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State of Nevada  
**Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board**

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## **MINUTES OF PUBLIC MEETING**

Advisory Committee on Fitting and Dispensing Hearing Aids

**January 8, 2020**

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**Members Present:** Michael Hodes; Thomas Rainford; Nanci Campbell; Jennifer Joy-Cornejo; Melissa Maestas

**Members Absent:** None

**Staff Present:** Jennifer Pierce, Executive Director; Stacey Whittaker, Licensing Coordinator; Henna Rasul, Sr. Deputy Attorney General

**Public Present:** None

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### **Call to Order, Confirmation of Quorum**

Michael Hodes called the meeting to order at 4:00pm. A roll call confirmed a quorum was present.

### **Public Comment**

There were no public comments.

### **Approval of the Minutes**

Michael Hodes called for a motion. Melissa Maestas made the motion, seconded by Thomas Rainford to approve the minutes of January 11, 2019. The motion passed.

### **Update on Durable Medical Equipment Tax Exemption**

Jennifer Pierce provided an update on Senate Bill 447 regarding the exemption of sales and use tax on durable medical equipment. Ms. Pierce confirmed that the measure did pass, but that hearing aids were not covered as durable medical equipment per the definition of "Durable Medical Equipment detailed in Section 2.1.(d) as "Is not worn in or on the body;". There was some discussion about historical attempts to have hearing aids included as durable medical equipment and concern that Nevada is one of the only states that taxes hearing aids. As this is an informational item, there was no action taken but consensus was that the issue was worth continuing to discuss. Michael Hodes will provide an update to the Board at its next meeting during the Advisory Committee report-out.

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### **Audiology Patient Choice Act**

Jennifer Pierce provided an update on the Audiology Patient Choice Act for which the Committee had recommended the Board send an official letter of support. The Act did not pass in the 2019 session of Congress, and Ms. Pierce was able to determine that a letter of support was not sent, as there was some confusion about where it should go.

### **IHS Practical Exam Content Feedback**

The Committee discussed the questions sent to the Board by IHS with a request for feedback on the content of their practical exam. There was general discussion about how the exam is administered and debate on the use of a model ear versus a live test subject and how students learn in educational programs. Since the questionnaire is extensive, it was suggested that the Committee members respond individually. Michael Hodes called for a motion for each Committee member to complete the questionnaire and submit it to the Board office by the end of this month. Thomas Rainford made the motion, seconded by Jennifer Joy-Cornejo. The motion passed.

### **IHS Practical Exam Proctor Agreement and Confidentiality Form**

Jennifer Pierce introduced this item as a sample form that may be adopted as part of a policy the Committee could recommend to the Board along with the next two agenda items. Currently, several members of the Board and Advisory Committee serve as proctors for the IHS practical exam, yet the demand is sometimes more than the current proctors have capacity for. Board staff have identified a need to use proctors who are not already formally associated with the Board as members or Advisory Committee members. Ms. Pierce suggested that the Committee could recommend the Board consider a formal policy around Practical Examinations that would include procedures for establishing an agreement between the Board and any proctor who administers exams. Michael Hodes called for a motion for the Committee to recommend the Board consider a policy around Practical Examinations that would include procedures for establishing a formal agreement/relationship between the Board and any proctor who is contracted to administer exams. Thomas Rainford made the motion, seconded by Jennifer Joy-Cornejo. The motion passed.

### **IHS Practical Exam Test Subject Informed Consent**

Jennifer Pierce introduced this item for consideration to develop a *Test Subject Informed Consent form* in relation to a policy around Practical Exams that the Committee could recommend to the Board. Currently, examinees are required to bring a test subject with them, i.e. a relative or friend who has agreed to accompany them and have their ear(s) used for the exam. In some cases, when an examinee must travel for the exam or cannot locate a test subject, Board staff have agreed to sit as test subjects. Additionally, examinees may or may not hold a license at the time of the exam. There is inherent risk to the test subject as the examinee must perform specific tasks in and around the test subject's ear, leading to potential liability issues for the Board, the exam proctor, and the examinee. The Committee agreed that this is an area of concern and it would be prudent to ensure that informed consent and waiver of liability is documented with each test subject. Michael Hodes called for a motion to recommend that the Board consider a policy

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around Practical Exams that includes obtaining informed consent and waiver of liability from the test subject. Thomas Rainford made the motion, seconded by Melissa Maestas. The motion passed.

### **IHS Practical Exam Retake Policy**

Jennifer Pierce explained that there was discussion around the regulation of practical exams during the October 18, 2019 Board Meeting with agreement to continue the discussion in future meetings. This item is on the January 22, 2020 Board Meeting agenda and was included in this meeting's agenda so the Committee could consider and formulate recommendations from the perspective of fitting and dispensing hearing aids. The October 2019 discussion included discussion of whether the Board should impose a waiting period in-between exam attempts and a set maximum number of attempts allowed.

