

LCB File No. R062-01

**PROPOSED REGULATION OF THE
BOARD OF HEARING AID SPECIALISTS**

(This proposed regulation was previously adopted as LCB File No. T012-01)

Notice of Workshop to Solicit Comments on Proposed Regulations

The Nevada State Board of Hearing Aid Specialists, P.O. Box 190, Carson City, Nevada 89702, (702) 571-9000, is proposing the adoption, amendment, and/or repeal of regulations pertaining to Chapter 637A of the Nevada Administrative Code. A workshop has been set for 9:30 A.M. on October 6, 2001, at the Reno-Tahoe International Airport, Reno, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

- NAC 637A.060 – Examination fee;
- NAC 637A.070 – License fees;
- NAC 637A.080 – Renewal of License;
- NAC 637A.095 – Requirements for Continuing Education; exemption;
- NAC 637A.105 – Sponsorship of apprentice;
- NAC 637A.110 – State of supervision;
- NAC 637A.115 – Completion of training under supervision of sponsor; report by sponsor; limitations on practice;
- NAC 637A.120 – Proof of supervision and review of work;
- NAC 637A.130 – Withdrawal of sponsor;
- NAC 637A.140 – Display of certificate;
- NAC 637A.190 – Office of hearing aid specialist;
- NAC 637A.195 – Compliance with federal regulations; waiver of medical evaluation by client;
- NAC 637A.200 – Minimum procedures on prospective candidates for hearing aids; exception;
- NAC 637A.220 – Duties of licensee; prohibited acts; disciplinary action

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Board at the above address and telephone number. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Clark County Library
833 Las Vegas Boulevard N.
Las Vegas, NV 89101

Nevada Attorney General's Office
555 E. Washington Street
Las Vegas, NV

Nevada Attorney General's Office
1325 Airmotive Way, Ste. 340
Reno, NV 89502

Reno-Tahoe International Airport
2001 East Plumb Lane
Reno, NV 89502

Dated: August 27, 2001

NOTICE OF INTENT TO ACT UPON PROPOSED REGULATIONS

Notice of Hearing for the Adoption of Proposed Regulations of the Nevada State Hearing Aid Specialist Board

The Nevada State Hearing Aid Specialist Board will hold a public hearing at 9:45 A.M. on October 6, 2001, at the Reno Tahoe International Airport, Meeting Room C, 2001 East Plumb Lane, Reno, Nevada. The purpose of the hearing is to receive comments from all interested person regarding the amendment of regulations that pertain to chapter 637A of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

NAC 637A.060 – Examination fee; NAC 637A.070 – License Fees; NAC 637A.080 – Renewal of License; NAC 637A.095 – Requirements for Continuing Education; exemption; NAC 637A.105 – Sponsorship of apprentice; NAC 637A.110 – State of supervision; NAC 637A.115 – Completion of training under supervision of sponsor; report by sponsor; limitations on practice; NAC 637A.120 – Proof of supervision and review of work; NAC 637A.130 – Withdrawal of sponsor; NAC 637A.140 – Display of certificate; NAC 637A.190 – Office of Hearing Aid Specialist; NAC 637A.195 – Compliance with federal regulations; waiver of medical evaluation by client; NAC 637A.200 – Minimum Procedures on Prospective Candidates for Hearing Aids; Exception; NAC 637A.220 – Duties of Licensee; Prohibited Acts; Disciplinary Action;

The purpose of the proposed amendments increase examination and licensure fees; requires applications to be complete; inform the Board of ever office or business from which a licensee dispenses hearing aids and display the license; every office must be compliant with the Americans with Disabilities Act and must be accessible to the public; Board staff or investigator may enter any site at which hearing aids are dispensed and may examine any record, document, facility, or equipment; cancellation policy for the return of monies from a licensee to an individual; identifying acts committed by a licensee that will be deemed harmful to the public or detrimental to the public health or safety; and any document that must be filed with the Board will be deemed to be filed on the date it is postmarked or received by the board secretary, whichever is earlier; increase the examination fees for licensure.

The economic effects on the public is that offices that dispense hearing aids must be compliant with the American with Disabilities act to accommodate disabled individuals and a set cancellation policy for individuals who order hearing aids and cancel the order within 5 days and never take possession of the hearing aids.

