



State of Nevada

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

MINUTES OF PUBLIC MEETING

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

October 18, 2023

Members Present:	Andrea Menicucci, Minnie Foxx, Timothy Hunsaker, Adrienne Williams
Members Absent:	Lynee Anderson, Shawn Binn, Jennifer Joy-Cornejo
Staff Present:	Jennifer Pierce, Executive Director Stacey Whittaker, Licensing Coordinator Henna Rasul, Sr. Deputy Attorney General, Board Counsel Thomas Sharkey, Board Investigator
Public Present:	Kimara Chapman, Sierra Clemetson, Laura Fink, Jess Garrett, Terry Johnson, Esq., Karen Klopfer, Nancy Kuhles, Edward Lemons, Esq., Andre Lindsay, Rich Panelli, AuD, Adrienne Pearson; Kim Reddig, Shawna Ross, Beth Vasquez.

Call to Order, Confirmation of Quorum

Andrea Menicucci called the meeting to order at 4:34pm. A roll call confirmed a quorum was present.

Public Comment

Andrea Menicucci introduced this agenda item and read the following statement pursuant to AB219 (2023):
"I will now review the instructions for providing public comment during this meeting: Any person wishing to make public comment may attend this meeting and provide public comment in one of the following ways: 1. Attend the meeting and provide public comment in-person at the physical location; OR 2. Attend the meeting and provide public comment virtually through the Zoom teleconference video link listed on the agenda; OR 3. Attend the meeting and provide public comment telephonically through the Zoom telephone number listed above. Please see additional public comment instructions at the end of this agenda. Public comment is welcomed by the Board. Public comment will be limited to five minutes per person and comments based on viewpoint will not be restricted. A public comment time will be available prior to action items on the agenda and on any matter not specifically included on the agenda as the last item on the agenda. At the discretion of the Board Chair, additional public comment may be heard when that item is reached. The Board Chair may allow additional time to be given a speaker as time allows and in their sole discretion. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment."

Ms. Menicucci then called for public comment.

Rich Panelli, Dispensing Audiologist, shared the following: *"My name is Rich Panelli. I'm an Audiologist at Nevada, Ear Nose and Throat in Reno, Nevada. I've been an audiologist for 20 years in an Ear Nose Throat setting. I should note, I was the board chair for the State of Nevada Board for Hearing Aid Specialists for six years. I wanted to speak at this meeting because I wanted to provide further explanation on an agenda item I had requested. In our office, we do hearing aids and we use every hearing aid manufacturer. I would say in the last 20 years in fitting hearing aids, I've done well with hearing aids. We handle 98% of cases with hearing*

aids with success, especially now that hearing aids are at such a point in technology we're able to help a lot of people and I'd say 98% of people that we fit are very happy. But there's always a couple people, a handful of people who no matter what you fit them with, whether it's premium or not. They might try premium technology every year, every two years, but just do not get them to the point where they're satisfied and happy. We started doing a product called EarLens in January. We fit 30 patients with EarLens, and I wanted to provide some explanation on what that is exactly. EarLens picks offices in the United States.

The office must have ENT physician and audiology cooperation. So it's very unorthodox, it's very unique. The process is that we would make an ear impression of the ear drum. The physician is who makes this impression. That impression is sent off to EarLens and a lens is made specific to that patient's ear. That lens is then fit by the physician and essentially by having a direct drive on the eardrum itself we're able to give the patient more frequency bandwidth. So we can give a patient 125 hertz out to 12,000 hertz where typical hearing aid we might be doing 500 to 4,000 hertz. So all that to say that I'm really in favor of and it's helped close the gap for that handful of patients who I could not help with hearing aids no matter what we did. So I think it's an important product to have. I wanted to clarify on the agenda item, there was two questions basically. One was that what an audiologist being able to help and assist with impressions. I feel like maybe it's not time for that. I feel like that is invasive. I feel like that is not really what I want to emphasize but what I would like to come back to and emphasize was the second part of the question which would be that the lens itself being manipulated. Basically when a lens is fit there are five times a year where the audiologist has the patient come in and we run a calibration and that calibration tells us if the lens has moved out of place, if it's moved away from the eardrum. By doing a calibration we can tell this pretty easily. What happens if it's out of place is then we would refer back to the physician who would then go in and simply manipulate it by nudging it back into place. The procedure takes literally seconds to minutes. I've had training on that procedure that is very easy and within my comfort level. I find it very similar to a Lyric which I know a lot of us do in this office. In fact I feel like the lyric is a little more invasive and roughs up the ear a little more. But my reason for bringing this up is that there is currently a major shortage, as you know, of ENT physicians in this area. There's about eight to serve all of Northern Nevada. And when a patient needs something as small as just having that lens nudged into place, and I have to refer to the physician, sometimes it can be months, at least weeks before that can happen. The nearest ear lens office that would be able to provide that treatment, which is just nudging a lens in place is in San Francisco. And so for the care of my patients, I would love if I was able to have in my scope of practice the ability to do minor manipulations of that lens simply nudging it back into place. And I would emphasize that this would be under ENT physician supervision. There would always be an Ear Nose Throat physician present in the office. I feel like this would save patients from having a drive to Menlo Park in San Francisco or to have to wait in between two weeks and a month to have this service done. So I wanted to at least clarify that and have that proposed not the ear impression, but just simply the manipulation of the lens, which I feel we kind of do anyways by doing Lyric. But I would have that considered by the Board."

