



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

MINUTES OF PUBLIC MEETING

Advisory Committee on Fitting and Dispensing Hearing Aids

April 10, 2024

Members Present: Timothy Hunsaker; Lynee Anderson; Nanci Campbell; Jennifer Joy-Cornejo; Melissa Maestas

Members Absent: None

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

Public Present: Laura "Wednesday" Fussell, Nancy Kuhles

Call to Order, Confirmation of Quorum

Timothy Hunsaker called the meeting to order at 4:35pm. A roll call confirmed a quorum was present.

Public Comment

Timothy Hunsaker 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 at the end of the meeting agenda with additional public comment instructions. 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."

Dr. Hunsaker then called for public comment. There was no oral public comment. Jennifer Pierce reported that a written public comment was received via email prior to the meeting and read the letter into the record as follows:

"April 10, 2024 Re: Public Comment to the Advisory Committee on Fitting and Dispensing Hearing Aids Meeting. Dear Members of the Advisory Committee on Fitting and Dispensing Hearing Aids, Thank you for the opportunity to make a public comment, and thank you for serving on the committee. My name is Tenaya Watson. I hold a Certificate of Clinical Competence in Speech Language Pathology from the American Speech Language and Hearing Association and Nevada state license to practice Speech Language Pathology serving as

a practicum supervisor and school based speech language pathologist for Clark County School District. I also serve as the President of Nevada Speech-Language Hearing Association (NSHA). I am here to represent NSHA members' concerns surrounding proposed regulations regarding unlicensed audiology assistants. Although this evening's agenda does not include NAC 637B.0442, NSHA members believe bringing concerns to you now and asking for clarification would be beneficial to the Advisory Committee and the Nevada Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board prior to the meeting on April 24, 2024 when LCB File R108-23 will be discussed. NSHA members are seeking further clarification and attention to the NRS stating who can conduct the infant screening, added regulation made by the workgroup and LCB located on page 10, Section 4 (h). According to the Division of Public and Behavioral Health Bureau of Child, Family, and Community Wellness Early Hearing Detection and Intervention (EHDI) Guidelines, all babies born in Nevada are offered a newborn hearing screening at birth prior to discharge from hospital care. This hearing screening is free of charge to caregivers. If screening is not passed, then an out-patient rescreen is recommended at the hospital. According to EHDI Guidelines, babies should have a diagnostic hearing evaluation by a licensed, pediatric audiologist if not passed. Additionally, Nevada Revised Statute CHAPTER 442 - MATERNAL AND CHILD HEALTH, specifically NRS 442.530 "Provider of hearing screenings" defined "Provider of hearing screenings" means a health care provider who, within the scope of his or her license or certificate, provides for hearing screenings of newborn children in accordance with NRS 442.500 to 442.590, inclusive. The term includes a licensed audiologist, a licensed physician or an appropriately supervised person who has documentation that demonstrates to the State Board of Health that he or she has completed training specifically for conducting hearing screenings of newborn children. NSHA's questions are as follows: How is the proposed regulation following Nevada's EHDI guidelines? How does the allowance of an unlicensed audiology assistant to perform a newborn universal screener align with the NV EHDI guidelines? How is the proposed regulation aligned with NRS 442.530? Thank you for the opportunity this evening to bring these concerns forward so the committee may have an opportunity to review the proposed regulations prior to the meeting on April 24, 2024. We are happy to provide any additional information and look forward to hearing how we can continue to advocate for these areas. We appreciate the consideration. Sincerely, Tenaya Watson M.Ed., CCC-SLP NSHA President"

Approval of the Minutes: Meeting of the Advisory Committee on Fitting and Dispensing Hearing Aids of January 16, 2024 with Clarification on Recommendations Made for Revisions to NRS 637B and NAC 637B Regarding HAS License Requirements

Timothy Hunsaker introduced this item and asked Ms. Pierce to summarize the issue regarding clarifying the minutes. Ms. Pierce explained that on page 2 of the minutes, regarding agenda item "a. Review and Recommendation to the Board on Possible NRS and/or NAC Revisions", the Committee had discussed and recommended maintaining the requirement that an Apprentice complete a minimum of 2 years on-site training, and that if the NBC-HIS requirement is removed in the 2025 BDR, NAC 637B should be revised to require that a Standard HAS applicant holding an out-of-state license must hold at least one year of experience. In the minutes as written, this is described as "to require 1 year of dispensing experience for a Standard HAS applicant who is licensed or has prior training/experience in another state." Ms. Pierce explained that after re-reviewing the meeting recording, the minutes should correctly reflect the intention that this experience be independent practice experience, not supervised training prior to obtaining a Standard HAS license. Ms. Pierce recommended that the minutes be corrected to add the words "licensed independent" as follows: "to require 1 year of licensed independent dispensing experience for a Standard HAS applicant who is licensed or has prior training/experience in another state." Timothy Hunsaker called for a motion. Melissa Maestas made a motion to approve the minutes with the recommended correction. Jennifer Joy-Cornejo seconded the motion. The motion passed unanimously.

