

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

LCB File No. R062-01

Effective November 1, 2001

NOTICE OF ADOPTION OF REGULATION

The Nevada State Board of Hearing Aid Specialists adopted regulations assigned LCB File No. R114-01 and R062-01, which pertain to Chapter 637A of the Nevada Administrative Code on October 6, 2001. A copy of the regulations as adopted is attached hereto.

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

AUTHORITY: §§1-8, 10, 13 and 21-24, NRS 637A.060 and 637A.100; §9, NRS 637A.060, 637A.100, 637A.110 and 637A.250; §11, NRS 637A.060, 637A.100, 637A.110 and 637A.260; §§12 and 14-20, NRS 637A.060, 637A.100, 637A.110 and 637A.225.

Section 1. Chapter 637A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Apprentice” means a person who works as an apprentice to a hearing aid specialist and who is registered pursuant to the provisions of this chapter.*

Sec. 4. *“Board” has the meaning ascribed to it in NRS 637A.021.*

Sec. 5. *“Hearing aid” has the meaning ascribed to it in NRS 637A.0217.*

Sec. 6. *“License” has the meaning ascribed to it in NRS 637A.0223.*

Sec. 7. *“Licensee” means a person licensed as a hearing aid specialist pursuant to the provisions of this chapter.*

Sec. 8. *“Manufacturer” has the meaning ascribed to it in NRS 637A.0227.*

Sec. 9. *For the purposes of NRS 637A.250, the board will consider as “conduct which is harmful to the public or any conduct detrimental to the public health or safety” any of the following acts:*

- 1. A violation of any provision of this chapter.*
- 2. A violation of the Code of Ethics of the Hearing Aid Industry adopted by reference pursuant to NAC 637A.020.*
- 3. The failure of a manufacturer to comply with the provisions set forth in NRS 597.264 to 597.2667, inclusive.*

Sec. 10. *A document that must be filed with or provided to the board shall be deemed to be filed on the date it is postmarked or received by the secretary of the board, whichever is earlier.*

Sec. 11. *1. During an investigation of a licensee pursuant to NAC 637A.405, any employee, agent or member of the board involved in the investigation may:*

- (a) Enter the site of the investigation.*
- (b) Examine any record, document or equipment that may be relevant to the investigation.*
- (c) Request that the licensee provide any information which may be relevant to the investigation.*

2. If the board requests information during an investigation, a licensee shall provide the information:

- (a) Immediately if the licensee is present at the site of the investigation when the information is requested and the information can be reasonably copied during the visit; or*
- (b) Within 5 working days after the information is requested if the information cannot be reasonably copied during the visit.*

Sec. 12. NAC 637A.060 is hereby amended to read as follows:

637A.060 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]~~

~~Audiometric30]~~ **120**

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

~~Locating malfunctions in hearing aids10]~~ **50**

Sec. 13. 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. ~~[No application for renewal will be considered by the board unless it is accompanied by:~~

~~1.]~~ **2.** *The board will not consider an application for renewal unless it is:*

(a) Completed fully; and

(b) Accompanied by:

- (1) The annual license fee;
- ~~(2)~~ (2) Proof of calibration for each audiometer used by the licensee for the testing of clients; and
- ~~(3)~~ (3) Proof that the licensee has completed the continuing education requirements prescribed by NAC 637A.095.

3. If the application for renewal does not satisfy the requirements of subsection 2, the board will:

- (a) Return the application to the licensee; and*
- (b) Deem the application to have not been filed.*

Sec. 14. NAC 637A.095 is hereby amended to read as follows:

637A.095 1. Except as otherwise provided in subsection 3, a ~~licensed hearing aid specialist~~ *licensee* who is on active or inactive status and ~~a licensed apprentice to a hearing aid specialist~~ *an apprentice* who is on active or inactive status ~~must~~ *shall* complete 12 hours of continuing education relating to the fitting of hearing aids each year in a program which has been approved by the board, National Institute for Hearing Instrument Studies, American Academy of Audiology, American Speech-Language-Hearing Association, ~~Audiological Dispensers Association~~ *Academy of Dispensing Audiologists* or Educational Audiology Association.

2. For each licensee who holds a license on July 1, 1995, the requirement of continuing education begins on that date. For any other licensee, the requirement of continuing education begins on July 1 of the year his license is issued.

3. Upon the written request of a licensee, the board may exempt him from the requirement of continuing education if he cannot meet the requirement because of ill health, military service or undue hardship.

