

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

Explanation: matter in bold *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

Authority: NRS 637B.150

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Section 1. NAC 637B.010 is hereby amended to read as follows:

NAC 637B.010 Adoption by reference Code of Ethics; *Unprofessional conduct; Grounds for initiating disciplinary action against a licensee.*

1. The Code of Ethics of the American Speech-Language-Hearing Association, in effect on ~~January 1, 1982~~ *November, 2001*, 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.]~~ *a. 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)]~~ *b. Delete Matter of Professional Propriety 1 under the heading Principle of Ethics IV.*

2. A copy of the code may be obtained *by written or verbal request* at no charge 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 call 775-857-3500.*

3. *Any violation of this chapter or NRS 637B by an audiologist and/or speech pathologist constitutes unprofessional conduct and subjects the audiologist and/or speech pathologist to disciplinary action by the board.*

4. *If an audiologist or speech pathologist 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 audiologist or speech pathologist, including, without limitation, taking action against the licensee after his license has expired or been suspended.*

5. *If a board or entity in this state or in another state which has issued a license, certificate, registration or other credential to an audiologist or speech pathologist 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 audiologist*

or speech pathologist, the revocation, suspension or disciplinary action is a ground for disciplinary action by the board against the audiologist or speech pathologist for unprofessional conduct.

a) As used in this section “related field” includes, without limitation, hearing aid specialist, social work, alcohol and drug abuse counseling, psychology, psychiatry, nursing, medicine or any other program related to social science or the study of the human mind and mental illness.

6. The failure of an audiologist or speech pathologist 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 audiologist or speech pathologist.

7. The board will interpret the term “unprofessional conduct” to include “professional incompetence.”

a) The board will interpret the term “professional incompetence” to mean a lack of knowledge, skill or ability in discharging a professional obligation, and includes, without limitation, malpractice and gross negligence.

b) As used in this section:

(1) “Gross negligence,” means conduct in the practice of an audiologist or speech pathologist which represents an extreme departure from the standard of care required from an audiologist or speech pathologist under the circumstances.

(2) “Malpractice” means conduct in practice of Audiology or Speech Pathology which falls below the standard of care required from an audiologist or speech pathologist under the circumstances.

8. Unprofessional conduct and/or professional incompetence, includes but is not limited to:

a. Engaging in the practice of audiology and/or speech pathology when unable to do so with reasonable skill and safety to patients because of the licensee’s use of alcohol or any controlled substance, or because of any mental or physical condition or illness suffered by the licensee;

b. Being guilty of negligence in the performance of audiology and/or speech pathology;

c. Allowing another person to use the license issued to the licensee;

d. Failing to report or otherwise concealing information which could result in harm to the public health and welfare;

e. Intentionally making or filing a false or misleading report, record or claim in the licensee’s business;

f. Failing to file a report which is required by law or intentionally obstructing or attempting to obstruct another person from filing such a report;

g. Intentionally harassing, abusing or intimidating a patient, employer, employee, colleague or other person, either physically or verbally, including, but not limited to, sexual harassment, abuse or intimidation;

h. Intentionally divulging, with the consent of the patient, information gained within the context of the professional relationship with the patient;

i. Failing to obtain the informed consent of a patient before engaging in scientific research involving the patient;

j. Referring or appearing to refer a patient to a third person to receive a fee or other consideration from the third person;

k. Recommending or prescribing therapeutic devices or modalities sold by a third person to receive a fee or other consideration from the third person;

- l. Advertising in a manner that tends to deceive or mislead the public;*
- m. Making false statements, providing false information or omitting pertinent information in connection with an application for licensure or renewal of a license; or*
- n. Misrepresenting or falsifying credentials, including, but not limited to, those relating to education, training, experience and areas of competency.*
- o. Those grounds as listed in NRS637B.250 subsections 2, 3, 4.*
- p. Failure to cooperate during an investigation or failure to timely respond to an informal complaint or a formal complaint.*
- q. Violation of the professional responsibilities set forth in NAC 637B.320 and 637B.350*
- r. Failure to attend a disciplinary hearing without having obtained a waiver of the requirement of his attendance.*

Section 2. NAC 637B.030 is hereby amended to read as follows:

NAC 637B.030 Schedule of Fees. The board will charge and collect the following fees:

