

Minutes have not yet been approved and are subject to revision at the next meeting.



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

MINUTES OF PUBLIC MEETING
Advisory Committee on Fitting and Dispensing Hearing Aids

August 11, 2021

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

Members Absent: Vacant, BC-HIS

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

Public Present: None

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. Jennifer Joy-Cornejo made the motion, seconded by Nanci Campbell to approve the minutes of January 8, 2020. The motion passed.

Discussion of Cerumen Management (Earwax Removal) and Ear Lavage Regulations, and Practice Updates Following COVID-19

- **Ear Lavage**

Mike Hodes summarized prior Board discussions around ear lavage in the midst of COVID-19 due to the potential for particulates in the air and asked whether the Committee members felt it was prudent for practitioners to not engage in these services as the pandemic is ongoing and in the presence of the Delta variant. Nanci Campbell responded that she has been performing these services and feels the practice is safe as she and the patient are wearing masks and there is no liquid discharge. The committee members agreed and there was no action taken.

- **Cerumen Management**

Ms. Pierce summarized that neither our NRS or NAC specifically allow or prohibit cerumen management by Hearing Aid Specialists, nor is it included in the NRS definitions of a Hearing Aid

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Specialist, but this issue has been raised somewhat frequently as the Board Office receives requests for guidance and reviews related complaints. Ms. Pierce suggested that a recommendation may be made to the Board to consider this as a potential NRS revisions in a future legislative session to clarify this practice. There has been recent, similar legislation proposed in Tennessee that would allow a Hearing Aid Specialist to engage in cerumen management in the course of fitting hearing aids provided they complete an approved cerumen management course.

Melissa Maestas shared that she believes this practice by Hearing Aid Specialists varies based on the experience level of the provider, and that she herself will conduct it with informed consent from the patient, and if she can do it safely based on where the cerumen is located in the ear. Mike Hodes asked whether she thinks it's a fairly common practice and she stated she believes it is.

There was consensus among the group that if a recommendation were made to the Board to specifically address this in NRS or NAC, that there be a requirement for specific training in order to conduct the procedure, as it was acknowledged that cerumen management can be a dangerous procedure.

It was agreed that this should be referred to the Board to consider as a legislative priority. Mike Hodes called for a motion. Melissa Maestas made a motion to recommend the Board consider revisions to NRS and/or NAC to address cerumen management performed by Hearing Aid Specialists with the inclusion of required training to do so. Jennifer Joy-Cornejo seconded the motion. The motion passed.

Discussion on Ear Scanning for Digital Earmold Impressions and Persons Authorized to Conduct These Procedures

Ms. Pierce shared that new technology now allows providers to produce ear molds by taking digital scans of a patient's ears rather than making an impression of the ear canal and outer ear with molding compound, and some companies marketing the technology are promoting that unlicensed persons may conduct these scans.

Our NRS definition of the Practice of Fitting and Dispensing Hearing Aids (NRS 637B.055(1)) includes "making impressions for earmolds" in the scope of practice for Fitting and Dispensing Hearing Aids and IHS's *Position Statement on the Practice of Hearing Aid Dispensing* includes "taking ear impressions and preparing, designing, and modifying ear molds" in its scope of practice for Hearing Aid Specialists. Both sets of language likely pre-date the technology to create digital ear scans and assumes ear molds are being made using traditional methods, raising the question of whether the current language is sufficient to cover all types of ear mold impression practices.

Jennifer Joy-Cornejo suggested that because the scan still involves contact with the patient, it should not be allowable for an unlicensed person. Board Counsel, Henna Rasul, Deputy AG was consulted, and stated that she believes the current NRS language is sufficient to include any means by which a provider takes an ear impression.

No action was taken.

Update and Discussion on FDA Approval of Over-the-Counter Hearing Aids

Ms. Pierce provided an update on the FDA Reauthorization Act of 2017 which directed the FDA to develop regulations that would make Over-the-Counter (OTC) hearing aids available to the public by 2020. This process was delayed due to the COVID-19 pandemic, but the FDA now plans to address the

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issue during the current rulemaking session. It is expected that new regulations will be published in 2022, at which time OTC hearing aids are expected to become available to the public. Prior Board and Committee discussions have surmised that OTC hearing aids are a “non-issue” for Hearing Aid Dispensers, as they have effectively already been on the market for many years and would not significantly impact business, and in some cases could create a new line of business for those who choose to carry them.

