.]~~ *Administrator.*

Sec. 39. NAC 637B.280 is hereby amended to read as follows:

637B.280 **1.** The Board ~~[will]~~ *may* before or during a hearing, and upon a proper showing, grant a continuance for submission of additional proof or other reasonable purpose.

2. *Requests for continuances must be submitted pursuant to section 33 of this regulation.*

Sec. 40. NAC 637B.400 is hereby amended to read as follows:

637B.400 **1.** As a prerequisite for each renewal of his 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 he has been granted a waiver or deferral pursuant to NAC 637B.430.

2. The licensee must, upon application for the renewal of his license, submit to the Board a statement signed by the licensee, under penalty of perjury, that he has complied with the

requirements for continuing education prescribed in subsection 1. For each course of continuing education which the licensee has completed, the statement must include:

- (a) The title and sponsor of the course;
- (b) The date on which the licensee attended the course; ~~and~~
- (c) The number of hours of continuing education earned by the licensee ~~and~~; *and*
- (d) If applicable, proof that the licensee received a minimum passing score on the final examination of the course.*

3. 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.

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

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

Sec. 41. NAC 637B.420 is hereby amended to read as follows:

637B.420 1. Except as otherwise provided in subsection 2, 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 . ~~[, but the greatest number of hours]~~ *Credit is* allowed for ~~[credit under this paragraph]~~ *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 ~~[for credit under this paragraph]~~ 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.

(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) ~~[The American Speech Language Hearing Association;~~
- ~~—(b) A state speech and]~~ *A speech-language or* hearing association approved by the Board; and
- ~~[(e)] (b)~~ A college or university ~~[accredited by the American Speech Language Hearing Association.]~~ *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, he 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.

Sec. 42. NAC 637B.070, 637B.100, 637B.110, 637B.140, 637B.150, 637B.180, 637B.190, 637B.200, 637B.210, 637B.220, 637B.230, 637B.250, 637B.270, 637B.290, 637B.300, 637B.310, 637B.320, 637B.330, 637B.350, 637B.360 and 637B.405 are hereby repealed.

TEXT OF REPEALED SECTIONS

637B.070 Office of Board. The principal office of the Board is the office of the person serving as Secretary-Treasurer of the Board. The office of the Board will be open during regular business hours.

637B.100 Fees and remittances. Money orders, bank drafts or checks for fees must be payable, and remittances made, to the Board of Examiners for Audiology and Speech Pathology. Remittances in currency or coin are wholly at the risk of the remitter, and the Board assumes no responsibility for loss thereof. Postage stamps must not be remitted.

637B.110 Classification of parties.

1. A person who applies for any right or authority from the Board must be styled an “applicant.”
2. A person who complains to the Board of any act or any person must be styled the “complainant.” In any proceeding which the Board brings on its own motion, it must be styled the “complainant.”
3. Except for a complainant, a person who petitions for affirmative relief must be styled the “petitioner.”

4. A person against whom any complaint is filed or investigation initiated must be styled the “respondent.”

5. A person who was not an original party to a proceeding, but who may be directly and substantially affected by it, must, upon securing an order from the Board or presiding officer granting him leave to intervene, be styled an “intervener.” The granting of leave to a person to intervene, or otherwise appear in any matter or proceeding is not a finding or determination that the person will or may be a party aggrieved by any ruling, order or decision of the Board, for purposes of judicial review or appeal.

6. Any person who believes that he may be affected by a proceeding, but who does not seek to participate actively in the proceeding, must be styled an “interested party.”

637B.140 Representation of parties; qualifications of attorneys.

1. In lieu of counsel, a party may be represented by another person of his own choosing.

2. An attorney appearing as counsel in any proceeding must be an attorney at law admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he must associate with an attorney so admitted and entitled to practice.

637B.150 Service of process on attorney. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served thereafter upon the party must be served upon his attorney, and such service shall, for all purposes, be considered valid service upon the party represented.