- 1. Application fee for *initial* license to practice speech pathology..... 100
- 2. Application fee for *initial* license to practice audiology..... 100
- 3. Annual fee for renewal of license 50
- 4. Reinstatement fee 75
- 5. License fee for initial license to practice speech pathology 50*
- 6. License fee for initial license to practice audiology 50*

Section 3. NAC 637.050 is hereby amended to read as follows:

NAC 637B.050 Scope and construction; *definitions.*

- 1. NAC 637B.050 to 637B.390, inclusive:
 - (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, insofar as it may find compliance therewith to be impractical or unnecessary.
- 3. If any provision of NAC 637B.050 to 637B.390, inclusive, 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.
- 4. As used in this chapter, unless the context otherwise requires, the words and terms defined in this section have the meaning ascribed to them in this section:*
 - a) “Doctor of Audiology” defined. “Doctor of Audiology” means a person who has obtained a Doctor of Audiology (AuD) degree through an accredited doctoral program from an educational institution approved by the board who engages in the practice of audiology.*
 - 1) Such person may use the term Doctor before his name and/or the initials AuD after his name.*

Section 4. NAC 637B.070 is hereby amended to read as follows:

NAC 637B.070 Office of the Board. ~~[The principle 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.

1. The board shall hire an Administrator to perform the daily functions of the Office of the Board:

a. The daily functions include, but are not limited to: answering and returning phone calls, speaking with licensees and applicants, verifying current and expired licenses, mailing applications and requested information, preparing new licenses, preparing and mailing renewal information, ordering supplies, maintaining bank accounts, preparation for board meetings, preparation for annual audit, and all other functions as determined by the board.

b. The administrator shall receive a monthly salary as determined by the board.

c. The administrator shall provide office space to maintain the Office of the Board.

Section 5. NAC 637B.210 is hereby amended to read as follows:

NAC 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.]~~

(the following section may be reconfigured generally as was done in LCB File No. R061-03)

Disciplinary complaints: filing of informal and formal complaints; default; response; review; investigation; notice of hearing; consolidation and resolution.

1.(a) A person may file an accusation with the board concerning the acts or services provided by a person who is licensed by the board as an audiologist or speech pathologist.

(b) The board will initially consider any accusation regarding an audiologist or speech pathologist as an informal complaint. Such an informal complaint filed with the board must be on a form provided by the board. A complainant shall include in his informal complaint information that is sufficiently detailed so as to enable the respondent to prepare a response.

(c) If a complainant is the client of and is complaining about his treatment by an audiologist or speech pathologist, 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 informal complaint will not be further reviewed or processed by the staff or legal counsel until the signed limited waiver is received by the staff.

2. Upon receipt of an informal complaint, the staff shall examine the complaint to determine whether it:

(a) Has been properly verified; and

(b) Alleges sufficient facts to warrant further proceedings.

3. a) If the board's staff determines that the informal complaint against an audiologist or speech pathologist has been properly verified and alleges sufficient facts to warrant further proceedings, the staff shall notify the respondent by sending a copy or summary of the informal complaint to the audiologist or speech pathologist by certified mail. The notification must set forth the potential violations of a provision of this chapter or chapter 637B of NRS arising in the informal complaint and request a response for the review by the board before a hearing is set.

(b) The transmission of the copy or summary of the informal complaint will be deemed to be a notice of intended action pursuant to subsection 3 of NRS 233B.127.

(c) Upon the receipt of a copy or summary of an informal complaint that has been filed against him, an audiologist or speech pathologist 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. A response to an informal complaint must respond to the allegations made in the informal complaint and be accompanied with all documentation that would be useful to the staff and legal counsel in their review of the allegations made in the informal complaint and the responses made by the audiologist or speech pathologist to those allegations.

1) The date of service of the informal complaint is the date the complaint is deposited in the mail addressed to the address of record of the licensee.

(d) Failure by an audiologist or speech pathologist to cooperate with the board during an investigation of an informal complaint, including, without limitation, failing to timely respond to the board regarding a copy or summary of the informal complaint sent to the audiologist or speech pathologist by the staff pursuant to this subsection is a ground for disciplinary action by the board against the audiologist or speech pathologist.