Nancy Kuhles, SLP, shared the following: "Dear Board Chair, Vice Chair, members of the Nevada Speech Language Pathology, Audiology Hearing Aid Board and Executive Director Pierce. For the record my name is Nancy Kuhles and I'm a Speech Language Pathologist and I co-chair the NSHA Coalition to address personnel shortages. I would like first like to take this opportunity to thank each of you for your commitment to our professions and commitment to the citizens of Nevada as you serve on our state of Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board. I'm speaking to agenda item 8b, numbers 1, 2, 3, and 4. I am in support of new NRS regulations for SLP Assistants, Audiology Assistants, telehealth and telesupervision, and an Audiology/SLP interstate compact. These future NRS regulations will help increase access to care for Nevada citizens in need of speech-language pathology and audiology services. ASHA's annual workforce data from 2022 revealed Nevada is 50th in the number of audiologists for 100,000 citizens and it's 51st in the number of SLPs for 100,000 citizens. It is of great importance to our Nevada citizens that

the state of Nevada Speech-Language Pathology, Audiology, and Hearing Aid Dispensing Board pursue new Nevada Revised Statute and Regulatory Language for SLP assistants, Audiology assistants, telehealth and telesupervision, and a Nevada audiology and speech language pathology interstate compact. Thank you for your time and consideration and at a later date I'm happy to provide any additional more in-depth information. Thank you for all your time."

Welcome & Introduction of New Board Members

Ms. Pierce reported that the Board office received confirmation of new appointments to the Board via email late on Monday, October 16, 2023. Jennifer Joy-Cornejo, Dispensing Audiologist and Shawn Binn, SLP were appointed to the vacant seats. Given short notice, neither was able to attend this meeting and they will be introduced at the next meeting.

Approval of the Minutes: Board Meeting of July 19, 2023

Andrea Menicucci asked if there were any corrections or revisions to the minutes of the meeting of July 19, 2023 and none were noted. Ms. Menicucci asked for a motion. Timothy Hunsaker made a motion to approve the minutes of July 19, 2023 as written. Minnie Foxx seconded the motion. The motion passed unanimously.

Disciplinary Matters

a. License Reinstatement Application: Kimara Chapman, SLP License #SP-3304, Expired May 26, 2023

Ms. Pierce summarized the reinstatement application before the Board as a result of Ms. Chapman's practice without a license between May 2023 and July 2023. Ms. Chapman's application indicated that she had been employed by Rehab Directives in Las Vegas, Nevada since December 2022. Ms. Chapman was sent license reminders directly from Board staff to her current email address on 4/3/2023, 5/1/2023, and 6/1/2023. A system-generated email reminder was also sent from the licensing database on 3/27/2023. A Cease & Desist letter and notice of this hearing was sent to Ms. Chapman via email and Certified US Mail on July 24, 2023.

Ms. Pierce directed the Board to four letters of reference received on Ms. Chapman's behalf via email, which were disseminated to the Board and posted on the Board website as a supplemental meeting packet yesterday, October 17, 2023. Ms. Pierce also explained that a fifth letter was received via email and read that into the meeting record as follows: *"Greetings, I am writing this character statement letter on behalf of Kimara Chapman, whom I have known for 2+ years. I have had the privilege of getting to know her in various personal and professional capacities, and I am pleased to provide this reference. In my time knowing Miss Kimara, I have observed many qualities that make her a remarkable individual and speech therapist. These qualities include but are not limited to: Integrity: Kimara consistently adheres to her principles and values, even when it might be more convenient to compromise. She is also open and candid in her communication, sharing information openly and honestly with others while maintaining HIPPA and other ethical considerations. Reliability: In a professional context, Kimara delivers high-quality work. The goals she generates for patients are SMART. The results are readily demonstrated in patient progress. She is committed to the betterment of all that fall under her care. Work Ethic: When presented with a task, Kimara completes it. She is willing to take time and consideration on how to best meet a challenge. If a patient or a friend require creative solutions to common problems, she finds a way. Kimara is willing to consult with other disciplines to address issues in the most effective way possible. At times, patient caseload may require extra time and effort to be successful. Kimara willingly puts in the necessary hours and dedication to complete tasks and meet deadlines. Kindness and Compassion: Kimara embodies this quality. She is always present to help. Examples include taking extra time to listen to patient stories (even if it's the same story) to help them feel seen and heard. Additionally, she shares her knowledge and skills with*