637B.180 Applications. Each pleading which requests a privilege, license or authority from the Board must be styled an “application.” The application must contain the applicant’s full

name and address and must contain such facts and exhibits as may be required by statute or NAC 637B.050 to 637B.390, inclusive. The application must be signed by the applicant.

637B.190 Petitions. Except applications, complaints and answers, each pleading praying for affirmative relief, including a request for a declaratory order or advisory opinion and a request for the adoption, amendment or repeal of any regulation, must be styled a “petition.” A petition must contain the full name and post office address of the petitioner and must be signed by him.

637B.200 Petitions for adoption, filing, amendment or repeal of regulations. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing and substantially in the format of Form No. 2.*

*See adopting agency for form.

637B.210 Complaints.

1. Upon the initiative of any interested person, or of any Board member, a complaint may be made alleging one or more causes of action based upon NRS 637B.250. Each applicable citation, statute, regulation or order of the Board must be cited, together with the date on which each act or omission occurred. If more than one cause of action is alleged, each cause of action must be stated and numbered separately.

2. Two or more complainants may join in one complaint if their respective causes of action are against the same person and deal with substantially the same violation of a statute or a regulation or order of the Board.

3. Every complaint must be filed with the Secretary-Treasurer of the Board.

4. A complaint will be set for hearing at the Board’s earliest convenience within the time allowed by law unless the Board has received notice of satisfaction of the complaint.

637B.220 Answers. The respondent may respond to the complaint by filing an answer, including any affirmative defenses, within 15 days after receipt of the complaint. If the respondent fails to answer within the time prescribed, he shall be deemed to have denied generally the allegations of the complaint.

637B.230 Motions.

1. All motions, unless made during a hearing, must be in writing.
2. Each written motion must set forth the nature of relief sought, the grounds for the motion and citations of applicable authority.
3. A party desiring to oppose a motion may serve and file a written response to the motion within 10 days after receipt of the motion.
4. The moving party may serve and file a written reply within 5 days only if an opposition to the motion has been served and filed.
5. A decision on the motion will be rendered without oral argument unless oral argument is requested by the Board, in which case the Board will set a date and time for hearing the argument.

637B.250 Service of process. All written notices, opinions and other documents required to be served by the Board, except its own decisions or orders and service of process in judicial proceedings, and all documents to be filed by any party may be served by mail. Service thereof shall be deemed complete when the document, properly addressed and stamped, is deposited in the United States mail.

637B.270 Notice. Notice of a hearing will be served at least 20 days before the time set therefor. A hearing which has previously been continued may be reset on notice of not less than 10 days.

637B.290 Failure of party to appear. If the complainant or the respondent fails to appear at a hearing scheduled by the Board and no continuance has been requested or granted, the Board may hear the evidence of such witnesses as have appeared and proceed to consider the matter and dispose of it on the basis of the evidence before it. Where, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing or request a continuance thereof, he may within a reasonable period, but not more than 15 days, apply to the Secretary-Treasurer of the Board to reopen the proceedings. Upon finding the cause sufficient and reasonable, the Board will immediately fix a time and place for a hearing and give the person notice thereof. At the time and place fixed, a hearing will be held at which the person may testify in his own behalf or present such other evidence as may be beneficial to his cause. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the Board.

637B.300 Preliminary procedure. The presiding member of the Board shall call the proceeding or hearing to order and proceed to take the appearances and act upon any pending motions. The parties may then make opening statements as they may desire.

637B.310 Presentation of evidence.

1. Each applicant, petitioner or complainant shall present his evidence, and then such parties as may be opposing the application, petition or complaint shall submit their proof. The presiding member of the Board shall determine the order in which any intervener may introduce his evidence. Evidence will ordinarily be received from the parties in the following order:

(a) Upon applications and petitions:

- (1) Applicant or petitioner;
- (2) Board staff;
- (3) Intervener; and

- (4) Rebuttal by applicant or petitioner.
 - (b) Upon complaints:
 - (1) Complainant;
 - (2) Respondent;
 - (3) Board staff; and
 - (4) Rebuttal by complainant.
 - (c) Upon complaints by the Board:
 - (1) Board;
 - (2) Respondent; and
 - (3) Rebuttal by Board staff.
2. The order may be modified by the Board or its presiding member.
 3. Closing statements by the parties may be allowed by the Board or its presiding member.

