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**Form for Filing
Administrative Regulations**

LCB File No. R095-19

Agency:

**Speech-Language Pathology,
Audiology and Hearing Aid
Dispensing Board**

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: ☐ PROPOSED ☒ ADOPTED BY AGENCY ☐ EMERGENCY

Brief description of action:

Provide clarity for the public, individuals and licensees regarding requirements on the following:

- Clarifies existing regulation language regarding the exemption from licensure by defining "practice within scope of credential" issued by the Department of Education;
- Establishes parameters in existing regulation language on issuing citations to cease and desist and assessing administrative fines for violation of law for practicing without a valid license or endorsement, as well as a waiver of an administrative fine for "good cause";
- Grants the Board authority to consider requiring applicants take and pass a Jurisprudence Examination as a condition for initial license or reinstatement of an expired license;
- Allows an individual who wishes to reinstate and Apprentice license credit for up to two (2) years of in-service training completed during the initial license period;
- Clarifies existing regulation language to require that a sponsor and an apprentice shall have the same employer.

Authority citation other than 233B:

§§1 and 2, NRS 637B.080 and 637B.132; §3, NRS 637B.132 and 637B.290; §4, NRS 637B.132, 637B.160, 637B.191 and 637B.194; §5, NRS 637B.132, 637B.191 and 637B.194; §§6 and 7, NRS 637B.132, 637B.194 and 637B.235.

Notice date: March 23, 2020

Date of Adoption by Agency: April 22, 2020

Hearing date: April 22, 2020

**APPROVED REGULATION OF THE
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND
HEARING AID DISPENSING BOARD**

LCB File No. R095-19

Filed June 8, 2020

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

AUTHORITY: §§1 and 2, NRS 637B.080 and 637B.132; §3, NRS 637B.132 and 637B.290; §4, NRS 637B.132, 637B.160, 637B.191 and 637B.194; §5, NRS 637B.132, 637B.191 and 637B.194; §§6 and 7, NRS 637B.132, 637B.194 and 637B.235.

A REGULATION relating to professions; defining the authorized scope of practice for audiologists and speech-language pathologists holding certain credentials; establishing provisions governing penalties for the unlicensed practice of audiology, speech-language pathology and fitting and dispensing hearing aids; authorizing the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board to require applicants to submit proof of passing an examination regarding certain laws relevant to the practice area of an applicant; revising provisions governing the in-service training of apprentices in the practice of fitting and dispensing hearing aids; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law exempts a person who holds a credential issued by the Department of Education and who engages in the practice of audiology or speech-language pathology within the scope of that credential from the provisions of chapter 637B of NRS which govern the practice of audiology and speech-language pathology in this State. (NRS 637B.080) **Section 2** of this regulation establishes the circumstances under which a person qualifies for this exemption.

Existing law authorizes the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board to impose certain penalties against a person who engages in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids without a license, including the issuance of an order to cease and desist, the issuance of a citation and the imposition of an administrative fine. (NRS 637B.290) **Section 3** of this regulation provides that the Board will issue an order to cease and desist and a citation to a person who has engaged in

the practice of audiology, speech-language pathology or fitting and dispensing hearing aids without the applicable license. **Section 3** also establishes requirements for the imposition of administrative fines for unauthorized practice and authorizes the Board, under certain circumstances, to waive an administrative fine that has been imposed.

Existing law requires an applicant for a license to engage in the practice of audiology, speech-language pathology or fitting and dispensing hearing aids to pass an examination prescribed by the Board by regulation. (NRS 637B.160, 637B.191, 637B.194) **Section 4** of this regulation authorizes the Board to require an applicant to submit proof that he or she has passed an examination that tests the familiarity of an applicant with the laws and regulations relevant to the practice area for which the applicant is applying. **Section 5** of this regulation prohibits a person who has failed to achieve a passing score on an examination concerning the practice of fitting and dispensing hearing aids to retake the examination sooner than 30 days after the date of the previous examination.

Existing regulations require a person who has been issued an apprentice license by the Board to participate in certain in-service training for a minimum of 2 years. (NAC 637B.0391) **Section 6** of this regulation authorizes a person whose apprentice license has expired but has been reinstated to receive credit for up to 2 years of in-service training from his or her initial license period.

