



State of Nevada

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

MINUTES OF PUBLIC MEETING

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

April 26, 2023

Members Present:	Tami Brancamp, Lynee Anderson, Minnie Foxx, Michael Hodes, Timothy Hunsaker, Adrienne Williams
Members Absent:	Andrea Menicucci
Staff Present:	Jennifer Pierce, Executive Director Stacey Whittaker, Licensing Coordinator Henna Rasul, Sr. Deputy Attorney General, Board Counsel
Public Present:	Kjirsten Broughton, Mary Collins, Laura Fink, Melissa Fleischmann, Schelbea Gillingham, Mindy Johnson, Bridget Kelly, Nancy Kuhles, Holly Nguyen, Edyl Zarah Y. Peck, Kim Reddig, Shawna (no last name provided).

Call to Order, Confirmation of Quorum

Tami Brancamp called the meeting to order at 4:30pm. A roll call confirmed a quorum was present.

Public Comment

There was no public comment.

Approval of the Minutes: Board Meeting of January 25, 2023

Tami Brancamp asked if there were any corrections or revisions to the minutes of the meeting of January 25, 2023 and none were noted. Chair Brancamp asked for a motion. Michael Hodes made a motion to approve the minutes of January 25, 2023 as written. Minnie Foxx seconded the motion. The motion passed.

Disciplinary Matters: License Reinstatement Application: Kjirsten Broughton, SLP License #SP-2141, Expired June 25, 2021

Ms. Pierce summarized the reinstatement application before the Board as a result of Ms. Broughton's practice without a license between June 2021 and March 2023. Ms. Broughton indicated that she was previously employed by the Clark County School District and held the required DOE credential (for which she would not require a Board license) but left that position in May 2021, prior to the expiration of her license and was engaged full-time in her private SLP practice during the unlicensed period.

Ms. Broughton was present during this meeting, accompanied by her attorney Bridget Kelly. Tami Brancamp invited Ms. Broughton to speak to the Board and referred to the letters sent ahead of the meeting by Ms. Broughton explaining the lapse in licensure. Ms. Broughton admitted to not renewing her license, apologized for the oversight, and stated that she understood the seriousness of the situation. Minnie Foxx asked Ms. Broughton what services she had been providing, and Ms. Broughton stated she was providing speech-language therapy services, mostly to children diagnosed with autism, apraxia or related conditions. Adrienne Williams asked how many children she was treating, and Ms. Broughton estimated the total to be 30. Ms. Williams followed up by asking why Ms. Broughton overlooked the

Board's email reminders, and Ms. Broughton stated that they were going to her personal email address, and she overlooked them. Ms. Foxx asked whether she had corrected the email address and Ms. Broughton stated that she is now diligently checking all email accounts. Lynee Anderson asked how long Ms. Broughton was licensed and paying a renewal fee to this Board and why not paying the fee did not catch her attention, and Ms. Broughton stated it was approximately 5 years. Timothy Hunsaker asked whether she had maintained her continuing education and she stated that she did. There was lengthy discussion amongst the Board members regarding the amount of the administrative fine to assess and whether Ms. Broughton should be required, as a condition of reinstatement, to notify patients of her unlicensed status, as many were paying by cash and she was not billing insurance. On the advice of Board Counsel, consensus was to not impose the suggested condition on the reinstatement. Tami Brancamp asked for a motion. Michael Hodes made a motion to impose an administrative fine of \$700.00 and approve reinstatement of the license with no conditions. Minnie Foxx seconded the motion. The motion passed unanimously.

Public Hearing to Solicit Feedback on Regulations in NAC Chapter 637B per Governor's Executive Order 2023-003

At the request of Chair Brancamp, Ms. Pierce provided an overview of the hearing's purpose to solicit comments from licensees, stakeholders, and other interested persons on the Board's regulations, NAC Chapter 637B. Per the Governor's Executive Order 2023-003, the Board is required to submit a report to the Governor's Office by May 1, 2023 with recommendations for regulations that may be modified and removed, and the report must include feedback solicited from key industry stakeholders at a public hearing. Ms. Pierce directed the Board and attendees to the draft version of the May 1, 2023 report with proposed drafted revisions and NAC 637B in its entirety included in the meeting packet.