Sec. 15. NAC 637A.105 is hereby amended to read as follows:

637A.105 1. A sponsor of an apprentice ~~[to a hearing aid specialist]~~ must obtain the approval of the board. A sponsor must:

(a) Be licensed as a hearing aid specialist pursuant to the provisions of chapter 637A of NRS for at least 1 year; and

(b) Be in good standing with the board . ~~[and have no record of disciplinary action for at least 3 years.]~~

2. *In determining whether to approve a licensee as a sponsor pursuant to subsection 1, the board will consider the licensee's record of disciplinary action.*

3. A ~~[hearing aid specialist]~~ licensee may not sponsor more than two apprentices at one time.

Sec. 16. NAC 637A.110 is hereby amended to read as follows:

637A.110 An application for a certificate of registration as an apprentice ~~[to a hearing aid specialist]~~ must be accompanied by a statement of the ~~[applicant's]~~ sponsor *of the applicant* setting forth the type of supervision which will be given the apprentice and an outline of the training program to be followed in preparing the apprentice for future examination. The statement must also list the subjects to be covered and the books and other training materials to be used.

Sec. 17. NAC 637A.115 is hereby amended to read as follows:

637A.115 1. An apprentice ~~[to a hearing aid specialist]~~ shall complete, under the direct and physical supervision of his sponsor, at least 300 hours of training, not less than 160 hours of which must be as follows:

- (a) Twenty-five hours of pure tone air conduction, masking, bone conduction, and speech audiometry with recorded or live voice;
- (b) Twenty-five hours of evaluation of hearing aids, including sound field measurements and real ear measurements with recorded and live voice;
- (c) Twenty hours of fitting and counseling clients with hearing aids, including the verification of fitting;
- (d) Ten hours of earmold orientation, including types of earmolds, terminology and uses for earmolds;
- (e) Fifteen hours of earmold impressions and otoscopic examinations of the ear;
- (f) Fifteen hours of troubleshooting of defective hearing aids;
- (g) Twenty hours of taking the case history of actual clients;
- (h) Ten hours of the laws governing the licensure of persons for fitting and dispensing hearing aids, including the regulations of the Food and Drug Administration and the Federal Trade Commission relating to the fitting and dispensing of hearing aids;
- (i) Ten hours of the psychological and social impact of the loss of hearing on clients; and
- (j) Ten hours of the appropriate and ethical marketing and sales procedures for hearing aids.

2. A sponsor of an apprentice ~~[to a hearing aid specialist]~~ shall submit a report to the board each quarter which describes the training completed by the apprentice in the preceding quarter and the supervision of the training by the sponsor.

3. An apprentice ~~[to a hearing aid specialist]~~ shall not maintain, run, or operate an office or a satellite office in which hearing aids are dispensed.

Sec. 18. NAC 637A.120 is hereby amended to read as follows:

637A.120 1. The board may require an apprentice ~~[to a hearing aid specialist]~~ or his sponsor to show proof that the ~~[apprentice's]~~ schedule of training and supervision *of the apprentice* is being reasonably followed.

2. All work completed by an apprentice ~~[to a hearing aid specialist]~~ must be reviewed and signed by the sponsor.

3. As used in this section, "supervision" means physical supervision and review of the work of an apprentice.

Sec. 19. NAC 637A.130 is hereby amended to read as follows:

637A.130 1. A ~~[licensed hearing aid specialist]~~ *licensee* who sponsors ~~[a hearing aid specialist]~~ *an* apprentice may relieve himself of further responsibility by returning the ~~[apprentice's]~~ certificate of registration *of the apprentice* to the board by registered mail, with a letter explaining fully the circumstances under which the ~~[apprentice's]~~ sponsorship *of the apprentice* is being withdrawn. If the certificate cannot be returned, a full explanation must be included in the letter.

2. Any apprentice whose certificate is revoked because of the withdrawal of a sponsor for reasons of misconduct may request a hearing by the board and, if a majority of the members present find him blameless of the charges, he may seek sponsorship with the same or another licensee, and on application by his new sponsor, his certificate may be returned with no payment of a fee or penalty. If the board finds him guilty, it may revoke or suspend his certificate for a specified time.

3. Two official disciplinary actions within any 12-month period is cause for the board to refuse issuance of a permanent license to an apprentice.

Sec. 20. NAC 637A.140 is hereby amended to read as follows:

637A.140 Each apprentice ~~[to a hearing aid specialist]~~ shall display his certificate of registration in the office of his sponsor.

Sec. 21. 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]~~ **A licensee shall:**

(a) **Inform the board of** the name and location of ~~[the office or place of business where]~~ **each office of the licensee.**

(b) **Publicly display** his license ~~[will be regularly displayed. The office must be]~~ **at each office of the licensee.**

(c) **Ensure that each office of the licensee is** accessible to the public during business **hours** .
~~[and must contain]~~

(d) **Ensure that each office of the licensee contains** adequate equipment and supplies for serving the needs of the ~~[licensee's clientele.]~~ **clientele of the licensee.**

2. If ~~[the]~~ **an** office **of the licensee** 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]~~ **an** office of ~~[a]~~ **the** 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.]~~ **disciplinary action.**

4. As used in this section, “office of the licensee” means any office or place of business from which a licensee dispenses hearing aids.

