

LCB File No. T012-01

ADOPTED TEMPORARY REGULATION OF THE BOARD OF HEARING AID SPECIALISTS

(Effective March 15, 2001)

(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.*

## LCB File No. T012-01

### NOTICE OF ADOPTION OF TEMPORARY REGULATION T012-01

The Nevada State Board of Hearing Aid Specialists adopted regulations amending chapter 637A of NAC.

**Notice date:** 11/2/00 & 1/2/01

**Date of Adoption by Agency:** 2/2/01

**Hearing date:** 12/1/00 & 2/2/01

**Filing date:** 4/11/02

### INFORMATIONAL STATEMENT

#### INFORMATION STATEMENT FOR THE ADOPTED TEMPORARY REGULATIONS OF THE BOARD OF HEARING AID SPECIALISTS

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

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

In compliance with the Open Meeting Law the Board posted its notices of a workshop to be held on October 14, 2000, in Las Vegas and on March 10, 2001, in Reno, Nevada. A draft of the proposed regulations was available at the workshop and was discussed by the Board. The following comments were received at the October 14, 2000 workshop:

- Rick Vaughn, Ed Conover, Charles Adams and Linda Moses supported lowering the education requirement to a high school diploma.
- Lance Greer and Susan Doan supported the higher standard of bachelor's degree.

On January 28, 2001, the Board posted its notices of the public hearing for the adoption of amendments of the regulations in NAC 637A to be held on March 10, 2001. On that date the public hearing was held in Reno, Nevada. The draft regulations were amended by the Board and were adopted. No members of the public were present or offered comments. The following individuals provided written comments:

- Ed Conover supported the amendment of regulations that pertain to Chapter 637A of the Nevada Administrative Code.
- Vicki Zay and Victoria Zayauskas supported the amendment of regulations that pertain to Chapter 637A of the Nevada Administrative Code.
- Rick Vaughn supported the amendment of regulations that pertain to Chapter 637A of the Nevada Administrative Code.

The adopted regulations were sent to the State Library and to each of the seventeen county libraries.

**2. The number of persons who:**

- a) **Attended from the public: 0;**
- b) **Testified at the hearing: 0;**
- c) **Submitted written comments to the Board: 3.**

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

Comments were solicited as described in Item #1.

**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.**

N/A

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

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

- a) The adverse economic effect of the regulations on the business it regulates includes the added cost to take the examination for licensure. The licensee must also comply with the cancellation policy and return the necessary funds to the individual.

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

- b) The immediate and long-term economic effect on the business it that it will cost more to take the examination to be licensed. The immediate and long-term economic effect on the public is that offices that dispense hearing aids must be compliant with the American with Disabilities Act to accommodate disabled individuals and must comply with the set cancellation policy for individuals who order hearing aids and cancel the order within 5 days and never take possession of the hearing aids.

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

There is no additional cost to the agency for the enforcement of 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 is no other state or government agency regulations that the proposed regulations duplicate or overlap.

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

The proposed regulations are not more stringent than any known federal regulations. The Board is not aware of any federal regulations on the subject of the proposed regulations.

- 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.**

It is difficult to estimate the total amount of funds the Board expects to collect, as the increased fee is for the examination of new licensees and it is difficult to estimate the number of individuals who will apply and qualify to take the examination this year. The additional fee will be used to pay the HIS for the examination and to score the examination.