Chair Brancamp opened the hearing for public comment; one oral comment was received:

- Kim Reddig, Nevada Speech-Hearing Association (NSHA) offered oral public comment, stating that she was concerned about the revision proposed in NAC 637B.0442 to expand the list of duties that may be delegated to an unlicensed assistant. Ms. Reddig stated that she felt this change in language would be confusing and create an issue similar to that of bachelor's level SLPs working for the Nevada Department of Education, where a person without the proper training and licensure is allowed to engage in the practice and may set a lower standard for the practice.

Ms. Pierce reported that two (2) written comments were received following dissemination of the meeting packet, and read each into the meeting record as follows:

- Letter Dated April 24, 2023 from the American Speech-Hearing Association (ASHA), Robert M. Augustine, PhD, CCC-SLP, 2023 ASHA President:

"RE: Opposition to Assistant Regulations

Dear Ms. Brancamp: On behalf of the American Speech-Language-Hearing Association (ASHA), I write to oppose the proposed regulations which state that the use of unlicensed assistants is allowed with no requirement for licensure, certification, or registration by the Board and provides an expansive scope of practice. The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 228,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. Over 1,200 ASHA members reside in Nevada. ASHA believes that appropriately trained audiology assistants, who are licensed and supervised by an ASHA certified and licensed audiologist, can alleviate the burdens on practitioners and help ensure that more clients and patients receive services. However,

ASHA believes that the requirements should first be addressed through the legislative process. Licensure of these individuals will ensure that the needed training, supervision, and scope are defined and that consumers are protected by having recourse through the Board if needed. ASHA does not support having a hearing aid specialist as a supervisor of the assistant because they do not have the necessary training and skills sets needed. The Nevada Speech-Language-Hearing Association also supports these recommendations and will be providing a comment letter to the Board. As you are aware, ASHA has a certification program for both audiology and speech-language pathology assistants which offers several education pathways and requires the passage of an exam.² Thank you for considering ASHA's comments on the proposed assistant regulations. If you or your staff have any questions, please contact Eileen Crowe, ASHA's director of state association relations, at ecrowe@asha.org."

- Letter Dated April 26, 2023 from Nancy Kuhles, M.S. CCC-SLP, ASHA Fellow
"Re: NAC 637B.0442

Dear Board Chair Brancamp, Members of the Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board, and Executive Director Pierce, For the record, my name is Nancy Kuhles. I am writing to oppose the proposed regulations which states that the use of unlicensed assistants, NAC 637B.0442. The proposed change of language within NAC 637B.0442 is misleading. The proposed change of language within the NAC 637B.0442 adds Audiologists to those who can delegate duties, which currently include Hearing Aid Specialists or Dispensing Audiologists. Furthermore, the proposed change of language within the NAC 637B.0442 removes "aides" and "technicians", and removes the word "office" to create an unlicensed assistant. This is could be misleading to the public. The proposed change of language within the NAC 637B.0442 creates unlicensed audiology assistants with no requirement of licensure, certification, or registration. The proposed change of language within the NAC 637B.0442 expands a list of duties allowable by the unlicensed assistant. There is no proposed guidance with regard to knowledge and skills of supervision by the Audiologist, Hearing Aid Specialist or Dispensing Audiologist to supervise an assistant with additional duties. There is no proposed guidance with regard to proof of competencies by the unlicensed assistant. There is no proposed guidance with regard to the number of unlicensed assistants allowed under the direction of the licensed Audiologist, Hearing Aid Specialist or Dispensing Audiologist. I oppose the proposed regulations which states that the use of unlicensed assistants. Thank you for your time and consideration."

No further public comment was received and Chair Brancamp closed the public hearing.