others, whether it's caring for a child or mentoring a colleague. Her goal is always the same, help others grow and succeed. Adaptability: Kimara moved from the other side of the country to pursue a career in speech therapy. When contemplating staying in Las Vegas or returning home, she was able to effectively manage the transition and found ways to thrive in the new environment. She has created a village of support for herself and has become an important pillar in the lives of others. With the present circumstances, she especially demonstrated adaptability, resilience, and perseverance. Kimara found a meaningful way to continue working to support herself, her dreams, and goals in spite of the situation. She reached out to colleagues to aid in covering her facility during her absence and put in the necessary work to secure a temporary job. I am confident that Kimara possesses the personal qualities necessary to excel in any endeavor they pursue. She is not only a person of high moral character but is also dedicated, hardworking, and a true asset to any community or organization. I am more than willing to discuss further examples or provide additional information to support Kimara's character and qualifications. Please feel free to contact me at the contact information listed above if you have any questions or need further clarification. Thank you for considering my input in your evaluation of Kimara. I wholeheartedly recommend her and believe she is a valuable addition to any team or community. In the healthcare field, we often ask one another if we would refer a loved one to a care provider. I would, without a doubt, refer any of my loved ones to Kimara Chapman were the need to ever arise, Sincerely, Sierra Clemetson."

Ms. Chapman was present during this meeting and Ms. Menicucci invited her to speak to the Board. Ms. Chapman thanked the Board for the opportunity to appear. The Board asked Ms. Chapman several questions and she verified that she has not practiced since receiving the cease & desist letter. There was discussion about the appropriate amount to impose as an administrative fine, and Ms. Menicucci called for a motion. Timothy Hunsaker made a motion to impose an administrative fine of \$200.00 and approve reinstatement of the license with no conditions. Adrienne Williams seconded the motion. The motion passed unanimously.

b. Consent Decree Recommended for Approval: Case #A23-01, Madison Gurries, AuD-D, License #A-2545 Dispensing

Ms. Pierce summarized that the complaint alleged unprofessional conduct and conduct that is harmful to public health and safety. An investigation determined that there was sufficient evidence to file a formal complaint for hearing before the Board and the practitioner opted to settle the matter by entering into a Consent Decree which was presented to the Board in this meeting for review and approval. Board Counsel Henna Rasul directed Ms. Pierce to send the proposed Consent Decree to the Board members under separate cover and asked the members to review it and ask questions as needed. Dr. Gurries was not present but her attorney, Edward Lemons, Esq., was present and did not elect to make a statement. There were no questions from the Board and Ms. Menicucci called for a motion. Timothy Hunsaker made a motion to accept the Consent Decree as proposed, and Minnie Foxx seconded the motion. The motion passed unanimously.

c. Consent Decree Recommended for Approval: Case #A23-03, Heather Dean, AuD-D, License #A-133 Dispensing

Ms. Pierce summarized that the complaint alleged unprofessional conduct and conduct that is harmful to public health and safety. An investigation determined that there was sufficient evidence to file a formal complaint for hearing before the Board and the practitioner opted to settle the matter by entering into a Consent Decree which was presented to the Board in this meeting for review and approval. Board Counsel Henna Rasul directed Ms. Pierce to send the proposed Consent Decree to the Board members under separate cover and asked the members to review it and ask questions as needed. Dr. Dean was not present but her attorney, Edward Lemons, Esq., was present and did not elect to make a statement.

Timothy Hunsaker asked a question to clarify the allegation in relation to the prior case and Ms. Pierce confirmed that they were related in that Dr. Dean admitted to also training the unlicensed person. Ms. Menicucci called for a motion. Adrienne Williams made a motion to accept the Consent Decree as proposed, and Minnie Foxx seconded the motion. The motion passed unanimously.

d. Consent Decree Recommended for Approval: Case #A23-02, Carrie Page, AuD-D, License #A-3513 Dispensing (Formerly License # A-188)

The complaint alleged unprofessional conduct and fitting and dispensing of hearing aids without having obtained a dispensing endorsement. After investigation and review of all documentation received in regard to the above referenced complaint, it was determined that there was sufficient evidence to file a formal complaint for hearing before the Board and the facts set forth in the accusations were sufficient to establish a violation of Chapter 637B of the Nevada Revised Statutes or the Nevada Administrative Code. The practitioner opted to settle the matter by entering into a Consent Decree which is presented to the Board for review and recommended for approval. Board Counsel Henna Rasul directed Ms. Pierce to send the proposed Consent Decree to the Board members under separate cover and asked the members to review it and ask questions as needed. There were several questions from the Board regarding the circumstances around the length of time the practitioner engaged in fitting and dispensing hearing aids without having obtained a dispensing endorsement and how the unlicensed practice occurred. The Board reached consensus that it was not comfortable accepting the Consent Decree terms as proposed and would prefer tabling the matter until the next meeting when Dr. Page and her attorney could be present. Ms. Menicucci called for a motion. Minnie Foxx made a motion to table the matter and request that Dr. Page attend the next meeting to answer questions from the Board. Adrienne Williams seconded the motion. The motion passed unanimously.

e. Consent Decree Recommended for Approval: Case #S22-01, Megan Santoro, License #SP-2966 (Expired)

Ms. Pierce summarized that the complaint alleged unprofessional conduct and conduct that is harmful to public health and safety. An investigation determined that there was sufficient evidence to file a formal complaint for hearing before the Board and the practitioner opted to settle the matter by entering into a Consent Decree which was presented to the Board in this meeting for review and approval. Board Counsel Henna Rasul directed Ms. Pierce to send the proposed Consent Decree to the Board members under separate cover and asked the members to review it and ask questions as needed. Ms. Santoro was not present but her attorney, Terry Johnson, Esq., was present and did not elect to make a statement. There were no questions from the Board and Ms. Menicucci called for a motion. Adrienne Williams made a motion to accept the Consent Decree as proposed, and Minnie Foxx seconded the motion. The motion passed unanimously.