Existing regulations establish the eligibility criteria for a hearing aid specialist or dispensing audiologist to act as the sponsor of an apprentice. (NAC 637B.0396) **Section 7** of this regulation requires a sponsor of an apprentice to have the same employer as the apprentice during the term of the on-site training period.

Section 1. Chapter 637B of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 2, for the purposes of subsection 1 of NRS 637B.080, the provisions of chapter 637B of NRS do not apply to a person who holds a current credential issued by the Department of Education pursuant to chapter 391 of NRS and any regulations adopted pursuant thereto who engages in the practice of audiology or speech-language pathology, as applicable, within the scope of that credential if the person:*

(a) Holds an active teacher's license issued pursuant to chapter 391 of NRS and an endorsement to teach pupils who have hearing impairments or to teach pupils who have speech and language impairments;

(b) Is employed by a public educational institution; and

(c) Does not engage in the practice of audiology or speech-language pathology as an independent contractor or provide services in the private practice of audiology or speech-language pathology.

2. If a person who holds a current credential issued by the Department of Education pursuant to chapter 391 of NRS and any regulations adopted pursuant thereto also holds a valid license to engage in the practice of audiology or the practice of speech-language pathology pursuant to the provisions of chapter 637B of NRS and any regulations adopted pursuant thereto, such a person is subject to the provisions of chapter 637B of NRS and any regulations adopted pursuant thereto to the extent that he or she engages in the practice of audiology or speech-language pathology as an independent contractor or provides services in the private practice of audiology or speech-language pathology.

Sec. 3. 1. If a person has engaged or is engaging in the practice of audiology, the practice of speech-language pathology or the practice of fitting and dispensing hearing aids in this State without holding a valid license issued pursuant to the provisions of chapter 637B of NRS, the Board will issue and serve on the person a citation that contains an order for the person to cease and desist as authorized by NRS 637B.290.

2. A citation issued pursuant to subsection 1 may include the assessment of an administrative fine against the person to whom the citation is issued. If an administrative fine is assessed against a person to whom a citation is issued, such an administrative fine must be:

(a) If unauthorized practice occurred over a period of 30 days or less, not less than \$50 or more than \$200.

(b) If the unauthorized practice occurred over a period of more than 30 days, not less than \$200 or more than \$5,000.

3. A person to whom a citation is issued pursuant to subsection 1 may appeal the citation by submitting a written request for a hearing to the Board. The written request for a hearing must be submitted to the Board not later than 30 days after the date on which the citation was issued. Upon receipt of a written request for a hearing, the Board will conduct a hearing on the citation. At the conclusion of the hearing, the Board may waive any administrative fine assessed against the person to whom the citation was issued if:

(a) The administrative fine was assessed for a first offense;

(b) The unauthorized practice for which the administrative fine was assessed occurred due to a failure by the person to renew his or her license in a timely manner pursuant to NAC 637B.036 and the license was reinstated not later than 60 days after the date on which the license expired; or

(c) The Board determines that good cause exists. As used in this paragraph, "good cause" includes, without limitation, circumstances under which a person suffers from an illness, injury or disability, experiences a family hardship or is subject to other circumstances beyond the person's control as may be determined by the Board.

4. If a person against whom a citation has been issued pursuant to subsection 1 submits a written request for a hearing to the Board and the written request seeks a waiver of any administrative fine assessed against the person, the person who submits such a written request must include with the request proof necessary to demonstrate the existence of one or more of the circumstances justifying the waiver of the administrative fine as set forth in subsection 3.

Sec. 4. *The Board may require an applicant for any category of license issued by the Board to submit with his or her application for licensure proof that the applicant has passed an examination that tests the familiarity of the applicant with the provisions of this chapter and chapter 637B of NRS and all other federal laws and regulations relevant to the practice area for which the applicant is applying.*

Sec. 5. NAC 637B.0373 is hereby amended to read as follows:

637B.0373 1. The examination prescribed by the Board pursuant to NRS 637B.194 must consist of a written portion and a practical portion. The examination may also include a portion that tests the familiarity of an applicant with the provisions of this chapter and chapter 637B of NRS and all other federal laws and regulations relevant to the practice of fitting and dispensing hearing aids in this State.