Report Out and Consideration of Recommendations for Action from Advisory Committee on Fitting and Dispensing Hearing Aids Meeting of April 12, 2023

Ms. Pierce summarized the Committee's meeting and recommendations as follows:

a. Review and Feedback on Regulation Review and Proposal for Revision/Modification and Draft Report for Executive Order 2023-003

Ms. Pierce reported that the Board's regulations, NAC Chapter 637B and Adopted Revisions, and the 2023-003 Executive Order Report draft were presented to the Committee for review and the Committee recommended no changes. No action was taken by the Board.

b. Review and Recommendation to the Board on Revisions to NRS 637B.050 "Practice of audiology" defined to Include Reference to Required Endorsement for Fitting and Dispensing Hearing Aids

At its January 2023 meeting, the Board voted to draft revisions to NRS 637B.050 to clarify the practice of audiology and the required dispensing endorsement. At the April 2023 meeting, the Committee

reviewed drafted language and voted to recommend the revision to the Board. Chair Brancamp called for a motion. Michael Hodes made a motion to approve the drafted revision as written for inclusion in a future legislative session. Minnie Foxx seconded the motion. The motion passed unanimously.

c. Update on IHS Practical Exam Revisions and Consideration for Recommendation to the Board for Revision to NAC 637B.030 to Increase Exam Fee

Ms. Pierce summarized that the Committee was updated on a meeting held between Board staff and the International Hearing Society (IHS) in early April 2023 regarding revisions to the practical examination that IHS expects to release in the next few months. Ms. Pierce shared an overview of the exam changes and confirmed that IHS plans to increase the fee per exam to \$200.00. The Board currently pays \$50.00 per exam, so this increase will be significant, but IHS is willing to work with the Board on a graduated increase and the current agreement with IHS expires in October 2023. Ms. Pierce referenced Agenda Item 12 to be heard later in this meeting that will follow up on this matter and address the FY24 budget and consideration to renew/renegotiate a contract with IHS. No action was taken by the Board.

Review and Approval of Reports Due to Governor's Office on Executive Orders 2023-003 and 2023-004 with Inclusion of Feedback from Public Hearing

a. 2023-003 Executive Order Report Review and Approval with Discussion and Inclusion of Stakeholder Feedback from Public Hearing and Recommendations from Advisory Committee on Fitting and Dispensing Hearing Aids

Ms. Pierce directed the Board back to the drafted report, the review by the Advisory Committee on Fitting and Dispensing Hearing Aids, and the public comments received in the earlier public hearing. Ms. Pierce also explained that the revisions proposed in the report are simply suggestions to the Governor's Office in accordance with the reporting requirements included in Executive Order 2023-003 and are not before the Board and the public as part of administrative rulemaking. Any actual changes to these regulations would need to occur during a separate, future process which would include notice to stakeholders of both workshops and hearings and ample opportunity for public comment. Per the current Executive Order 2023-003, the Board may not take action on its regulations.

There was a great deal of discussion on *NAC 637B.0442 Delegation of duties by hearing aid specialist, audiologist, or dispensing audiologist to an unlicensed office assistant, aide or technician*, specific to the public comments received. Two comments were received from Speech-Language Pathologists, though the regulation addresses the practice of Audiologists, Dispensing Audiologists, and Hearing Aid Specialists. The Board questioned the appropriateness of an SLP making specific recommendations for a practice they do not engage in. The written comment from ASHA recommends licensure of an assistant with supervision by an ASHA-certified Audiologist, however the Board believes that very few of its licensed Audiologists or Dispensing Audiologists hold the ASHA CCC-AUD certification, which is not required for initial or ongoing licensure by the Board. The written comment from ASHA also states that Hearing Aid Specialists (HAS) should not be allowed to supervise an assistant, which does not align with the Board's current practice or national trends allowing Hearing Aid Specialists to supervise and train HAS Apprentices. Further, other practitioners and services available in the community may provide similar services without licensing, such as videonystagmography (VNG) testing or newborn hearing screenings.

Ms. Pierce also shared that the American Audiology Association has taken an official position against assistant licensing, *stating that it "does not see a need for state licensing of audiology assistants since*

these individuals should only work under the supervision of a state-licensed audiologist. The creation of a separate state licensure category for these types of support personnel is unnecessary and could prove confusing to consumers who may interpret such a separate licensure “category” as an indication that audiology assistants are independent practitioners”.