4. If an audiologist or speech pathologist fails to respond as required pursuant to subsection 3, he shall be deemed to have admitted the allegations in the informal complaint. Based on these admissions the board may impose appropriate discipline on the audiologist or speech pathologist in the same manner as if the allegations had been proven by substantial evidence at a board hearing on the informal complaint.

5. In cases where a response is filed as required pursuant to subsection 3, the staff and legal counsel 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 such review and may take any other reasonable action necessary to further the review. After their review of the informal complaint and the responses made thereto, 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 field, including, without limitation, employing 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.

6. If the staff and the legal counsel determine that the preliminary information from its investigation of an informal complaint reasonably indicates that a program in which an

audiologist or speech pathologist is employed or otherwise treating clients may have also violated any statutes or regulations applicable to the operation of the program, the staff and legal counsel may:

(a) Coordinate with and seek the assistance of the health division of the department of human resources or other agency in the investigation of the alleged violations; and

(b) Request the health division or other agency to share with the staff and legal counsel any findings made by and information in the possession of the division, to the fullest extent allowable under 42 C.F.R. Part 2.

7. a) During an investigation of an informal complaint, the staff or investigator, if any, may demand that an audiologist or speech pathologist produce his records or other evidence for inspection or copying, with or without prior notice to the audiologist or speech pathologist, and with or without a subpoena. An audiologist or speech pathologist shall not deny any such request for records or other evidence if the record or other evidence is not subject to the provisions of 42 C.F.R. Part 2.

b) If an audiologist or speech pathologist refuses or fails to cooperate with a request for records in violation of this section, the board may immediately suspend his license until the audiologist or speech pathologist with the request for records or other evidence. If the audiologist or speech pathologist continues to refuse or fail to cooperate with a request for records or other evidence in violation of this section, the board may take such further disciplinary action against the audiologist or speech pathologist as the board determines necessary.

8. a) If the staff or investigator, if any, determines that a specific record or other specific evidence is material to or necessary for an investigation, the staff or investigator may remove the record or evidence and provide a copy of the record or evidence to the respondent.

b) If a 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 and evidence at that location.

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

1) If the staff or investigator removes a record or other evidence to be copied, 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.

9. a) When an investigation of an informal complaint 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. If the staff and investigator 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.

b) If the staff, legal counsel and investigator determine that a violation of a statute or regulation as alleged in the informal complaint can be sustained, the legal counsel shall:

(1) Offer mediation, settlement agreements, stipulations of facts and liability or informal hearings; or

(2) Prepare a notice of hearing and a formal complaint.

10. 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 is sent to the respondent; and

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

11. The staff shall send a notice of hearing and a formal complaint prepared pursuant to subsection 10 to the respondent named in the notice of hearing and the formal complaint by certified mail.

12. a) A respondent who receives a notice of hearing and a formal complaint must 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. 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.

1) The date of service of the formal complaint is the date the complaint is deposited in the mail addressed to the address of record of the licensee.

b) If the audiologist or speech pathologist fails to file an answer as required pursuant to this subsection, 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 audiologist or speech pathologist in the same manner as if the allegations had been proven by substantial evidence at a board hearing held on the formal complaint.

c) Failure by an audiologist or speech pathologist to cooperate with the board during an investigation of a formal complaint, including, without limitation, failing to respond within the time required by this section to the board regarding the formal complaint sent to the audiologist or speech pathologist by the staff pursuant to this section, is a ground for disciplinary action by the board against the audiologist or speech pathologist.

13. Not later than 10 days after the filing of the response by the respondent, the legal counsel and the respondent shall exchange a list of the evidence and witnesses that will be used at the hearing. A party may not present evidence it obtains after the date the exchange was required pursuant to this subsection unless it demonstrates to the board that the evidence or witness was not available upon diligent investigation before the date the exchange was required and that the evidence or witness was given or communicated to the other party immediately after it was obtained.

14. The board may join two or more formal complaints into one formal complaint if:

(a) 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

(b) The joining of the formal complaints will serve the best interest of the board, complainants and respondent.

15. As used in this section:

(a) "legal counsel" means the legal counsel of the board;

(b) "staff" means the staff of the board.