Report Out and Consideration of Recommendations for Action from Advisory Committee on Fitting and Dispensing Hearing Aids Meeting of September 21, 2023

Ms. Pierce explained that the Committee met on September 21, 2023 and elected Timothy Hunsaker as Committee Chair to replace Michael Hodes. Ms. Pierce summarized each of the following agenda items that were discussed, noting where recommendations were made for the Board's consideration in this meeting:

a. Education and Training Requirements for HAS and HAS Apprentices: NRS 637B.201, NAC 637B.0391, NAC 637B.0392, and/or NAC 637B.0394

In 2022, the Board approved future legislation efforts to remove NBC-HIS certification as a requirement for a Standard HAS License, which highlighted the requirement in NAC 637B.0391 for a

HAS Apprentice with no formal education in hearing instrument sciences to complete a 2 year in-service training program. This mirrors the NBC-HIS clinical training requirement to sit for the certification exam, and the 2 year requirement was reviewed and reaffirmed as appropriate by the Advisory Committee in June 2022. It has been noted that once the NBC-HIS requirement is removed, an applicant for a HAS License who is not a current Nevada HAS Apprentice would only be required to pass the dispensing exams, as there is no other reference to minimum training required. As any proposed changes cannot occur until an NRS change is made regarding NBC-HIS, the Committee agreed to continue discussing the matter and took no action on a recommendation to the Board. No action was taken by the Board.

- b. **Required Dispensing Examinations and Endorsement for Fitting and Dispensing Hearing Aids: NRS 637B.203, NRS 637B.204, NRS 637B.205, NAC 637B.0373, & NAC 637B.0374:** This matter was previously before the Committee and a request was made to revisit the item, specific to the requirement for an Audiologist to hold the required endorsement and/or pass both the written ILE and practical dispensing exams. The Committee discussed the matter and opted to continue the conversation in its next meeting and make no recommendation at this time. No action was taken by the Board.
- c. **Practical Examination Fee Increase: NAC 673B.030:** As previously reported to the Board, IHS is revising its Dispensing Practical exam and raising the per-exam cost. Our Board has benefited from a negotiated rate of \$50 per exam booklet and the new rate may top out as high as \$200 per booklet. Any rate increase poses a negative fiscal impact for the Board, as the current \$200 fee covers \$50 for the exam booklet, \$100 paid to the exam proctor, and nets the Board \$50 to cover staff & scheduling costs. The Board's NRS 637B.175 sets a fee cap of \$300 for the examination. The actual fee charged is \$200 as established in NAC 673B.030. Notably, this is the only fee that is not already at the maximum cap limit.

IHS has offered a graduated fee increase, and a draft contract that will be presented later in this meeting would increase the cost to the Board to \$100 per booklet beginning 1/1/2024, increasing to \$150 in 2025, and \$200 in 2026. The 2024 increase will result in the current \$200 rate covering only the cost of the booklet and the reimbursement paid to the exam proctor. An assessment of fees charged by similar Boards in Nevada, and practical examination fees in other states indicates that the \$200 currently charged by this Board is lower than both averages. The Committee voted unanimously to recommend that the Board pursue a revision to NAC 637B.030 to increase the practical exam fee to \$250.

There was brief discussion and consensus was that an increase is reasonable and necessary as a result of the increased cost to the Board. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to pursue a revision to NAC 673B.030 to increase the examination fee to \$250 as recommended by the committee. Adrienne Williams seconded the motion. The motion passed unanimously.

- d. **Tinnitus Care by Hearing Aid Specialists: NRS 637B.055:** Ms. Pierce explained that the Board recently received an inquiry regarding whether Hearing Aid Specialists are allowed to treat tinnitus as part of their scope of practice, as there is no current reference in NRS or NAC. It is understood that hearing aids are used for tinnitus masking and treatment, but this is not the same as fitting for hearing loss, as tinnitus treatment requires training and counseling beyond the initial hearing aid fitting. Ms. Pierce explained that IHS offers a Tinnitus Care Provider and advises practitioners to check with licensing agencies for rules, regulations and scope of practice regarding providing tinnitus care. The Committee voted unanimously to recommend that the Board pursue a revision to NRS 637B.055 to allow tinnitus care when a Hearing Aid Specialist has received the appropriate training to do so. Andrea Menicucci

called for a motion. Timothy Hunsaker made a motion to pursue a revision to NRS 637B.055 to allow tinnitus care when a Hearing Aid Specialist has received the appropriate training to do so. Minnie Foxx seconded the motion. The motion passed unanimously.