Chair Brancamp asked for a motion. Michael Hodes made a motion to approve the report as drafted with the inclusion of public comments received and submission to the Governor’s Office pursuant to Executive Order 2023-003. Lynee Anderson seconded the motion. The motion passed.

b. Review and Approval of Regulations to Request Exemption from Executive Order 2023-003

Ms. Pierce explained that Executive Order 2023-003 allows Boards to request exemption from the Order to pursue revisions to regulations that meet specific criteria. Ms. Pierce recommended the Board approve submission of a request for exemption on the following NAC sections as they do not limit a person’s ability to enter the profession, and in many cases will expand or expedite licensing and practice regulations:

- 1) NAC 637B.0373(5): Revise to extend acceptance of passing score on Written ILE Dispensing Exam from previous 12 months to previous 24 months.
- 2) NAC 637B.0398(3): Revise subsection number referenced for NAC 637B.0442 in alignment with proposed revision to expand the list of duties that may be delegated.
- 3) NAC 637B.0442: Revise to expand allowable duties that may be delegated to an unlicensed assistant.
- 4) NAC 637B.0444: Replace reference to 21 C.F.R. § 801.421 (repealed) with NRS 637B.242.
- 5) NAC 637B.0365(1)(c): Remove requirement for ABA/ASHA/NBC-HIS certification at license reinstatement.

Chair Brancamp called for a motion. Michael Hodes made a motion to submit a request for exemption to the Governor’s Office on the listed NAC sections. Minnie Foxx seconded the motion. The motion passed unanimously.

c. Review of Report on Executive Order 2023-004 Submitted March 28, 2023 per Board Delegation to Board Chair and Executive Director

Ms. Pierce summarized the report submitted to the Governor’s Office on March 28, 2023 pursuant to Executive Order 2023-004. There was no discussion, and no action was taken.

Update on 2023 Legislative Session and Consideration for Board Position(s) and/or Delegation of Authority to Represent Board on Legislation as Necessary

Ms. Pierce directed the members to the legislative tracking document and summarized that Board staff continue to monitor legislation that may have a direct effect on the Board or any that is indirectly related, such as bills brought by other Boards. Ms. Pierce reported that the only bill of significance at this time is SB 431 which proposes moving this Board, along with many others, under the Nevada Department of Business and Industry. The first hearing on the bill began this afternoon just before this meeting commenced, so Ms. Pierce will review the hearing recording and send an update to the Board. Ms. Pierce had no recommendations for the Board to consider action to take a position on any legislation. No action was taken.

Work Session on Future Legislative Efforts (Standing Agenda Item):

Ms. Pierce reported no updates on the following matters:

Consideration to revise NRS 637B to:

- a. Add Licensing of Speech-Language Pathology Assistants (SLPA)

- b. Add Licensing of Audiology Assistants (AuDA)
- c. Add/Allow Cerumen Management by HAS
- d. Address Telehealth and Telesupervision
- e. Remove NBC-HIS Certification Requirement for HAS License

No action was taken, and the matters will remain a standing agenda item.

New Board Policy 08 - Language Access Plan: Review, Public Comment, and Proposed Approval in Accordance with NRS 232.0081

Ms. Pierce summarized that NRS 232.0081, established by Senate Bill 318 of the 2021 Nevada Legislative Session, requires all state agencies to create a Language Access Plan (LAP) to improve access to government services, programs, and information for Nevadans with Limited English Proficiency (LEP). The Plan requires initial development and biennial review and revision, to include public comment, and must include the needs of persons served by the agency for language services, the degree to which the agency has met those needs, and recommendations to expand language services, if needed, to improve access to the services provided by the agency. Ms. Pierce shared that a follow-up bill to SB 318 is currently before the Legislature (SB 373) to add additional requirements to the current NRS.