The Committee discussed instances where examinees have deliberately scheduled exams back-to-back as a failsafe in the event they did not pass on the first attempt, or those who took the exam within hours or a day after the first attempt. There is concern that this practice allows for an examinee to become familiar with the exam format and pass on the retest because they crammed the unknown information. Stacey Whittaker shared that in the surrounding states, only Utah imposes a waiting period, allowing three (3) attempts with a 30 day wait in between the first and the next two, then 120 days after the third failed attempt. They do not limit the number of attempts a person can make.

The Committee's concern is whether too many attempts, or attempts too close together allows for practitioners who are not fully competent to pass not on their own merits, but by virtue of having the exam fresh in their minds and being able to quickly study the areas they did poorly on. This could ultimately impact public health and safety if unqualified practitioners are licensed and practicing.

The exam process is currently outlined in NAC 637B.0373. The Committee asked whether there was time to submit a new revision to the NAC and Ms. Pierce indicated there was, and that all new regulation requests must be submitted by June 2020. The Committee agreed that this was a matter of importance that the Board should consider at its January 22, 2020 meeting. It was suggested that the Committee recommend the Board consider a proposed revision to NAC 637B.0373(4) that would include a restriction for an examinee to wait 30 days between exam attempts.

Michael Hodes called for a motion to recommend that the Board consider a draft regulation change to NAC 637B.0373(4) with language requiring an examinee to wait 30 days between exam attempts. Thomas Rainford made the motion, seconded by Nanci Campbell. The motion passed.

### **Jurisprudence Exam**

Jennifer Pierce explained that during the October 18, 2019 Board Meeting, the Board approved initiating the process to draft several new or revised regulations, one of which gives the Board authority to implement a Jurisprudence Examination as part of the licensure process. There was additional discussion about how this would be implemented and it was understood that the Advisory Committee had briefly discussed this matter in the past. It was agreed to continue the discussion in

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future meetings. This item was included so the Committee could continue discussion of the exam and how it might be developed.

### **Proposed Legislation**

The Committee discussed the following two proposed NRS revisions that are on the Board's January 22, 2020 meeting agenda for a work session to identify priorities for the 2021 legislative session. These items were included in the Committee's agenda so that it could consider and formulate recommendations from the perspective of fitting and dispensing hearing aids:

- *NRS 637B.238 Apprentices: The proposed revision would add a provision for a 1-year extension of an apprentice license in order to pass the examinations required for a hearing aid specialist license.* On October 18, 2019 the Board recommended referring this matter to the Advisory Committee for discussion and feedback. The Committee discussed when and why allowing an Apprentice an additional year would be necessary or useful, given that the current law allows an Apprentice three (3) full years to pass the examinations, between the two (2) years of on-site training and two (2) renewals currently allowed. While the NCBIS requires an examinee to hold a current state license, the practical exam does not. There was also discussion around how the Board might define "good cause" and the subjectivity of such a requirement if that was included in deciding to allow an additional year. Ms. Whittaker also reported that the Board has historically received very few requests for this.

Ms. Pierce reminded the Committee that any new legislation would require a Bill Draft and likely extensive work and cost to pursue during a legislative session. It was agreed that the Committee should recommend the Board not pursue this revision, as there is little evidence that it is an area of need and there are likely more important priorities to pursue.

Michael Hodes called for a motion to recommend that the Board not pursue this as a legislative priority. Thomas Rainford made the motion, seconded by Jennifer Joy-Cornejo. The motion passed.

- *NRS New - Speech-Language Pathologist Assistant, Audiologist Assistant* On October 18, 2019 the Board discussed options for potential legislation to pursue in the 2021 session and will continue the discussion at its January 22, 2020 Board Meeting. The Committee acknowledged that the use of audiology assistants is emerging in many national discussions, and questioned what tasks an audiology assistant would perform, specific to hearing aids. They may be involved in the cleaning and repairing of hearing aids, possibly some programming or testing, but the consensus was that likely there would be no contact with patients. Currently NAC 637B.0442 outlines the "Delegation of duties by hearing aid specialist or dispensing audiologist to unlicensed office assistant, aide, or technician." Ms. Pierce explained the new ASHA certification program and that this would require a revision to the NRS to establish new license types for assistants. The Committee agreed that it would be beneficial to the Board to stay on top of these emerging roles and consider legislation in this area. The Committee also felt it would be beneficial to establish an audiology subcommittee to draft scope of practice guidelines for audiology

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assistants. Michael Hodes called for a motion to recommend creation of a subcommittee to explore Audiology assistant licensing. Nanci Campbell made the motion, seconded by Melissa Maestas. The motion passed.

**Public Comment**

There were no public comments.

**Adjournment**

The meeting adjourned at 5:16pm.