The economic effect on the business it regulates is that applicants and licensees will be required to pay higher fees to keep a Nevada Hearing Aid Specialist License. It requires that offices that dispense hearing aids be compliant with the American Disabilities Act. The licensee must also comply with the cancellation policy and return the necessary funds to the individual. It will cost more to take the licensure examination.

There is no estimated cost to the agency for enforcement of the proposed regulations.

There are no regulations of other state or local governmental agencies, which the proposed regulations overlap or duplicates.

The proposed regulations are not required pursuant to federal law.

The proposed regulations do not include provisions, which are more stringent than a federal regulation that regulates the same activity.

The proposed regulations increase the existing examination fee and licensure fees.

Persons wishing to comment upon the proposed action of the Nevada State Hearing Aid Specialist Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Nevada State Hearing Aid Specialist Board, P.O. Box 190, Carson City, Nevada 89702. Written submissions must be received by the Nevada State Hearing Aid Specialist Board on or before September 25, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Hearing Aid Specialist Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspections by members of the public during business hours. Additional copies of the notice and the regulation to be amended can be requested in writing to Nevada State Hearing Aid Specialist Board, P.O. Box 190, Carson City, Nevada 89702 or by calling (702) 571-9000, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Council Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Churchill County Library
Clark County Library
Elko County Library

Esmeralda County Library
Eureka County Library
Humboldt County Library
Lincoln County Library
Lyon County Library
Mineral County Library
Goldfield Public Library
Tonopah Public Library
Pershing County Library
Storey County Library
Washoe County Library
White Pine County Library
Battle Mountain Branch Library
Carson City Library
Douglas County Library

Nevada Attorney General's Office – Las Vegas
Nevada Attorney General's Office – Reno

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**PROPOSED REGULATION OF THE
BOARD OF HEARING AID SPECIALISTS**

(This proposed regulation was previously adopted as LCB File No. T012-01)

(Changes - Additions in *Italics*; Deletions in brackets)

Section 2. NAC 637A.060 Examination fee shall be amended as follows:

An applicant for licensure as a hearing aid specialist must pay a nonrefundable examination fee in the form of a certified check or postal money order in the following amounts:

For the initial examination~~[\$100]~~ *\$200*

If only a portion of the examination is taken, for that portion of the examination:

Written~~[50]~~ *120*

Whole practical~~[50]~~ *120*

~~[Audiometric 30]~~

Statutes and the code of ethics~~[10]~~ *50*

~~[Locating malfunctions in hearing aids 10]~~

Section 3. NAC 637A.080 Renewal of License shall be amended as follows:

Each licensee may file with the secretary of the board before June 30 of each year an application for renewal. No application for renewal will be considered by the board unless it is *fully completed and is* accompanied by the annual license fee and proof that the applicant has completed the continuing education requirements prescribed by NAC 637A.095. *An application for renewal which is incomplete or is not accompanied by the required fee and information will be returned and will not be deemed to have been filed.*

Section 4. NAC 637A.190 Office of hearing aid specialist shall be amended as follows:

1. ~~[On his application to the board, each hearing aid specialist shall state the name and location of the office or place of business where his license will be regularly displayed. The office must be accessible to the public during business hours and must contain adequate equipment and supplies for serving the needs of the licensee's clientele.]~~ *A licensee must inform the board of*

every office or business from which or for whom he dispenses hearing aids, and he must publicly display his license or a copy thereof at each such location.

2. *Every office in which the public is served must be compliant with the Americans with Disabilities Act, must be accessible to the public during business hours, and must contain adequate equipment and supplies to serve the needs of the licensee's patients.* If the office is a part of a building normally used as a residence, it must be in a space set aside for this purpose only, and have an entrance by which the public may have access to the office without going through any part of the residence.

3. If the office of a licensee is changed from the address shown in the files of the board, the licensee shall file notice thereof with the secretary of the board, together with the new address, within ~~[30]~~ 10 working days after the change. ~~[Failure to give notice is cause for suspension of a license by the board.]~~

Section 5. NAC 637A.200 Minimum procedures on prospective candidates for hearing aids; exception shall be amended as follows:

1. Except as otherwise provided in subsection 2, all persons licensed pursuant to chapter 637A of NRS shall take the pertinent case history of ~~[,]~~ and perform personally ~~[or through proper channels]~~ the following minimum procedures on ~~[,]~~ each prospective candidate for a hearing aid:

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

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

(c) Effective masking, when applicable.