- e. **Medical Evaluation/Waiver for Sale of Hearing Aids by Catalog, Mail or Internet: NRS 637B.242, NAC 637B.0444, and/or NAC 637B.045:** Ms. Pierce explained that the Committee revisited these sections as a result of recommendations for states to consider removing medical clearance requirements for prescription hearing aids to clear up confusion and remove restrictions in alignment with the FDA Final Rule on Over the Counter Hearing Aids. The Committee voted unanimously to recommend that the Board pursue revisions to the identified NRS and NAC sections to align with the Final Rule. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to pursue revisions NRS 637B.242, NAC 637B.0444, and NAC 637B.045 using the drafted language provided, to remove medical clearance requirements for prescription hearing aids in alignment with the FDA Final Rule on Over the Counter Hearing Aids. Adrienne Williams seconded the motion. The motion passed unanimously.
- f. **Review and Recommendation on Guidance for Scope of Practice Related to Earmold Impressions Pursuant to NRS 637B.055(1):** Ms. Pierce explained that the Board recently received a request for guidance on the scope of practice for fitting and dispensing hearing aids, specific to making earmold impressions per NRS 637B.055(1): the *“Practice of fitting and dispensing hearing aids” means measuring human hearing and selecting, adapting, distributing or selling hearing aids and includes, without limitation: Making impressions for earmolds*”.

The guidance request was specific to the use of the Earlens® Contact Hearing Solution, a non-surgical hearing device that uses resonant inductive coupling to transmit and receive sound information from a Processor and Ear Tip to a Tympanic Lens (Lens). The lens requires an ear canal impression and placement on the skin around the Tympanic Membrane, both of which must be done by a trained physician. This request came from a Dispensing Audiologist working within an ENT practice that is using this system, who wanted guidance/permission from the Board to conduct the ear canal impression and lens placement with permission from Earlens. The Committee members quickly and unanimously responded that this activity is not part of “making an impression” for an earmold and adamantly stated that that this is a very risky procedure that should not be allowed within this scope of practice. The Committee voted unanimously to recommend the Board issue a response to the guidance request that this activity is not allowable within the scope of practice for fitting and dispensing hearing aids pursuant to NRS 637B.055.

There was additional discussion based on the information initially provided and the public comment received at the beginning of this meeting. Consensus was to concur with the Committee’s recommendation that an EarLens ear canal impression is not within this scope of practice, but follow-up care and adjustments could be appropriate. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to provide formal guidance and interpretation of the scope of practice in NRS 637B.055(1) as follows: the ear canal/tympanic membrane impression required for the EarLens does not fall within the scope of practice for fitting and dispensing hearing aids, but follow up care and adjustment of the device is allowable under the NRS, and should only be performed under the supervision of an Ear, Nose, and Throat (ENT) physician. Minnie Foxx seconded the motion. The motion passed unanimously.

Work Session on Identified/Proposed NAC Revisions

Ms. Pierce reported that the Governor’s Executive Order 2023-008 was issued on July 1, 2023, lifting the freeze on the regulatory process. A meeting was held with Boards on Friday, August 29, 2023 to

acknowledge the work put into the reports that were submitted and encourage action to pursue the identified regulation changes.

a. NAC Sections Previously Approved for Future Revision

The Board has reviewed the following sections of NAC 637B and approved pursuing the proposed revisions, with drafted language included in the report for Executive Order 2023-003 submitted to the Governor's Office:

- 1) Inactive License Renewal Fee. NAC 637B.030. Revises to clearly delineate the fee for renewal of an inactive license.
- 2) Written ILE Exam Score. NAC 637B.0373(5). Revises to extend acceptance of passing score from prior 12 months to prior 24 months.
- 3) Notices Provided to Licensees. NAC 637B.0385(2). Revises section on notices provided to licensees by the Board.
- 4) Align with NAC 637B.0442 Revisions. NAC 637B.0398(3). Revises subsection number of NAC 637B.0442 to align with proposed revision to expand list of duties that may be delegated.
- 5) Expand Duties that May Be Delegated. NAC 637B.0442. Revises to expand allowable duties that may be delegated to an unlicensed assistant.
- 6) Reference to 21 C.F.R. § 801.421. NAC 637B.0444. Replaces reference to 21 C.F.R. § 801.421 (repealed) with NRS 637B.242.
- 7) Certification at Reinstatement. NAC 637B.0365(1)(c). Remove requirement for ABA/ASHA/NBC-HIS certification at license reinstatement.
- 8) Apprentice Program List. NAC 637B.0392(4). Remove requirement that the Board maintain a list of approved apprentice academic training programs.
- 9) Written Communications. NAC 637B.700. Remove requirement that formal written communications & documents be addressed to the Board (vs. Board members or staff).