637B.320 Consolidation. The Board may consolidate two or more proceedings in any one hearing when it appears that the issues are substantially the same and that the interests of the parties will not be prejudiced by a consolidation. At any consolidated hearing, the presiding member of the Board shall determine the order in which the parties may introduce their evidence and open and close their cases.

637B.330 Stipulations. With the approval of the presiding members of the Board, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statements shown upon the record. Any such stipulation is binding upon all parties so stipulating and may be regarded by the Board as evidence at the hearing. The Board may require proof by evidence of the facts stipulated to, notwithstanding the stipulation.

637B.350 Briefs; oral arguments. In any hearing, the Board may order briefs to be filed within such time as it allows. Three copies of any requested brief must be filed with the Board and must be accompanied by an acknowledgment of service or a certificate of mailing for the other parties of record. The Board may, following the filing of briefs or upon contested motions, set the matter for oral argument. Ten days' notice of the argument will be given to each party of record unless the Board deems a shorter time advisable.

637B.360 Decision by Board.

1. A proceeding stands submitted for decision by the Board after the taking of evidence, the filing of briefs, or the presentation of such oral argument as may have been permitted by the Board.

2. An order or decision will be rendered within 90 days of the completion of the hearing, but, for good cause, the Board may extend this time limit up to an additional 90 days.

637B.405 Requirements for reinstatement of license. A licensee wishing to reinstate his license pursuant to subsection 3 of NRS 637B.210 must provide proof to the Board that he has met the requirements for continuing education prescribed by the Board for the period during which his license was expired.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R219-03**

The _____ adopted regulations assigned LCB File No. R219-03 which pertain to chapter ____ of the Nevada Administrative Code on _____

Notice date:
Hearing date:

Date of adoption by agency:
Filing date:

INFORMATIONAL STATEMENT

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

The adoption was noticed by posting the Notice of Intent to Act Upon a Regulation at all public and county libraries, the State Library, the university of Nevada, Reno, the Legislative Counsel Bureau, Carson City, the Washoe County courthouse, Reno, The Attorney General's Office in Reno, Carson City and Nevada. Additionally, notices were sent to the persons and entities that are licensed by the board.

There was public comment in support of the regulations and requesting clarification of some proposed language. A summary of the comments is contained in the minutes of the board meetings held April 23, 2004. A copy of the written minutes may be obtained by calling or writing to the Board at P. O. Box 70550, Reno, Nevada 89470-0550.

- 2. The number of persons who:**
(a) Attended each hearing: 1
(b) Testified at each hearing: 1
(c) Submitted to the agency written statements: 3

3. 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 by the Notice of Intent, as outlined in #1 and by direct mail to interested persons subscribing to the Board's mailing list. Written comments were received and were in support of the proposals and requested clarification of certain proposed language.

4. 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 regulation was adopted by the Board on January 17, 2003 with substantive changes to the Proposed Regulation. Changes were made because upon further consideration the board

concluded that the changes would provide the requested clarification, and that certain proposed standards of professional conduct were unnecessary for this profession.

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

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

The immediate and long-term adverse effects of the regulations include the cost to the licensee of the now required written response to a complaint.

The immediate and long-term beneficial effects of the regulations include a probable reduction in enforcement costs for the board due to efficiencies incorporated into these regulations.

6. The estimated cost to the agency for enforcement of the proposed regulation.

There is no added cost to the board for enforcement of the regulations. Actual costs to the board should decrease as a result of efficiencies incorporated into these regulations.

7. 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.

There are no other state or governmental agency regulations which the proposed regulation overlaps or duplicates.

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

There are no provisions which are more stringent than a federal regulation.

9. 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 neither establishes a new fee nor increases an existing fee.