2. To be eligible to take the examination set forth in subsection 1, an applicant must:

- (a) File a completed application with the Executive Director of the Board; and
- (b) Pay the examination fee prescribed by NAC 637B.030.

3. The Board will establish the passing score for the examination set forth in subsection 1.

4. If an applicant does not achieve a passing score on the examination set forth in subsection 1, as established by the Board pursuant to subsection 3, he or she may retake the examination *not*

sooner than 30 days after the date of the previous examination upon payment of the examination fee prescribed by NAC 637B.030.

5. The Board may approve and accept a passing score obtained on a written examination taken within the immediately preceding 12 months if the examination taken by the applicant was substantially the same as the written portion of the examination prescribed by the Board.

Sec. 6. NAC 637B.0391 is hereby amended to read as follows:

637B.0391 1. Except as otherwise provided in subsection 3, the in-service training of a person who has been issued an apprentice license by the Board pursuant to NRS 637B.195 must consist of:

(a) An academic portion, as set forth in NAC 637B.0392; and
(b) An on-site training and work experience portion which is competency-based, as set forth in NAC 637B.0394.

2. An apprentice shall participate in the in-service training set forth in subsection 1 under the direct supervision of a sponsor for a minimum of 2 years and, in accordance with NRS 637B.238, may not serve as an apprentice for more than 3 years without passing the examination set forth in NAC 637B.0373.

3. An apprentice is not required to participate in the in-service training required by this section if the apprentice:

(a) Holds an associate's degree in hearing instrument sciences which is approved by the National Board for Certification in Hearing Instrument Sciences; or
(b) Successfully completes a program of education or training in hearing instrument sciences which is approved by the Board.

4. If approved by the Board, an apprentice whose license as an apprentice expired but is reinstated may receive credit for not more than 2 years of in-service training completed during the initial license period.

Sec. 7. NAC 637B.0396 is hereby amended to read as follows:

637B.0396 1. To be eligible to act as a sponsor of an apprentice, a hearing aid specialist or dispensing audiologist must:

- (a) Hold a standard license that is on active status;
- (b) Have experience as a hearing aid specialist or dispensing audiologist for a minimum of 3 years; ~~and~~
- (c) ***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; and***
- (d) Be in good standing with the Board and have no record of disciplinary action.

2. A hearing aid specialist or dispensing audiologist shall not sponsor more than two apprentices at one time, and an apprentice shall not have more than two sponsors at one time.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS 233B.066

LCB FILE R095-19

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

1. A clear and concise explanation of the need for the adopted regulation.

The need and purpose of the proposed regulation is to protect the public health, safety and welfare by ensuring that only qualified and competent speech-language pathologists, audiologists and hearing aid specialists are licensed in the state.

The proposed regulation will provide clarity for the public, individuals and licensees through regulation regarding requirements for the following:

- Clarifies existing regulation language regarding the exemption from licensure by defining “practice within scope of credential” issued by the Department of Education;
- Establishes parameters in existing regulation language on issuing citations to cease and desist and assessing administrative fines for violation of law for practicing without a valid license or endorsement, as well as a waiver of an administrative fine for “good cause”;
- Grants the Board authority to consider requiring applicants take and pass a Jurisprudence Examination as a condition for initial license or reinstatement of an expired license;
- Allows an individual who wishes to reinstate and Apprentice license credit for up to two (2) years of in-service training completed during the initial license period;
- Clarifies existing regulation language to require that a sponsor and an apprentice shall have the same employer.

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

The Notice of Intent to Act Upon a Regulation was sent and posted as follows:

1. *Sent via email to the following:*
 - All Nevada licensed Speech-Language Pathologists, Audiologists, and Hearing Aid Specialists
 - All persons on the agency’s mailing list for administrative regulations
2. *Posted online at the following sites:*
 - Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board Website: www.nvspeechhearing.org
 - Nevada Administrative Website: <https://notice.nv.gov/>
 - Nevada Legislature Website: <https://www.leg.state.nv.us/App/Notice/A/>

