

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

LCB File No. R021-00

March 6, 2000

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

AUTHORITY: §§1-10, NRS 637A.100.

Section 1. Chapter 637A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *For the purposes of paragraph (b) of subsection 5 of NRS 637A.250, the board will consider the following acts to be harmful to the public or conduct detrimental to the public health or safety:*

- 1. A violation of any of the provisions of this chapter or the code of ethics adopted by the board pursuant to NAC 637A.020;*
- 2. Engaging in the practice of a hearing aid specialist without a license;*
- 3. The failure to notify the board of a change in the office or business where the licensee practices within the period prescribed in NAC 637A.190; or*
- 4. A violation of any of the provisions of NRS 597.264 to 597.2667, inclusive.*

Sec. 3. *1. Each office or business from which a licensee dispenses hearing aids must have a managing specialist. The managing specialist must be a licensed hearing aid specialist in good standing with the board.*

2. The managing specialist is responsible for the acts of a licensee who dispenses hearing aids from the office or business. The managing specialist and licensee are jointly and severally liable for all refunds owed to patients resulting from the dispensing of hearing aids, regardless of the legal relationship between the licensee who dispensed the hearing aid and the office, business or managing specialist and regardless of the legal form of the office or business from which the hearing aid was dispensed.

3. A hearing aid specialist may be the managing specialist of only one office or business.

4. Except as otherwise provided in this subsection, a managing specialist must be present in the office or business from which a licensee dispenses hearing aids when the office or business is open to the public, or for at least 40 hours per week, whichever is less. A managing specialist may be absent from the office or business for not more than 20 days each year.

5. The licensee of each office or business from which hearing aids are dispensed shall notify the board of the name of the managing specialist. If there is any change in the managing specialist, the licensee shall notify the board within 5 working days after any such change.

6. Any office or business from which hearing aids are dispensed without a managing specialist may be enjoined from dispensing hearing aids by an action brought pursuant to NRS 637A.355.

Sec. 4. 1. *Except as otherwise provided in this section, a licensee or the managing specialist of the office or business from which the licensee dispenses hearing aids shall refund to a patient the amount paid by the patient for a hearing aid within 2 business days after the patient returns the hearing aid for a refund.*

2. Except as otherwise provided in this section, a licensee or the managing specialist may deduct from the refund an amount for work that was performed as part of the licensee's regular duties specifically for the patient if:

(a) The work was recorded in the health care records of the patient at the time the work was performed;

(b) The work was recorded in increments of time of not more than 15 minutes;

(c) The amount has been provided to the patient in the form of a written itemization that specifies in detail the work performed for the patient, including:

(1) The date the work was performed;

(2) The time that was required to perform the work;

(3) A description of the work that was performed; and

(4) The name of the person who performed the work; and

(d) The work is not billed at a rate exceeding \$20 per hour for work performed by a hearing aid specialist, or \$10 per hour for work performed by an apprentice to a hearing aid specialist, and the total amount deducted does not exceed \$150.

3. A licensee or the managing specialist is not required to provide a refund for any hearing aid that is returned in a condition that indicates damage beyond normal wear and tear.

4. The tender of a refund may be made by personal delivery or mail. If the tender of the refund is made by mail, the tender shall be deemed made on the day indicated on the cancellation mark of the United States Postal Service stamped upon the envelope containing

the refund. No amount may be deducted from a refund unless the licensee or managing specialist has tendered the refund to the patient in the period prescribed in this subsection.

Sec. 5. 1. *Before a patient signs a contract to purchase a hearing aid, a licensee shall provide to the patient a statement on a form provided by the board that sets forth the rights and duties of the patient and the licensee. The statement must be signed and dated by the patient and the licensee.*

2. Any contract for the purchase of a hearing aid for which the patient and the licensee do not execute the statement required by this section may be rescinded by the patient and the patient may return the hearing aid for a refund of the amount paid for the hearing aid. The licensee shall not deduct any amount from the refund for work performed pursuant to section 4 of this regulation.

Sec. 6. NAC 637A.080 is hereby amended to read as follows:

637A.080 **1.** Each licensee may file with the secretary of the board before June 30 of each year an application for renewal.

2. No application for renewal will be considered by the board unless it *has been 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.

3. An application for renewal that:

(a) Has not been completed; or

(b) Is not accompanied by the annual license fee or proof of completion of the continuing education requirements,

will be returned to the applicant and shall be deemed not to have been filed with the board.

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Sec. 7. NAC 637A.190 is hereby amended to read as follows:

637A.190 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]~~ *Each licensee shall notify the board of the location of each office or business from which he dispenses hearing aids and display his license or a copy thereof in a conspicuous place in each such location.*

2. *Each office or business* 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.

~~[2.]~~ 3. If the office *or business* 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 *or business* without going through any part of the residence.

~~[3.]~~ 4. If the office *or business* 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.]~~

5. *If a licensee dispenses hearing aids from a location other than an office or business described in subsection 1, the licensee shall display his license or a copy thereof in a conspicuous place in that location and inform each patient to whom he dispenses a hearing from that location, the address and telephone number of the office or business described in subsection 1 and the name, address and telephone number of the managing specialist of that office or business.*

Sec. 8. NAC 637A.200 is hereby amended to read as follows:

637A.200 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 ~~for~~ ~~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.

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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.

Sec. 9. NAC 637A.210 is hereby amended to read as follows:

637A.210 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.

4. Publishing a statement, including an advertisement, that does not include the name, address and telephone number of the office or business that is responsible for publishing the statement and the name of the managing specialist of that office or business.

Sec. 10. NAC 637A.220 is hereby amended to read as follows:

637A.220 1. *Any employee, agent or member of the board may, during regular business hours, inspect the office or business of a licensee and examine any record, document or equipment of that office or business.* A person licensed as a hearing aid specialist shall provide information to *any employee, agent or member of* the board ~~[within 30 days]~~ after a request for the information is made by the ~~[board.]~~ *employee, agent or member. If the information requested may be copied at the office or business of the licensee, the information must be copied immediately. If the information is not able to be copied immediately, the licensee shall provide the information requested not later than 5 days after the request is made.*

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 *office or* place of business ~~;~~ *and the name of the managing specialist for that office or 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.

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.~~

FLUSH ~~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.~~

~~7.1~~ A violation of the provisions of this section is a ground for disciplinary action.