Ms. Pierce also shared that President Biden signed an Executive Order on July 9, 2021, that included a directive to the Department of Health and Human Services to consider issuing proposed rules within 120 days for allowing hearing aids to be sold over the counter. The Committee was provided with related position statements issued by several prominent organizations.

Mike Hodes suggested that support at the federal level as evidenced by the Executive Order will likely ensure the regulations pass, despite objections and caution that patients should still seek care from qualified hearing professionals. There was discussion around the Committee recommending the Board issue a position statement on the matter, and consensus to recommend doing so with a reference to the *Joint Statement on Consumer-Administered Hearing Tests and Direct-to-Consumer Hearing Aid Sales* issued by ADA, AAA, AAOHNS, and ASHA.

Mike Hodes called for a motion. Nanci Campbell made a motion to recommend the Board issue a position statement on Over-the-Counter hearing aids that agrees with and refers to the ADA, AAA, AAOHNS, and ASHA Joint Statement. Jennifer Joy-Cornejo seconded the motion. The motion passed.

Review and Discussion of Recommendations for Potential Revisions to NAC 637B Related to Fitting and Dispensing Hearing Aids

- ***NAC 637B.0355(1)(b) Requiring NBC-HIS Certification for HAS Apprentice Applicants***

This section was presented for the Committee’s review as there have been a handful of recent HAS Apprentices whose licenses have expired and as a result, were unable to continue pursuit of a Standard HAS License per NRS 637B.238 which limits the apprenticeship to three years.

NBC-HIS exam candidates must hold a current state license in addition to other requirements to be eligible to sit for the exam, and Nevada is reportedly one of only a few states that requires NBC-HIS Certification for HAS licensure. Once the Apprentice license expires, the candidate is no longer eligible to apply to sit for the exam, even if they have completed the apprenticeship and passed the written ILE exam.

Mike Hodes asked how many states require NBC-HIS certification currently, and Stacey Whittaker shared that she has requested this information but has not yet received a response from NBC-HIS. There was discussion on the benefits of holding this certification and the Committee members did not feel there is significant benefit and acknowledged that it was not required in years past by the prior Hearing Aid Specialists Board.

There was a suggestion to recommend the Board consider a legislative priority to removing this requirement in NRS, but the Committee would like to know more about national trends and requested that Board staff gather more information and bring this item back for additional discussion. No action was taken.

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- ***NAC 637B.0396 Qualifications to act as sponsor of apprentice; limitation on number of apprentices or sponsors; and NAC 637B.0398 Duties of sponsor; review of work; direct supervision not required for certain duties; prohibition on operating office or satellite office without approval of Board.***

This section was presented for the Committee to consider recommending whether a sponsor must be a Nevada resident, as at least one inquiry has been received with a Sponsor and Apprentice considering this situation, which is not specifically prohibited. This NAC was revised in June 2020 to add that the sponsor *“Be employed by the same employer as the apprentice during the term of the on-site training and work experience portion of the in-service training of the apprentice.”* The NAC requires that the Sponsor be physically on-site at the same location as the Apprentice during the first year of in-service training, however also removes this requirement and allows for *“daily communication”* after the first year on the Sponsor’s recommendation and approval by the Board.

The Committee discussed the matter and agreed that while a Sponsor and Apprentice residing in different states might test the rule, it does not break it, and acknowledged that there could be many cases where an out-of-state Sponsor resides in closer proximity to the Apprentice than some cases where both reside in Nevada. There was consensus that no recommendation was needed for changes to this NAC.

- ***NAC 637B.0442 Delegation of duties by hearing aid specialist or dispensing audiologist to unlicensed office assistant, aide or technician.***

This section was presented for the Committee to consider suggestions for the addition or deletion of allowed or prohibited duties that may be delegated to an unlicensed office assistant, aide, or technician. There were no recommended changes, and no action was taken.

Public Comment

There were no public comments.

Adjournment

The meeting adjourned at 4:58pm.