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

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

The licensee shall perform each procedure in a proper environment to obtain accurate results.

2. The minimum procedures set forth in subsection 1 are not required if the person supplies the hearing aid specialist with complete results of the required tests which have been given within

the previous 6 months by a qualified tester who is licensed pursuant to the provisions of chapter 637A or 637B of NRS.

Section 6. NAC 637A.210 Advertising shall be amended as follows:

The board considers the following actions to constitute misconduct or unprofessional conduct:

1. Making a false or misleading statement or representation in the advertisement or solicitation of services.
2. Knowingly advertising a model or type of hearing aid for sale when that model or type cannot be purchased by members of the general public.
3. Advertising a manufacturer's product or using a manufacturer's name or trademark in a manner which falsely implies that a relationship exists between the licensee and the manufacturer.

Section 7. NAC 637A.220 Duties of licensee; prohibited acts; disciplinary action shall be amended as follows:

1. ~~[A person licensed as a hearing aid specialist]~~ *The board's staff, investigator, and investigating board member, during the course of any investigation authorized pursuant to this chapter, may enter any site at which hearing aids are dispensed and may examine any record, document, facility, or equipment. Unless otherwise provided herein, a licensee shall provide information requested by the staff member, investigator, and investigating board member to [the board] that person [within 30] immediately if the person is at the site and the requested materials may reasonably be copied during the visit or within 5 working days after a request for the information is made if the materials could not be reasonably copied during the visit [by the board].*
2. A licensee shall not represent himself as an audiologist or other medical professional or use any other term to represent himself which is false or misleading.
3. Unless otherwise provided by the board, a licensee shall provide for the service and repair of each hearing aid he sells or fits.
4. A licensee shall provide to each person supplied with a hearing aid a bill of sale which includes:
 - (a) The address of the licensee's principal place of business;

- (b) A description of the make, model and serial number of the hearing aid;
- (c) The amount charged for the hearing aid; and
- (d) The condition of the hearing aid, indicating whether it is new, used or reconditioned.
- (e) The name of the dispenser responsible for providing any refunds due and payable to any person who returns hearing aids for a refund or to any person who cancels a contract for purchase of hearing aids pursuant to subsections 5, 6 and 7.*

5. A licensee shall provide to each person who purchases a hearing aid a written guarantee that the person may return the hearing aid:

- (a) Within 30 days after receipt of the hearing aid; or
- (b) If the hearing aid was returned for service or repair during the 30-day period, within 30 days after the hearing aid was serviced or repaired.

Except as otherwise provided in subsection 6, if the hearing aid and all accessories which accompanied the hearing aid are returned to the licensee in the same condition as they were received, the licensee shall provide the person with a refund within 30 days after the hearing aid is returned.

6. If a hearing aid is returned pursuant to subsection 5, a licensee may charge a fee for fitting the person with the hearing aid if the fee is specified in the original agreement between the licensee and the person. Unless a higher fee is authorized by the board, the fee must not exceed \$250 or 20 percent of the purchase price for the hearing aid, whichever is less.

7. If a person cancels his or her order within 5 working days of signing the contract agreement and prior to taking possession of the hearing aids, a licensee shall refund all monies and deposits received less the dispenser's usual casting and testing fee, not to exceed \$75 per hearing aid.

~~7.]~~ 8. A violation of the provisions of this section is a ground for disciplinary action.

Section 8. NAC ch. 637A shall be amended to add the following new language:

The following acts committed by a licensee shall be deemed conduct which is harmful to the public or conduct detrimental to the public health or safety:

- 1. Violation of any regulation of the board or any provision of the Code of Ethics adopted by the board pursuant to NAC 637A.020;*
- 2. Practicing while a license has not been renewed;*

- 3. Failure to give timely notice of a change of office pursuant to NAC 637A.190;*
- 4. Failure to comply with any obligation required of a hearing aid dispenser under the terms of NRS 597.264 through 597.2667.*

Section 9. NAC ch. 637A shall be amended to add the following new language:

Any document that must be filed with or provided to the board will be deemed filed on the date it is postmarked or received by the board secretary, whichever is earlier.