3. *Posted at the following physical locations:*

- State of Nevada, Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board, 6170 Mae Anne Avenue, Suite 1, Reno, Nevada 89523
- Nevada State Library, Archives and Public Records, 100 North Stewart Street, Carson City, NV 89701
- Office of the Attorney General, 100 North Carson Street, Carson City, NV 89701
- Office of the Attorney General, 5420 Kietzke Lane, Ste 202, Reno, Nevada 89511
- Office of the Attorney General, Grant Sawyer State Office Building, 555 E. Washington Ave #3900, Las Vegas, NV 89101
- Washoe County Clerk, 1001 E. 9th Street, Building A, Reno, NV 89520
- Washoe County Courthouse, 75 Court Street, Reno, NV 89501
- All Nevada County Public Libraries

A Workshop was held to solicit comments on the proposed regulations on January 22, 2020. There were ten (10) individuals representing small business and the public in attendance at the workshop, no written comments were received. The Board's Executive Director received and responded to two (2) written questions prior to the workshop. On March 23, 2020, a Notice of Intent to Act Upon Regulations was issued.

A Public Hearing was held on April 22, 2020; oral comments were heard; there were no written comments received.

A copy of this summary of the public response to the adopted regulation may be obtained from the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board at: 6170 Mae Anne Avenue, Suite 1, Reno, Nevada 89523; phone: (775) 787-3421; email: board@nvspeechhearing.org.

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

a) Attended each workshop:	Reno/Teleconference	January 22, 2020	10
b) Attended public hearing:	Reno/Teleconference	April 22, 2020	15
c) Testified at hearing:	Reno/Teleconference	April 22, 2020	2
d) Submitted written comments:			2

4. **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

Name: Sarah Adler
Telephone Number: 775.742.3222
Business Address: 204 N. Minnesota Street, Suite A, Carson City, NV 89703
Business Telephone Number: 775.742.3222
Electronic Mail Address: Sarah@ssgr.us
Name of Entity or Organization Represented: Silver State Government Relations

Name: Suzanne Anthony
Telephone Number: Not provided

Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Kelli Hall
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Danielle Knoeppel
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Nancy Kuhles
Telephone Number: 775.772.4831
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Nkuhles119@gmail.com
Name of Entity or Organization Represented: NSHA/NV Coalition

Name: Flor Mallory
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Jessica Medulla
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Jeana Miller
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Ryan Neider
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Neider Hearing LLC

Name: Christine Photakis
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Kim Reddig
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Nicole Sheldon
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Lorena Smith
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

Name: Alex Tanchek
Telephone Number: Not provided
Business Address: 204 N. Minnesota Street, Suite A, Carson City, NV 89703
Business Telephone Number: Not provided
Electronic Mail Address: alex@ssgr.us
Name of Entity or Organization Represented: Silver State Government Relations

Name: Jennifer Van Tress
Telephone Number: Not provided
Business Address: Not provided
Business Telephone Number: Not provided
Electronic Mail Address: Not provided
Name of Entity or Organization Represented: Not provided

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public. No comments were received from businesses.

A copy of this summary of the public response to the adopted regulation may be obtained from the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board at: 6170 Mae Anne Avenue, Suite 1, Reno, Nevada 89523; phone: (775) 787-3421; email: board@nvspeechhearing.org.

6. **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 Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board adopted the regulation on April 22, 2020 and included all changes suggested at the workshop on January 22, 2020. There were no changes suggested at the Public Hearing on April 22, 2020.

7. **The estimated economic effect of the adopted regulation on the businesses 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

There will be no adverse economic effect of these adopted regulations on small businesses. The Board regulates individuals in the practice of speech-language pathology, audiology and the fitting and dispensing of hearing aids. The adopted regulations will benefit small businesses and the speech-language pathology, audiology and hearing aid dispensing practitioners by providing clarifications to the regulations and providing access to qualified professionals.

(b) Both immediate and long-term effects.

Direct effect will be to improve and clarify existing law and regulatory requirements. Indirectly, small businesses may experience the effect of having more knowledgeable practitioners.

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

There are no additional costs involved in the enforcement of these adopted regulations.

9. **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.**

The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board is not aware of any similar federal, state or local standards regulating speech-language pathology, audiology and

hearing aid dispensing professions. These adopted regulations do not duplicate any federal, state or local standards.

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

The Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board is not aware of any similar federal regulations of the same activity in which the adopted regulations are more stringent.

- 11. 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.**

The regulation does not provide for any new or increased fees.