Ms. Pierce directed the Board to the draft Language Access Plan presented for review and approval to integrate into the Board Policy Manual. Chair Brancamp called for comments or suggestions for revisions, and there were none. Chair Brancamp then opened the discussion for public comment on the plan. Laura Fink, Rehabilitation Counselor for the Deaf and Hard of Hearing at the Nevada Department of Employment, Training, & Rehabilitation (DETR) offered public comment, stating that she was happy to see the Plan as an item for discussion by the Board, as she has assisted in the development of DETR's plan and can attest to the quality of translators and interpreters available through the state contract. Ms. Fink further offered the Board any assistance needed to implement or revise the Plan. There was no additional public comment or suggestions from the Board members. Chair Brancamp called for a motion. Michael Hodes made a motion to approve the Plan as written and add it to the Board Policy Manual. Chair Brancamp seconded the motion. The motion passed unanimously.

Executive Director's Report

Ms. Pierce directed the Board to the written Executive Director's Report and summarized as follows:

a. Licensure Statistics

Ms. Pierce reported that FY23 Q3 resulted in a net decrease of 10 licenses, a 1% decrease from the prior quarter. This decline is commensurate with prior years' third quarters, as historically at least one-half of Board licenses expire on December 31st, but due to the late renewal option, they are not counted as expired until the 3rd quarter. The licensee census has decreased between December 31st and March 31st in every fiscal year since FY16 except one (FY21). Notably, now only 38% of the Board's licenses expire on December 31st, resulting in a more even distribution of renewal activity and revenue throughout the year. Last quarter it was noted that HAS Apprentice licenses had decreased by four; this quarter they have increased by two. There was also significant turnover in SLP licensees, with almost 50 licenses expiring. Of these, 25 predated the iteration of this Board, with several issued in the 1980s and 1990s.

b. FY23 Q3 Financial Report

Ms. Pierce reviewed the FY23 Q3 Financial Summary, which resulted in net income higher than budgeted (79.6% of budget), and expenses lower than estimated (72.7% of budget). Reserves (equity) now total \$117,772.52, an additional savings of \$438.20 since the end of the last quarter. There were no major deviations from the budget during this quarter. Ms. Pierce also noted as revenue continues to increase, it is quite likely that the Board's FY23 revenue may exceed \$200,000, which will require a

formal audit instead of a balance sheet submission to LCB. The draft FY24 budget is scheduled to be addressed in a later agenda item.

c. Board Member Appointments/Reappointments

Ms. Pierce reported that the Board office has not yet received information on new appointments for Tami Brancamp and Michael Hodes' seats, whose terms both expire in July 2023. The Board office has been contacted by several interested persons so it is hoped there will not be a gap in membership. Minnie Foxx is eligible for reappointment in July 2023 and is awaiting word from the Governor's Office on her reappointment application. Ms. Pierce reminded the Board that an agenda item will be included in the July 2023 meeting for nominations/election of a new Board Chair and Vice-Chair, appointments of Bank Signatories & Financial Reviewers, appointment of a Dispensing Audiologist to the Advisory Committee on Fitting and Dispensing Hearing Aids, and appointment/reappointment of non-Board members to the Advisory Committee on Fitting and Dispensing Hearing Aids.

d. Complaints

Ms. Pierce reported that there were four open complaint cases following the January 2023 Board Meeting. Two new complaints were received in February 2023, resulting in six open cases. Ms. Pierce also reported that the Board received two reports of unlicensed practice this past quarter, one of which was heard and resolved by the Board earlier in this meeting.

Review and Approval of Draft FY24 Budget and Approval to Solicit and Develop Service Contracts for Financial Audit Services and Dispensing Examinations

Ms. Pierce directed the Board to the draft FY24 budget for review/approval and summarized the proposed revenue and expenses. Projected revenue was calculated based on average annual increases in actual revenue from FY20-FY22. Expenses have remained largely the same, though expense line items of note were discussed. These included keeping the Executive Director position at full-time status for FY24 with reconsideration in FY25 when the Board may need to hire a lobbyist to support a BDR. Additionally, it is expected that FY23 Board revenue will exceed \$200,000, so funds have been included to cover the cost of a formal financial audit which will be required by NRS 218G.400. Chair Brancamp suggested that currently proposed COLA and salary increases for state employees should be considered as they may impact the proposed budget. Ms. Pierce agreed to monitor the current budget/legislative proposals and bring the budget back before the Board if adjustments are necessary. Chair Brancamp called for a motion. Lynee Anderson made a motion to approve the FY24 budget as proposed. Michael Hodes seconded the motion. The motion passed unanimously.