No action was taken by the Board on these sections.

b. NAC Sections Under Discussion, Reintroduced, or Newly Identified for Revision

The following sections of NAC were identified after the Board Meeting and Public Workshop of April 26, 2023 and were presented to the Board in this meeting for review and action:

- 1) **Education and Training Requirements for HAS and HAS Apprentices:** NAC 637B.0391, NAC 637B.0392, and/or NAC 637B.0394. (Also references NRS 637B.201). This item was introduced by the Advisory Committee in Agenda Item 6.a. with no action recommended at this time. There were no questions, and the Board took no action.
- 2) **Practical Examination Fee Increase: NAC 637B.030:** This item was introduced by the Advisory Committee in Agenda Item 6.c. with a recommendation to pursue a fee increase to \$250.00. The Board voted earlier in this meeting to pursue a fee increase as recommended by the Committee.
- 3) **Required Dispensing Examinations and Endorsement for Fitting and Dispensing Hearing Aids: NAC 637B.0373, & NAC 637B.0374** (Also references NRS 637B.203, NRS 637B.204, NRS 637B.205): This item was introduced by the Advisory Committee in Agenda Item 6.b. with no action recommended at this time. There were no questions, and the Board took no action.
- 4) **Medical Evaluation/Waiver for Hearing Aids by Catalog/Mail/Internet: NAC 637B.0444 & NAC 637B.045(i).** (Also reference: NRS 637B.242(1)(a)(b): This item was introduced by the Advisory Committee in Agenda Item 6.e. with a recommendation to remove requirements for a medical

evaluation or waiver in order to align these sections with the Final Rule. The Board voted earlier in this meeting to pursue the revisions as recommended by the Committee.

Ms. Pierce explained that following this meeting, all sections approved for inclusion in administrative rulemaking will be drafted and submitted to LCB for revision in advance of the Public Workshop scheduled for January 2024.

Work Session on Identified/Proposed NRS Revisions (Standing Agenda Item)

Ms. Pierce explained that as the next legislative session begins in 2025, it is proposed that the Board hold standing work sessions to review and approve sections to be revised and draft/approve revised NRS language. Plans to solicit for and initiate a contract with a lobbyist should also be considered.

a. NRS Sections Previously Approved for Revision

The following sections of NRS 637B have been approved by the Board for inclusion in a future legislative BDR. As such, no action was requested or taken by the Board during this meeting.

- 1) “Practice of Audiology” Definition: NRS 637B.050(3): Addresses overlap in definition that includes fitting & dispensing activities. Approved by the Board on 4/26/2023. Revised language has been drafted & approved.
- 2) Cerumen Management by HAS: NRS 637B.055: Adds/allows cerumen management by HAS. Approved by the Board on 7/19/2022. Revised language still needs to be drafted/approved.
- 3) NBC-HIS Certification for HAS Standard License: NRS 637B.193(2) & NRS 637B.201: Revises to remove NBC-HIS certification requirement for HAS Standard license. Approved by the Board on 7/19/2022. Revised language has been drafted & approved.

b. NRS Sections Under Discussion, Reintroduced, or Newly Identified for Revision

The following proposed revisions to NRS 637B have been newly identified or were reintroduced in this meeting for possible inclusion in a future BDR. Some of these sections are ready for a BDR and others may require further input from the Advisory Committee or other stakeholders. As such, they were presented in this meeting for the Board to consider pursuing revisions. Those identified for revision will be included in future meeting work sessions as needed.

- 1) **SLP Assistants: NRS New:** Creates a new license type for SLP Assistants and with attention to aligning this effort with the NDE plan to sunset bachelor’s SLP staff. Discussion and consensus amongst the Board members was to pursue this licensing path. Andrea Menicucci suggested that it would be helpful to collaborate with NDE and provide education to current NDE endorsement holders as there appears to be misunderstanding on the part of some that the NDE endorsement allows them to practice speech-language pathology outside of their NDE employment in contracted or other roles, which it does not. Ms. Pierce stated that she would work with NDE to disseminate information about the requirement to hold a Board license if practicing outside NDE employment to address potential unlicensed practice issues. Andrea Menicucci called for a motion. Adrienne Williams made a motion to pursue revision to NRS 637B to draft language that allows for licensing of SLP Assistants. Minnie Foxx seconded the motion. The motion passed unanimously.
- 2) **Audiology Assistants: NRS New:** This revision would create a new license type for Audiology Assistants. The Board has approved a proposed revision to expand “Duties that May Be Delegated to an Unlicensed Assistant” in NAC 637B.0442, which provides an alternate path in lieu of licensing. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to not pursue

revision to NRS 637B for licensing of Audiology Assistants. Minnie Foxx seconded the motion. The motion passed unanimously.