Sec. 22. NAC 637A.195 is hereby amended to read as follows:

637A.195 1. A ~~[person licensed as a hearing aid specialist]~~ *licensee* shall comply with the provisions of 21 C.F.R. §§ 801.420 and 801.421, as those provisions existed on April 1, 1994.

2. If a ~~[hearing aid specialist]~~ *licensee* offers a client a waiver to the medical evaluation as authorized by 21 C.F.R. § 801.421, the ~~[hearing aid specialist]~~ *licensee* shall:

- (a) Verbally explain the waiver to the client before the client signs the waiver; and
- (b) Provide the written waiver on a form separate from any other form which the client is required to sign.

Sec. 23. 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]~~ **3**, a *licensee* shall take the pertinent case history of, and perform personally ~~[or through proper channels]~~ the following minimum procedures bilaterally 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, *only* 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.

2. The licensee shall perform each procedure *set forth in subsection 1* in a proper environment to obtain accurate results.

~~[2.]~~ 3. The minimum procedures set forth in subsection 1 are not required if the person supplies the ~~[hearing aid specialist]~~ licensee 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. 24. NAC 637A.220 is hereby amended to read as follows:

637A.220 1. ~~[A person licensed as a hearing aid specialist]~~ *Except as otherwise provided in subsection 2 of section 11 of this act, a licensee* shall provide information to the board within ~~[30]~~ 10 days after a request for the information is made 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]~~ *who orders or purchases* a hearing aid a bill of sale which includes:

(a) The name of the licensee, the address of the ~~[licensee's]~~ principal place of business *of the licensee* and the number of the ~~[licensee's license;]~~ *license of the licensee.*

(b) A description of the make, model and serial number of the hearing aid. ~~[;]~~

(c) The amount charged for the hearing aid and, if applicable, ~~[the fee described in subsection 7; and]~~ *an itemization of any amount to be deducted from any refund.*

(d) The condition of the hearing aid, indicating whether it is new, used or reconditioned.

(e) The name of the person or entity responsible for providing a refund.

5. *If a person cancels an order to purchase a hearing aid before taking possession of the hearing aid, a licensee shall refund the amount paid by the person for the hearing aid. The licensee may deduct from the refund an amount not to exceed \$75 per hearing aid for work that was performed to order the hearing aid.*

6. 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]~~ *is* returned *to the manufacturer* for service or repair during the 30-day period, within 30 days after the hearing aid ~~[was serviced or repaired.]~~ *is returned to the possession of the person who purchased the hearing aid.*

FLUSH Except as otherwise provided in subsection ~~[7.]~~ 8, 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.]~~ 7. A licensee shall schedule at least one appointment with each person who purchases a hearing aid. The appointment must take place not later than 21 days after the hearing aid is delivered to the person.

~~[7.]~~ 8. If a hearing aid is returned *to a licensee* pursuant to subsection ~~[5, a]~~ 6, *the* 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]~~ *\$150 per hearing aid* or 20 percent of the purchase price ~~[for]~~ of the hearing aid, whichever is less.

~~[8.]~~ 9. A violation of the provisions of this section is a ground for disciplinary action.

**INFORMATION STATEMENT FOR THE ADOPTED REGULATIONS
OF THE NEVADA STATE BOARD OF HEARING AID SPECIALISTS
LCB File No. R114-01 and R062-01**

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 6, 2001, in Reno, Nevada. A draft of the proposed regulations were available at the workshop and was discussed by the Board. The following comments were received at the October 6, 2001 workshop:

There was one public individual present.
There were no comments.

On August 30, 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 October 6, 2001. On that date the public hearing was held in Reno, Nevada. The draft regulations were amended by the Board and were adopted. There was one members of the public present or offered comments. The following individuals provided written comments:

Thomas Rainford offered testimony on various sections and requested that the Board clarify language and shorter period of time allowances for refunds. Mr. Rainford also suggested that the Board, at a later date, define "taking possession".

2. The number of persons who:

- a) Attended from the public: 1;
- b) Testified at the hearing: 1;
- c) Submitted written comments to the Board: 0.

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.

The Board made amendments to the proposed regulations.

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 for licensure and 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 is that it will cost more to be licensed and 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 licensure and the examination of new licensees because the number of individuals who will apply and qualify to take the examination this year will and can vary greatly. The additional fee will be used to pay the IHS for the examination and to score the examination.