Section 6. NAC 637B.220 is hereby repealed. The repealed text reads as follows:

~~[NAC 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.]~~

Section 7. NAC 637B.230 is hereby amended to read as follows:

NAC 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.]~~

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 motion made during a hearing if the motion could have reasonably been made before the hearing. The presiding officer may deny as untimely a motion that is filed on a date that does not provide 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 and serving a written response to the motion with the board and all the parties to the proceeding to which the motion relates.

4. If a written response to a motion is filed pursuant to subsection 3, the party who made the motion may file and serve a written reply to the response.

5. The presiding officer of the board 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.

Section 8. NAC 637B.270 is hereby amended to read as follows:

~~NAC 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.]~~

Discovery; witnesses and evidence; pre-hearing conference.

1. Not less than 10 days after the filing of the response by the respondent a party to the matter must serve upon any other party to the matter:

(a) Copies of all documents that are reasonably available to the party which the party reasonably anticipates will be used in support of his position; and

(b) A written list of the names of the persons whom the party reasonably anticipates will testify at the disciplinary hearing in support of his position. The list must include the name and address of each such person and a general description of the anticipated subject matter of his testimony.

2. A party who provides documents or information pursuant to these regulations shall promptly supplement and update his submission to the other parties if, after initially providing the documents and information, the 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.

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

4. Discovery may only be done in accordance with the provisions of this section. Depositions will not be allowed by the board.

5. The presiding officer of the board may order a pre-hearing conference and may enter such pre-hearing orders to the parties as the officer determines are appropriate for the efficient conduct of the hearing, including without limitation,

(a) the exchange of written direct testimony of witnesses;

(b) the exclusion of particular testimony or other evidence;

(c) the admission of particular testimony and other exhibits by agreement of the parties;

(d) the advance marking of all exhibits;

(e) the exchange of written pre-hearing statements or briefs by the parties similar to pretrial statements filed in district court; and

(f) settlement negotiations.

Settlement negotiations and statements of parties made at a pre-hearing conference are not admissible in evidence unless the parties agree and the agreement is incorporated in a pre-hearing order.

Section 9. NAC 637B.280 is hereby amended to read as follows:

~~[NAC 637B.280 Continuances. [The board will before or during a hearing, and upon a proper showing, grant a continuance for submission of additional proof or other reasonable purpose.] Continuances must be requested by motion made pursuant NAC 637B.230.~~

Section 10. NAC 637B.290 is hereby amended to read as follows:

~~NAC 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.]~~

Appearances; required attendance; default for failure to appear.

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

2. A party must attend a hearing on the merits in person unless the chairman or 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 such 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 who is not a member of the State Bar of Nevada may represent a party before the board if the attorney is otherwise authorized to practice law in this state pursuant to the rules of the supreme court.

Section 11. NAC 637B.300 is hereby amended to read as follows:

~~[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.]~~

Order of presentation in proceedings.

1. The chairman or presiding officer will call the hearing to order and proceed to take the appearances on behalf of the board, the applicant or licensee.

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, becomes a part of the record without being read into the record. A party may request that a document be read into the record.

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

4. The member of the board presiding over a single or consolidated hearing will determine the order of evidence for the hearing. Unless otherwise ordered the order of presentation shall be as follows:

(a) opening statement by board counsel

(b) opening statement by respondent's counsel, who may choose to make the opening statement at the beginning of respondent's case.

(b) for each witness offered by board counsel,

(1) direct examination by board counsel

(2) cross-examination by respondent's counsel

(3) redirect examination by board counsel

(4) recross examination by respondent's counsel

(5) examination by board members

a) A member of the board may, at any time:

(a) Question a witness; and

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

(c) for each witness offered by respondent's counsel, the same opening statement and order as for board counsel's witnesses;

(d) in a consolidated hearing, the same order as provided above with the order of the parties to be at the discretion of the presiding officer;

(e) closing arguments by respondent's counsel

(f) closing arguments by board counsel

(f) post-hearing briefs may be allowed at the discretion of the presiding officer or by vote of the board. If the board allows closing briefs to be submitted, the board will establish a time for the submission of the closing briefs.

Section 12. NAC 637B.310 is hereby amended to read as follows:

~~[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.]~~

Confidentiality of information during investigation.