- 3) **Telehealth & Telesupervision: NRS New:** This revision would address/allow telesupervision when appropriate and is most likely to be used with SLPs and SLP Assistants. Andrea Menicucci called for a motion. Adrienne Williams made a motion to pursue revisions to NRS 637B to allow telesupervision. Andrea Menicucci seconded the motion. The motion passed unanimously.
- 4) **ASLP Interstate Compact: NRS New:** This matter was reintroduced on request for the Board to pursue legislation to join ASLP Interstate Compact. The compact is still somewhat new, and the Board has considered a number of factors, and prior reviews resulted in no action. It was reported in the Board's July 2023 meeting that NSHA intends to seek legislation in 2025 to join Nevada to the compact, but no further information has been provided. There was some discussion on this and the fate of other licensing compact efforts in Nevada. Shawna Ross from NSHA shared that they would be happy to set up a meeting between the Board Chair/Staff and NSHA to share information. It was agreed that the Executive Director would contact NSHA to set up a meeting and the matter would be tabled for future discussion. No action was taken.
- 5) **Licensing Fee Caps: NRS 637B.175:** This matter was reintroduced as a follow up to the Board's unsuccessful legislative attempt in 2021 through AB155 to raise fee caps. Actual fees charged pursuant to NAC are now at the maximum fee cap except for one (practical examination fee). The last change to the Board's fee caps occurred upon the merger of the formerly separate Audiologists and Speech Pathologists Board and Hearing Aid Specialists Board in 2015. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to pursue revisions to NRS 637B.175 to increase fee caps. Minnie Foxx seconded the motion. The motion passed unanimously.
- 6) **SLP Scope of Practice & Flexible Endoscopic Evaluation of Swallowing (FEES) Procedure: NRS 637B.060:** This revision would specifically address/allow practice of the FEES procedure by SLPs with specific guidance/limits as drafted. The Board office has received a number of guidance requests over the years regarding whether an SLP can perform the procedure. There was discussion on the matter and consensus that this topic would require several work sessions and may be best addressed through a workgroup or subcommittee. It was agreed that the matter should be tabled for a future meeting with consideration for an agenda item to create an SLP subcommittee to address this and other related items. No action was taken.

The following sections were summarized by Ms. Pierce as a set of revisions that would be pursued to clarify and/or improve licensing processes. Drafted language was provided for each, and the Board heard all four items together and voted on all at the same time.

- 7) **Temporary License - Acceptance of Out of State License: NRS 637B.200 (1)(a); (2)(a):** This revision adds "D.C. and US territories" to align this section with License by Endorsement requirements in NRS 637B.203-204.
- 8) **Expedited License by Endorsement Issuance: NRS 637B.203(4) & NRS 637B.204(4):** This revision would remove the current requirement for these licenses to be issued by the Board or Board Chair.
- 9) **Grounds for Initiating Disciplinary Action: NRS 637B.250(2)(d)(1):** This revision removes the reference to a section of federal law that has been repealed.

- 10) Conversion of Temporary & Provisional Licenses: NRS 637B.200(3)(c) and NRS 637B.201(2)(b). This revision would clarify the NRS language to correctly identify the type of license issued following a conversion as “Standard”, versus the current term “Active” which describes a license status.

Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to pursue the revisions to NRS 637B.200, .201, .203, .204, and .250 as drafted. Minnie Foxx seconded the motion. The motion passed unanimously.

- 11) **Education and Training Requirements for HAS and HAS Apprentices: NRS 637B.201.** (Also reference: Agenda Item 8.b.1.: NAC 637B.0391, NAC 637B.0392, & NAC 637B.0394): This item was introduced by the Advisory Committee in Agenda Item 6.a. with no action recommended. No action was taken by the Board.
- 12) **Required Dispensing Examinations and Endorsement for Fitting and Dispensing Hearing Aids: NRS 637B.203, NRS 637B.204, NRS 637B.205.** (Also reference: NAC 637B.0373, & NAC 637B.0374): This item was introduced by the Advisory Committee in Agenda Item 6.b. with no action recommended. No action was taken by the Board.
- 13) **Hearing Aid Dispensing “Endorsement”: NRS 637B.030; NRS 637B.042; NRS 637B.132; NRS 637B.175; NRS 637B.191; NRS 637B.200; NRS 637B.205:** This would revise NRS language to differentiate between the endorsement to fit and dispense hearing aids, and License by Endorsement in NRS 637B.203-204. Other NRS sections related to this item were introduced by the Advisory Committee in Agenda Item 6.b. with no action recommended. No action was taken by the Board.
- 14) **Tinnitus Care by Hearing Aid Specialist: NRS 637B.055:** This item was introduced by the Advisory Committee in Agenda Item 6.d. with a recommendation to allow tinnitus care when a Hearing Aid Specialist has received the appropriate training to do so. The Board voted earlier in this meeting to pursue the revisions as recommended by the Committee.
- 15) **Medical Evaluation/Waiver for Hearing Aids by Catalog/Mail/Internet: NRS 637B.242(1)(a)(b)** (Also reference: Agenda Item 8.b.4. NAC 637B.0444 & NAC 637B.045(i)): This item was introduced by the Advisory Committee in Agenda Item 6.e. with a recommendation to remove requirements for a medical evaluation or waiver and align these sections with the Final Rule. The Board voted earlier in this meeting to pursue the revisions as recommended by the Committee.

