



State of Nevada

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

MINUTES OF PUBLIC MEETING

Speech-Language Pathology, Audiology & Hearing Aid Dispensing Board

January 24, 2024

Members Present:	Andrea Menicucci, Timothy Hunsaker, Lynee Anderson, Shawn Binn, Jennifer Joy-Cornejo, Branden Murphy, Adrienne Williams
Members Absent:	None
Staff Present:	Jennifer Pierce, Executive Director Stacey Whittaker, Licensing Coordinator Henna Rasul, Sr. Deputy Attorney General, Board Counsel Thomas Sharkey, Board Investigator
Public Present:	Lyn Beggs, Marvelee Clayworth, Laura Fink, Nancy Kuhles, Megan Marble, Elyse Monroy, Katrina Nicholas, Obioma Officer, Kim Reddig, Shawna Ross, Sabrina Schur, Christine Seitz, Izack Tenorio, Carrie Page Unkle

Call to Order, Confirmation of Quorum

Andrea Menicucci called the meeting to order at 4:30pm. 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. Stacey Whittaker reported that a public comment was emailed to the Board Office from Lance Ledet earlier today and read the comment into the record as follows:

"Hello, I am the President of the Hearing Loss Association of America Southern Nevada Chapter. I will not be able to make the meeting today. As I was reviewing the agenda for today's meeting. If it is possible I would like to make a comment to be read at meeting today, when you get to the following agenda item listed below. It would help many nonprofits in the Deaf and Hearing Loss communities

to be able to send out an email through your list of audiologists, hearing aid clinics and ENT offices since you already have their complete mailing list. This would assist the local ADSD Councils and Commissions to be able to send out information approved by your organization. Best Regards, Lance Ledet.”

Welcome & Introduction of New Board Members

Ms. Pierce reported that the Board office received notification from the Governor’s Office in October and December 2023 of the following new appointments: Shawn Binn, SLP; Jennifer Joy-Cornejo, AuD-D; and Branden Murphy, Public Member. All three members were present at this meeting, and each had a chance to introduce themselves. The new members were welcomed, and introductions were made to the existing Board members and staff.

Approval of the Minutes: Board Meeting of October 18, 2023

Andrea Menicucci asked if there were any corrections or revisions to the minutes of the meeting of October 18, 2023 and none were noted, so she called for a motion. Adrienne Williams made a motion to approve the minutes of October 18, 2023 as written. Timothy Hunsaker seconded the motion. The motion passed unanimously.

Disciplinary Matters

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

This matter was carried over from the October 18, 2023 meeting where the Board was first presented with the Consent Decree in this matter. At that meeting, the Board had a number of questions and concerns about the circumstances of the case and the terms of the Consent Decree and chose to table the matter, asking that the Respondent and her attorney be present at this meeting. 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. Dr. Page and her attorney, Lyn Beggs, were present at this meeting. 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. DAG Rasul also noted for the record that an error was found on page 7, paragraph 2 including the name of a different licensing Board that would be corrected to this Board’s name. Timothy Hunsaker reiterated his question from the October meeting, specifically around the Consent Decree terms and absence of a monetary fine for unlicensed practice beyond repayment of legal fees. DAG Rasul and Ms. Beggs explained that the terms were negotiated and that while no additional civil penalty was included, the case would result in a public reprimand which will remain permanently on Dr. Page’s licensing record. After some discussion, Board members expressed that they were comfortable with the terms as originally negotiated and presented. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to accept the Consent Decree as presented, with the noted correction to be made by DAG Rasul. Adrienne Williams seconded the motion. The motion passed unanimously.

b. Recommendation for Dismissal: Case #S23-03

Ms. Pierce summarized that this Complaint alleged unprofessional conduct, premature termination of services, and conduct that is harmful to the public health and safety. After investigation and review of all documentation received on this complaint, it was determined that there is insufficient evidence to file a formal complaint for hearing before the Board and the facts set forth in the accusations are insufficient

to establish a violation of Chapter 637B of the Nevada Revised Statutes or the Nevada Administrative Code. Ms. Pierce recommended the case be dismissed. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to dismiss the case as recommended. Adrienne Williams seconded the motion. The motion passed unanimously.