Ms. Pierce explained the request for the Board to delegate authority to the Executive Director to solicit/draft contracts with vendors for both financial audit services and the International Hearing Society for final review and approval by the Board at its July 2023 meeting. As noted earlier in this agenda item, NRS 218G.400 requires the Board to be audited annually or biennially by a certified public accountant or public accountant if revenue from all sources exceeds \$200,000 in a fiscal year. The Board's total FY23 revenue is expected to exceed \$200,000, and it is recommended the Board seek a provider for audit services, as per state contract rules, hiring an accountant to perform an audit does not require a competitive solicitation. Additionally, the Board has a current agreement with the International Hearing Society (IHS) set to expire on October 31, 2023 for use of both the IHS written ILE and practical examinations for fitting and dispensing hearing aids. IHS is currently revising its procedures for authorizing and administering the written ILE examination and has revised the content of the practical examination with a proposed rate increase for exam materials. IHS has indicated that it could consider a graduated increase in practical exam costs given the Board's current fee position and suspension of regulation changes due to the Governor's Executive Orders. It is recommended the Board delegate authority to the

Executive Director to work with IHS to develop new contract terms through the state contracting process, which will require submission of a solicitation waiver as IHS is a sole-source provider.

Chair Brancamp called for a motion. Michael Hodes made a motion to delegate authority to the Executive Director to solicit/draft contracts with vendors for both financial audit services and the International Hearing Society for final review and approval by the Board at its July 2023 meeting. Minnie Foxx seconded the motion. The motion passed unanimously.

Report from Legal Counsel and Training/Overview on Disciplinary Hearing Process

Henna Rasul, Board Counsel reminded the Board of the scheduled Public Hearing on a disciplinary case scheduled for June 2023. DAG Rasul then provided the Board with an overview of the Disciplinary Hearing Process and walked through what members can expect on the day of the Hearing. Members were reminded that the Respondent may choose to enter a Consent Decree at any time, in which case the Board will still meet on the scheduled date to review and approve the Consent Decree.

Reports from Board Chair and Board Members

a. Recognition of Board Service: Tami Brancamp, SLP and Michael Hodes, AuD

Ms. Pierce asked the Board and attendees to join her in acknowledging both Tami Brancamp and Michael Hodes' service to this Board and presented both with service awards. Members and staff thanked them for their work and wished them well.

b. Report from Board Chair and Board Members: There were no reports from the Board Chair or members.

c. 2023 Proposed Meeting Schedule: The next meeting was scheduled for Wednesday, July 26, 2023 at 4:30pm and will be hosted from both the Board Office in Reno and Las Vegas.

d. Future Agenda Items: The following matters were identified for the July 2023 meeting and future agendas:

- 1) Work Session: Continued Work on Future Legislative Efforts (Standing Agenda Item):
 - (a) Licensing Speech-Language Pathology Assistants
 - (b) Licensing Audiology Assistants
 - (c) Address Cerumen Management Practice by HAS
 - (d) Removal of NBC-HIS Certification for Standard HAS License
 - (e) Telesupervision by AUD & SLP
- 2) Response to Governor's Executive Orders
- 3) Review of 2023 Legislative Session
- 4) Election of Board Chair & Vice Chair, and Bank Signatories/Financial Reviewer Appointments
- 5) Appointment of Dispensing Audiologist to Advisory Committee
- 6) Revised FY24 Budget with COLA Changes If Necessary
- 7) Other Items As Proposed

Public Comment

There was no public comment.

Adjournment

Tami Brancamp adjourned the meeting at 6:38pm.