Consideration for Review and Approval of Solicitations and Contracts for Legislative Services and Hearing Aid Dispensing Examinations

- a. **Consideration to Issue a Solicitation for Legislative Services to assist the Board in Legislative and Regulatory Matters:** Ms. Pierce explained that the NRS revisions proposed in the prior agenda item will require a Bill Draft Request for the 83rd (2025) Legislative Session. In support of this effort, a draft solicitation was presented for the Board’s review and approval and responses will be set on the agenda for a future Board meeting to select a vendor. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to approve and issue the Solicitation for Legislative Services as written. Adrienne Williams seconded the motion. The motion passed unanimously.
- b. **Review and Approval of Draft Contract with International Hearing Society for Hearing Aid Dispensing Examinations:** As previously reported, the Board’s current agreement with IHS is expiring soon and IHS is raising the cost of the dispensing practical examination that will be revised & released

in the near future. IHS has offered a graduated fee increase over the next three years, and the Board was directed to the attached draft contract outlining future costs as follows: \$100 per exam effective 1/1/2024, increasing to \$150 effective 1/1/2025 and \$200 effective 1/1/2026. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to approve the contract as proposed. Andrea Menicucci seconded the motion. The motion passed unanimously.

Executive Director's Report

Ms. Pierce did not verbally summarize the report in the interest of time and directed the Board to the written Executive Director's Report which included the following:

- a. **Licensure Statistics:** FY24 Q1 resulted in a net increase of 7 licenses (95 issued/88 expired), a less than 1% increase from the prior quarter. This increase is much lower than the 2-3% increases in prior years' 4th quarters.
- b. **Adjusted FY23 Q4 Summary & FY24 Q1 Financial Report:** The final adjusted FY23 Q4/End of Year summary was attached for review and final actual income totaled \$204,655.94 and actual expenses totaled \$187,539.41, resulting in a final net income of \$17,116.53 with reserves totaling \$120,716.86.

The FY24 Q1 financial summary was also attached for the Board's review, with both income and expenses ending close to the 25% target for the first quarter as follows: revenue totaled \$54,325.60 (24.82% of budget) and expenses totaled \$56,212.57 (25.81% of budget). Net income was negative at -\$1,859.87, with the following deviations contributing: 1) equipment costs for the investigator laptop ran slightly higher than anticipated in order to secure a machine compatible with the Board's needs; 2) legal fees this quarter totaled over 70% of budget due to the expenses incurred on the four complaint cases presented earlier in this meeting coupled with regular legal needs. However, the Consent Decrees scheduled for review earlier in this meeting include a recoupment of approximately \$9,400 toward these fees; and 3) the FY24 Tort Liability Insurance premium paid to the Attorney General's office totaled \$1,018.59, almost \$300 more than FY23 (\$746.29) for the same number of FTE due to an increase of \$31.12 per FTE in the annual premium.

- c. **Update on SB431: Board Oversight by Newly Established Office of Nevada Boards, Commissions and Councils Standards:** As reported in July 2023, SB431 passed in 2023 established the new Office of Nevada Boards, Commissions and Councils Standards. To date, the Board office has received the following requests for information: Financial statements for FY23 and Approved Budgets for FY24 & FY25; Board Fees and/or Membership Structure; a count of full or part time staff employed by the Board, including contracted vendors/ employees; a response as to whether the Board has reciprocity agreements with other states; total number of Board licensees; what licensing software (if any) we are utilizing; and any current internal controls and policies/procedures.

Additionally, Board staff were invited to a Regulatory Reform Meeting with the Governor's Office in late August as a follow up to the Executive Order reports and legislative session. Boards were thanked for their efforts in submitting the required reports and encouraged to move forward with identified regulation changes. The Governor's Office will be actively monitoring these efforts and Boards are welcome to reach out for assistance as needed.

- d. **Board Member Appointments/Reappointments:** As previously reported, both the AUD and SLP vacancies were filled earlier this week. Minnie Foxx has also applied for reappointment to a second term and is awaiting a response.

FINAL - Minutes approved at the January 24, 2024 Board Meeting.

- e. **Complaints:** There were four open complaint cases following the July 19, 2023 Board Meeting. One new case was received in September 2023, totaling five open cases. Four cases were presented in this meeting for approval of Consent Decrees.

There were no questions, and no action was taken by the Board.

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

Henna Rasul, Board Counsel had no new information to report on legal matters.

Reports from Board Chair and Board Members

- a. Report from Board Chair and Board Members: There were no reports from the Board Chair or members.
- b. 2024 Proposed Meeting Schedule: The next meeting was scheduled for Wednesday, January 24, 2024 at 4:30pm and will be hosted from the Board Office in Reno.
- c. Future Agenda Items: The following matters were identified for the January 2024 meeting and future agendas:
 - 1) Public Workshop on Proposed Revisions to NAC 637B: Previously Approved Sections and Those Approved in This Meeting (for possible action)
 - 2) Work Session on Future Legislative Efforts to Revise NRS 637B: Previously Approved Sections and Those Approved in This Meeting (Standing Agenda Item) (for possible action)
 - 3) Work Session on SLP Assistants with input/collaboration from NDE and stakeholders and education/awareness regarding differences between NDE Endorsement and Board Licensure.
 - 4) Consideration to create an SLP workgroup/subcommittee to address fees procedure in SLP scope of practice and other SLP-related matters.

Public Comment

There was no public comment.

Adjournment

Andrea Menicucci adjourned the meeting at 6:52pm.