Public Workshop on Proposed Regulations LCB File R108-23P

Andrea Menicucci opened the Public Workshop and asked Ms. Pierce to summarize the first agenda item.

a. Introduction to Proposed Regulations LCB File R108-23P

Ms. Pierce directed the Board Members and attendees to LCB File R108-23P and explained the purpose of the workshop to solicit comments from interested persons on the proposed regulation. Ms. Pierce summarized the proposed changes by section and shared on the record that Board staff found that Section 7 appeared to be an exact duplicate of Section 6 and would mark this for correction. Additionally, language should be added to Section 8 stating that a licensee may only delegate duties that fall within the scope of their license/endorsement (i.e. an audiologist vs. dispensing audiologist).

b. Public Comment on Proposed Regulations LCB File R108-23P

Andrea Menicucci opened the Workshop for public comment. No written comments were received. One oral comment was received as follows:

- Nancy Kuhles, NSHA Coalition offered oral public comment in reference to Section 8 of the proposed revisions, which amends/expands the duties that may be delegated by a hearing aid specialist, audiologist, or dispensing audiologist to an unlicensed assistant in NAC 637B.0442. Specifically, Ms. Kuhles stated that there appeared to be a conflict with (proposed revised) NAC 637B.0442(3)(d) which states *“Duties that may not be delegated pursuant to this section include, without limitation: Conducting any activity involving direct physical contact with a client and a hearing-related procedure or instrument.”* (p. 11 of LCB File R108-23P). Ms. Kuhles further noted that the prior section (proposed revised) NAC 637B.0442(2) included a number of new duties that could be delegated but would require physical contact with a client or hearing related procedure or instrument, placing the two sections in conflict with one another.

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

Consideration of Proposed Regulations LCB File R108-23P Based on Comments Received at Public Workshop

Andrea Menicucci opened the discussion for any additions, amendments, and/or repeal of regulations taking into consideration the comments from the public. Jennifer Joy-Cornejo suggested that Section 8, referenced in Ms. Kuhles’ public comment, should be revised as there are number of duties that include physical contact. Board members and staff discussed and identified a number of duties in the list that could be moved to a separate section allowing for physical contact. Additional discussion included whether to omit the section prohibiting physical contact or whether the revision should address the licensee providing “direct supervision” when delegating certain tasks. Consensus among members was that the purpose of delegating was to allow the licensee to hand off a task, not require them to stay and observe, so a direct supervision requirement should not be included. Branden Murphy further suggested that licensed Audiologists and Hearing Aid Specialists are highly trained and capable of determining when these tasks are appropriate to delegate. It was noted that current NAC 637B.0442(1) requires a delegating practitioner to determine *“before delegating a duty, that the unlicensed assistant possesses the necessary knowledge, competence, training and skills to perform the duty.”* Additionally, new proposed language in NAC 637B.0442(3) further states that *“A licensee supervising an unlicensed assistant assumes full responsibility for all services provided by the unlicensed assistant.”* It was agreed amongst the members that this language was sufficient to protect the public.

The following revisions were summarized and proposed:

- 1) Deletion of Section 7 as it appears to be an exact duplicate of Section 6.
- 2) Add language to Section 8 stating that a licensee may only delegate duties that fall within the scope of their license/endorsement (i.e. an audiologist vs. dispensing audiologist).
- 3) Addition of the word “Verbally” to item (3)(p) in Section 8 to read as follows: *“Verbally instructing a patient in proper ear hygiene.”*
- 4) Addition of a new subsection in Section 8 to include the following tasks that may be delegated to an unlicensed assistant that involve direct physical contact with a client or a hearing-related procedure or instrument:
 - *(3)(n) Instructing a client in the proper use and care of hearing aids and other amplification devices;*
 - *(3)(v) Conducting hearing and tympanometric screening on older children and adults without interpretation;*
 - *(3)(w) Conducting an otoacoustic emission screening;*
 - *(3)(x) Performing a nondiagnostic otoscopy;*
 - *(3)(y) Performing a pure-tone audiologic reassessment on an established patient;*
 - *(3)(z) Preparing a client for electronystagmography and videonystagmography or evoked testing;*
 - *(3)(aa) Assisting a licensed audiologist, dispensing audiologist or hearing aid specialist in testing the hearing of a pediatric client;*
 - *(3)(bb) Performing a pure-tone hearing screening and universal newborn hearing screening test;*

Andrea Menicucci called for a motion. Jennifer Joy-Cornejo made a motion to revise the regulations as proposed and send the file back to the Legislative Counsel Bureau for formal revision. Branden Murphy seconded the motion. The motion passed unanimously.