1. Except as otherwise provided in this subsection, the staff, legal counsel and investigator, if any, shall keep all information gathered during an investigation of a complaint confidential during the investigation. Except as otherwise provided in this section, nothing in this subsection prohibits the staff, legal counsel or investigator from:

Communicating confidential information, or otherwise cooperating, with another agency or board that:

- (1) Is investigating a person licensed by the board;*
(2) Is investigating a program in which a person licensed by the board is engaging in the practice of Audiology or speech pathology; or

(3) Regulates or has jurisdiction over the violations of law alleged in a complaint, if the confidential information to be communicated is relevant to the investigation or regulation of the person or program by the other agency or board; or

(a) Communicating confidential information with the operator of a program, or his designee, if the complaint to which the confidential information relates:

- (1) Is filed against a person who is a member of the staff of that program; and*
(2) Alleges the existence of a condition which poses a significant hazard to the health or safety of the clients and staff of, and the visitors to, the program.

2. Notwithstanding any provision of this section to the contrary, information which is subject to the standards of confidentiality set forth in 42 C.F.R. Part 2 may be communicated by the board, staff, legal counsel or investigator, if any, only if such communication does not violate those standards of confidentiality.

Section 13. NAC 637B.320 is hereby amended to read as follows:

NAC 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.]~~

Professional responsibility. An audiologist or speech pathologist:

- 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 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. *Shall not knowingly offer services to a client who is receiving treatment from another audiologist or speech pathologist, or a licensee or holder of a certificate issued by any other similar board, without prior consultation between the client and the other therapist, counselor, intern, licensee or holder of a certificate.*
 7. *Except as otherwise provided in subsection 8, shall not disparage the qualifications of any colleague.*
 8. *Shall report to the board any unlicensed, unauthorized, unqualified or unethical practice of Audiology or Speech Pathology that is occurring.*
 9. *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.*
 10. *Shall base his practice upon the recognized knowledge relevant to Audiology or Speech Pathology.*
 11. *Shall critically examine and keep current with emerging knowledge relevant to the practice of Audiology and Speech Pathology.*
 12. *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 patterns of impairments in functioning of a client that is based upon comprehensive information obtained about the client.*
13. *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.*
 14. *Shall comply with the provisions of this chapter and chapter 637B of NRS and all other applicable federal laws and regulations.*
 15. *Shall not authorize a person 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.*
 16. *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 audiologist or speech pathologist that was issued by another state or territory of the United States;*
 - (b) *A criminal charge is filed against the audiologist or speech pathologist;*
 - (c) *A conviction 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 audiologist or speech pathologist; 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 therapist or intern for any act relating to the practice of Audiology or Speech Pathology.

Section 14. NAC 637B.330 is hereby amended to read as follows:

Stipulations. ~~[With the approval of the presiding members of the board, t]~~ 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.

Section 15. NAC 637B.350 is hereby amended to read as follows:

~~[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.]~~

NAC 637B.350 *Responsibility to client.*

- 1. An audiologist or speech pathologist shall serve his clients with professional skill and competence.*
- 2. If an audiologist or speech pathologist 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. An audiologist or speech pathologist 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. An audiologist or speech pathologist shall not misrepresent to a client the efficacy of his service or the results to be achieved.*
- 6. An audiologist or speech pathologist 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. An audiologist or speech pathologist shall seek the advice and counsel of his colleagues and supervisors when such a consultation is in the best interest of the client.*

8. *An audiologist or speech pathologist 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. *An audiologist or speech pathologist 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. *An audiologist or speech pathologist that 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. *An audiologist or speech pathologist 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 audiologist or speech pathologist and for 2 years after the termination of those services.*
12. *Throughout the period of treatment of a client and for the 2 years immediately following the termination of the professional relationship between the client and the audiologist or speech pathologist treating the client shall not:*
 - (a) *Enter into a close personal relationship with the client, including, without limitation, sponsorship of the client in a group for self-help, or a romantic or sexual relationship;*
 - (b) *Enter into, or attempt to enter into, a financial relationship with the client that is unrelated to a primary service or a clinical service; or*
 - (c) *Enter into a romantic or sexual relationship with any person who was in a romantic or sexual relationship with the client during the time that the licensee was providing primary service or clinical service to the client.*
13. *Within the 2 years immediately following the termination of a professional relationship, an audiologist or speech pathologist shall not solicit or enter into a dual relationship with the client.*

Section 16. NAC 637B.360 is hereby repealed. The text of the repealed section reads as follows:

~~[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.]~~

Section 17. NAC 637B.405 is hereby repealed. The text of the repealed section reads as follows:

~~[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.]~~

Section 18. NAC 637B.420 is hereby amended to read as follows:

NAC 637B.420 Acceptable activities, courses, seminars, workshops and conferences.