Work Session on Identified/Proposed Revisions to NRS 637B, Including Consideration of the Following: Recommendations from Advisory Committee on Fitting and Dispensing Hearing Aids, Approval to Establish Speech-Language Pathology Workgroup, and Board Position on NSHA-Planned ASLP Interstate Compact Legislation

a. NRS Revisions Approved: Draft Language Previously Approved by Board

Ms. Pierce explained that proposed/revise draft language has already been approved by the Board for the following NRS sections: NRS 637B.050; NRS 637B.193; NRS 637B.200; NRS 637B.201; NRS 637B.203; NRS 637B.204; NRS 637B.242; NRS 637B.250. These sections have been noted so that Board Members and the public are aware of all proposed changes. No action was taken on this item.

b. NRS Revisions Approved: Draft Language Presented for Approval

Ms. Pierce reported that the following sections of NRS were previously approved for revision and drafted language is presented in this meeting for the Board’s review and approval:

- **NRS 637B.175. Fees.** Proposed increases to the fee caps in this section were discussed and drafted from the Board’s 2021 legislative effort to raise caps. At that time, the examination fee was not proposed for increase, but is included in the current revision as the cost to the Board for exam materials is increasing. Discussion resulted in consensus that the caps should be raised to provide the Board a cushion to raise actual fees as needed, as almost all are at the caps now. Specific amounts were proposed, and Andrea Menicucci called for a motion. Shawn Binn made a motion to revise the proposed fee caps as follows: Application fee: \$300; License fee: \$200; Renewal fee: \$200; Reinstatement fee: \$300; Examination fee: \$500; and Fee for obtaining license information (mailing list): \$200. Jennifer Joy-Cornejo seconded the motion. The motion passed unanimously.

- **NRS 637B.055 “Practice of fitting and dispensing hearing aids” defined.** The drafted revisions in this section make three major proposed changes: 1) add the term “ordering the use of” to the current “fitting and dispensing hearing aids” in alignment with the FDA Final Rule on Over-the-Counter Hearing Aids, 2) add a section allowing the practice of cerumen management, and 3) add a section allowing the practice of tinnitus management. Jennifer Joy-Cornejo stated that she had concerns about these revisions, specifically around allowing the practice of cerumen management. Timothy Hunsaker and Lynee Anderson stated that they also had concerns regarding this issue. Dr. Hunsaker could not recall being at the Advisory Meeting when this was recommended, and Ms. Anderson stated that she had previously voiced her concerns when the matter was discussed. It was recommended and agreed that the matter should be tabled and sent back to the Advisory Committee on Fitting and Dispensing Hearing Aids for further discussion and recommendation. No action was taken.
- **Definitions (related to Cerumen Management and Tinnitus Management in NRS 637B.055 above).** This item was not discussed, and no action was taken as it is related to the prior item that was tabled and sent back to the Advisory Committee.

c. NRS Revisions Approved: Draft Language Not Complete - Work Sessions/Subcommittee Recommended

Ms. Pierce explained that the following items have been approved for revision but will require new sections in NRS 637B: Speech-Language Pathology Assistants (new licensing) and Telesupervision. As such, it was recommended that the Board consider establishing a Speech-Language Pathology Subcommittee to conduct this work. Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to establish a Speech-Language Pathology Subcommittee to work on proposed NRS revisions. Shawn Binn seconded the motion. The motion passed unanimously.

Following the vote there was discussion around subcommittee membership and it was agreed that any Board or non-Board member could volunteer to participate and interested persons were asked to email Ms. Pierce.

d. NRS Revisions Not Yet Approved: Sections Under Discussion, Reintroduced, or Newly Identified for Revision

Ms. Pierce explained that the following sections have been identified for possible revision, but no action has been taken to date:

- **NRS 637B.060 “Practice of speech-language pathology” defined.** Ms. Pierce summarized that this identified revision would amend the Speech-Language Pathology Scope of Practice to include the Flexible Endoscopic Evaluation of Swallowing (FEES) procedure and recommended that this item be included in matters delegated to the proposed Speech-Language Pathology Subcommittee for recommendation and revision as applicable. Andrea Menicucci called for a motion. Shawn Binn made a motion to delegate this matter to the newly established Speech-Language Pathology Subcommittee for review and recommendation. Andrea Menicucci seconded the motion. The motion passed unanimously.
- **NRS 637B.193 & NRS 637B.201 Education and Training Requirements for HAS and HAS Apprentices.** Ms. Pierce summarized that this matter was heard by the Advisory Committee on January 16, 2024 with the following recommendations: 1) Retain the requirement for an Apprentice to complete a 2 year training program as currently required in NRS 637B and NAC 637B, and 2) In conjunction with the removal of the NBC-HIS requirement in NRS 637B.193(2), revise NRS 637B and NAC 637B to require 1 year of dispensing experience for a Standard HAS applicant who is licensed or has prior training/experience in another state, with credit granted for training/work in another state.

Ms. Pierce summarized the data considered by the Advisory Committee as follows:

- Currently, the NBC-HIS requirement ensures that an applicant has completed a 2 year training program to obtain the Standard HAS license, however, once the NBC-HIS requirement is removed, passage of the dispensing exams will be the only other requirement.
- Data found for HAS training in 44 states indicated an average minimum training requirement of 10 months. Nevada is one of three states requiring a 2 year apprenticeship, with the majority (23 states) requiring 1 year, and at least 18 other states requiring between 2–8 months.

Andrea Menicucci called for a motion. Jennifer Joy-Cornejo made a motion to pursue the revisions to NRS 637B.193 & NRS 637B.201 as recommended by the Advisory Committee. Timothy Hunsaker seconded the motion. The motion passed unanimously.

- **NRS 637B.205 & NRS 637B.200 Required Dispensing Examinations and Endorsement for Fitting and Dispensing Hearing Aids for Dispensing Audiologists**

Ms. Pierce summarized that this matter was heard by the Advisory Committee on January 16, 2024 with unanimous action taken to recommend removal of the dispensing examinations and dispensing endorsement requirements for all Audiologist applicants. This would result in repealing NRS 637B.205 and revising NRS 637B.200(1)(b) to remove the reference to the endorsement of a license to engage in the practice of fitting and dispensing hearing aids.

Ms. Pierce summarized the data considered by the Advisory Committee as follows:

- Nevada is 1 of 13 states requiring a separate license/endorsement for an Audiologist to dispense hearing aids.
- Of those 13 states, 10 require the written exam, and only 4 require the practical exam.
- The written ILE is facilitated and administered by the International Hearing Society (IHS). Practical exams are administered by Nevada Board proctors at the candidate's convenience in Las Vegas, Reno, or Carson City, and require an applicant to travel to Nevada with a portable audiometer and a second person to serve as their test subject.
- Most states (33), including Nevada, require a Doctoral degree for an Audiology license.
- Between FY20-23, the Board administered 88 practical exams, of which 48 were by AuD-D applicants. Of those 48, only 3 exams (6%) resulted in failure on the first attempt, compared to 22% of HAS applicants and 29% of Apprentices seeking conversion to a HAS license.
- The newly established ASLP Interstate Compact does not require either a dispensing written or practical exam for Audiology licensure. While the Board has not elected to pursue efforts to join the ASLP-IC, the Nevada Speech-Hearing Association plans to pursue legislation in 2025 to join Nevada to the Compact.

Andrea Menicucci called for a motion. Timothy Hunsaker made a motion to pursue the revisions to NRS 637B.193 & NRS 637B.201 as recommended by the Advisory Committee. Branden Murphy seconded the motion. The motion passed unanimously.

- **NRS New: ASLP Interstate Compact**

Ms. Pierce summarized that this matter has been reintroduced on request for the Board to consider membership in the ASLP Interstate Compact (ASLP-IC). The Board has reviewed information on the ASLP-IC in prior meetings with no action taken to date. With the support of ASHA, NSHA has informed the Board that it intends to seek legislation in 2025 to join Nevada to the Compact. An informational meeting was held on December 6, 2023 between NSHA and the Board Chair & Executive Director to gather more information, and NSHA provided a white paper in

advance of this meeting for the Board's review. As the Board has not yet taken action to include this legislation in its own BDR, it is recommended that the Board consider action on a position regarding NSHA's bill prior to the start of the 2025 legislative session.

There was lengthy discussion around how Compact membership might impact the Board financially and how licenses would be processed, including conducting background checks. Representatives from NSHA and their legislative team took questions, and it was clarified that the Board would continue to process licenses and collect revenue as it does currently, but an applicant or licensee could indicate that they would like to also apply for a "privilege to practice" within the Compact, which would subject them to background checks. The Compact recently issued an RFP for a licensing database and hopes to begin issuing privileges at the end of 2024.

Andrea Menicucci called for a motion. Branden Murphy made a motion to support NSHA's legislative effort to join Nevada to the ASLP-IC. Timothy Hunsaker seconded the motion. The following members voted in support of the motion: Lynee Anderson, Timothy Hunsaker, Jennifer Joy-Cornejo, Branden Murphy, and Adrienne Williams. The following members voted against the motion, both citing that they would like to gather more information and wait and see how the Compact develops: Shawn Binn and Andrea Menicucci. The motion passed.