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 allowed for credit under this paragraph is 8 hours during any one licensing period.

(d) Publication of material in a professional journal or equivalent periodical or work, 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, where the subject is directly related to audiology and/or speech pathology. The licensee must successfully complete the course before renewal and provide the board with test scores or certificate of completion.

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 hearing association approved by the board; and

(c) A college or university accredited by the American Speech Language Hearing Association.

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.

Section 19. NAC 637B is hereby amended by adding a new section to read as follows:

NAC 637B.440 Qualifications of applicants.

1. An applicant for a license to engage in the practice of audiology and/or speech pathology must be issued a license by the board if he:

a. Is over the age of 21 years;

b. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

c. Is of good moral character;

d. Meets the requirements for education or training and experience provided in subsection 2;

e. Has completed at least 400 clock hours of supervised clinical experience in audiology and/or speech pathology;

f. Applies for the license in the manner provided by the board;

g. Passes any examination required by this chapter; and

h. Pays the fees provided for in the chapter.

2. An applicant must possess a master's degree in audiology and/or speech pathology from an accredited educational institution or possess equivalent training and experience.

a. If an applicant seeks to qualify on the basis of equivalent training and experience, he must submit to the board satisfactory evidence that he has obtained:

1. At least 75 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 and/or speech pathology.

2. At least 27 of the 75 semester credits, excluding any credits obtained for a thesis or dissertation, must have been obtained in basic sciences. And 36 of the 75 credits, excluding any credits obtained for a thesis or dissertation, must have been obtained for professional courses, at the graduate level, directly relating to audiology and/or speech pathology.

Section 20. NAC 637B is hereby amended by adding a new section to read as follows:

NAC 637B.450 Application process.

To obtain a license to practice audiology and/or speech pathology, an applicant must, at least 30 days before he begins practice:

1. Complete the application for licensure as provided by the board.

2. Provide the board with official transcripts from the educational institution where the applicant received his master's degree in audiology and/or speech pathology. The official transcript must reflect that the master's degree has been awarded.

a. If an applicant does not possess a master's degree in either audiology and/or speech pathology and seeks to qualify on the basis of equivalent training and experience, the applicant must comply with NAC 637B. _____.

3. Provide the board with a copy of their current American Speech-Language-Hearing Association (ASHA) card.

a. If the applicant is a recent graduate and not current with ASHA, but has taken and passed the National Teachers Examination, given by an agency approved by the board, the applicant may provide a copy of his passing score in lieu of the ASHA card.

4. Provide the board with a check or money order for the appropriate fees for licensure as provided in NAC 637B.030.

Section 21. NAC 637B is hereby amended by adding a new section to read as follows:

NAC 637B.460 Expiration, Renewal and Reinstatement of licenses.

1. All licenses, issued pursuant to the chapter, except a temporary license expire on December 31 of each year.

2. Each holder of a license to practice audiology and/or speech pathology, except a temporary license, who meets the following requirements, may renew his license before the expiration date:

a. Complete the renewal application as provided by the board, which includes continuing education requirements; and

b. Payment of the fee for annual renewal of a license.

3. If a licensee fails to renew his license before the expiration date, he may renew his license, up to 60 days past expiration date, by meeting the following requirements:

- a. Complete the renewal application as provided by the board;*
 - b. Provide documentation proving to the satisfaction of the board the completion of the required continuing education as prescribed by the board; and,*
 - c. Payment of the renewal fee.*
- 4. If a licensee fails to renew his license before the expiration date but less than 3 years after the expiration date, he may reinstate his license by meeting the following requirements:*
- a. Complete the reinstatement application as provided by the board;*
 - b. Provide documentation proving to the satisfaction of the board the completion of the required continuing education for the period during which his license was expired; and,*
 - c. Payment of the reinstatement fee in addition to the renewal fees for the period during which his license was expired.*
- 5. Consequences of practicing with an expired license:*
- a. A suit for injunctive relief may be imposed pursuant to NRS637B.310; and*
 - b. Appearance before the board may be required.*