Executive Director's Report

Ms. Pierce directed the Board to the written Executive Director's Report which included the following:

- **Licensure Statistics:** FY24 Q2 resulted in a net increase of 9 licenses (54 issued/45 expired), a less than 1% increase from the prior quarter. This increase is lower than the increases in prior years' 2nd quarters.
- **FY24 Q2 Financial Report & FY23 Audited Financial Statements:** The FY24 Q2 summary was attached for review, with revenue totaling \$101,190.69 (46.21% of budget) and expenses totaling \$99,886.90 (45.86% of budget), resulting in net Q2 income of \$1,303.79. A future budget deviation was noted related to an increase in the direct deposit fee from \$1.75 to \$4.00 (+\$2.25) effective January 2024.
- **Board Member Appointments/Reappointments:** As previously reported, all vacancies have been filled and the Board is fully appointed. The next vacancy will occur when Andrea Menicucci's second term expires on 7/1/2024, at which time a new member will be reappointed and the Board will be tasked with electing a new Chair.
- **Complaints:** There were two open complaint cases following the October 18, 2023 Board Meeting. One new case was received in November 2023, totaling three open cases. Two cases were presented and approved for disposition earlier in the meeting (one accepted Consent Decree and one case dismissal), resulting in one open case remaining.

There were no questions, and no action was taken.

Consideration for Review and Approval of Draft FY25 Budget and Solicitations and Contracts for Legislative Services and Licensing Database

a. Review & Approval of Draft FY25 Budget

Ms. Pierce directed the Board to a draft FY25 budget presented for the Board's consideration and approval and explained that this was proposed as a planned deficit budget to cover the nonrecurring cost of legislative services that are hoped to support passage of the Board's planned BDR. While anticipated FY25 revenue will likely not be sufficient to cover FY25 expenses, there are sufficient reserves to cover the deficit. There were no follow-up questions and Andrea Menicucci called for a

motion. Shawn Binn made a motion to approve the FY25 budget as drafted. Andrea Menicucci seconded the motion. The motion passed unanimously.

b. Consideration to Delegate Drafting/Approval of New Sole Source Contract with Albertson Consulting for Ongoing Licensing Database/Website Support

Ms. Pierce explained that Board staff were recently informed that a September 2021 revision to the State Administrative Manual, Section 0326 removed the exemption from contracting for data systems. As a result, it is recommended that the Board take steps to execute a new contract with Albertson Consulting for ongoing Licensing Database/Website Support services with authority delegated to the Board Chair and Executive Director to draft and execute the contract. The proposed term is FY25-FY28 with total costs ranging from \$8,855 to \$9,355 annually. There were no follow-up questions and Andrea Menicucci called for a motion. Branden Murphy made a motion to approve and delegate drafting/approval to the Board Chair and Executive Director for a new sole source contract with Albertson Consulting for ongoing licensing database/website support. Lynee Anderson seconded the motion. The motion passed unanimously.

c. Consideration of Responses to Solicitation for Legislative Services to assist the Board in Legislative and Regulatory Matters, Contract Award, and Approval to Delegate Drafting/Approval of Contract

Ms. Pierce summarized that at the October 18, 2023 meeting, the Board authorized the Executive Director to release a *Solicitation for Government Relations Services* for pending legislative activities. The solicitation was sent out to three identified lobbyists, and one proposal was received and provided for the Board's review. It was recommended that the Board select a vendor and approve associated costs and delegate authority to the Executive Director and Board Chair to draft and execute the contract. Strategies 360 was the responding vendor, proposing a 2 year contract at a flat rate of \$3,000 monthly. A follow-up inquiry indicated that this rate and contract length were negotiable, confirmed by Izack Tenorio of Strategies 360 who was present in the meeting. There were no follow-up questions and Andrea Menicucci called for a motion. Jennifer Joy-Cornejo made a motion to approve and delegate drafting/approval to the Board Chair and Executive Director for a contract with Strategies 360 for legislative/lobbying services. Timothy Hunsaker seconded the motion. The motion passed unanimously.

Report from Legal Counsel

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, April 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 April 2024 meeting and future agendas:
 - 1) Public Hearing on Proposed Revisions to NAC 637B LCB File R108-23P
 - 2) Work Session on Future Legislative Efforts to Revise NRS 637B
 - 3) Other Items As Proposed

Public Comment

There was no public comment.

Adjournment

Andrea Menicucci adjourned the meeting at 6:55pm.