Review and Recommendation to the Board on Revisions to NRS 637B Related to Board Action to Pursue Repeal of NRS 637B.205 Requiring Dispensing Examinations and License Endorsement for an Audiologist to Fit and Dispense Hearing Aids

Ms. Pierce explained that as a result of the Board's action to pursue repeal of NRS 637B.205 which would eliminate examination and endorsement requirement for an Audiologist to fit and dispense hearing aids, the following eight (8) sections of NRS 637B were identified for revision, specifically to remove references to the words "dispensing" audiologist or "endorsement": NRS 637B.050 "Practice of audiology" defined; NRS 637B.075 Sponsor defined; NRS 637B.100 Creation; number, appointment and qualifications of members; terms; vacancies; NRS 637B.175 Fees; NRS 637B.191 Regulations concerning examinations for, period of validity of, renewal and reinstatement of licenses; placement of license on inactive status; NRS 637B.236 Apprentices: Supervision of and responsibility for work; selection of hearing aid; signing of audiogram or sales document; NRS 637B.242 Sale of hearing aids by catalog, mail or Internet: Conditions; records; regulations; and NRS 637B.243 Audiograms for use of physician or member of related profession. All eight (8) sections were presented as a set for a recommendation to revise. Timothy Hunsaker called for a motion. Lynee Anderson made a motion to recommend the Board approve the revisions as presented. Melissa Maestas seconded the motion. The motion passed unanimously.

Review and Recommendation to the Board on Revisions to NRS 637B Definitions, and NRS 637B.055 "Practice of fitting and dispensing hearing aids defined" to Include "Ordering the Use of" Language, Cerumen Management, and Tinnitus Care

Ms. Pierce explained that this item contained sections for consideration that would be taken separately.

NRS 637B.044 "Hearing aid" defined and NRS 637B.NEW "Over-the-counter hearing aid" defined.

Ms. Pierce summarized that following the FDA Final Rule on Over-the-Counter hearing aids and related NRS revisions already identified, this definition was identified for review, as well as a proposed new definition to add for "over-the-counter hearing aids". The current NRS hearing aid definition and sample definitions from the FDA, the Code of Federal Regulations (CFR), and North Carolina were presented for the Committee's consideration, and after some discussion the Committee came to consensus that the current definition should be retained but members liked the idea of adding the CFR definition. Timothy Hunsaker called for a motion. Jennifer Joy-Cornejo made a motion to recommend that the Board retain the current NRS definition of a hearing aid with the addition of the CFR definition and add the new over-the-counter hearing aid definition to the planned NRS revisions. Melissa Maestas seconded the motion. The motion passed unanimously.

NRS 637B.055 "Practice of fitting and dispensing hearing aids" defined. (for possible action)

Ms. Pierce explained that this section of NRS has been under review since 2021 with recommendations made for three separate revisions. Ms. Pierce directed the Committee to the most recently proposed revised version, reviewed by the Board at its January 2024 meeting, where concerns were raised specific to the addition of cerumen management and the matter was sent back to the Committee for further deliberation and recommendation. Ms. Pierce recommended that each revised section be discussed and considered for action separately.

"Ordering the Use of" Added to "fitting and dispensing hearing aids"

Ms. Pierce summarized that guidance from the FDA and IHS on the FDA Final Rule on Over-the-Counter Hearing Aids indicated that it did not necessitate a change to state laws & regulations to address "prescribing" traditional hearing aids, however IHS has recommended that states add this "ordering the use of" language to clarify scope of practice. Timothy Hunsaker called for a motion. Nanci Campbell made a motion to recommend that the Board include the revision with "ordering the use of" in the planned BDR. Melissa Maestas seconded the motion. The motion passed unanimously.

Cerumen Management & Definition

Ms. Pierce explained that cerumen management is not addressed as allowed or prohibited for Hearing Aid Specialists in NRS 637B or NAC 637B and questions have been raised on this matter through requests for guidance and complaint cases. There is also no reference in the NRS definitions of a Hearing Aid Specialist (NRS 637B.045) or the Practice of Fitting and Dispensing Hearing Aids (NRS 637B.055), though it is specifically included in the Practice of Audiology (NRS 637B.050).

Ms. Pierce directed the Committee to research indicating that the IHS Position Statement on the Practice of Hearing Aid Dispensing includes “administering cerumen management in the course of examining ears, taking ear impressions and/or fitting of hearing aids” in its scope of practice for Hearing Aid Specialists. Nationally, four states currently address cerumen management in laws and regulations (North Carolina, South Dakota, Tennessee, & Wisconsin), with a fifth state in progress (Nebraska). The Committee discussed the matter at length, citing a need to ensure the safety of the public while recognizing the practice as generally accepted and happening regularly as part of the HAS scope of work. Members discussed that practitioners would need to determine their readiness and ability to engage in the practice based on their experience and training. Concerns were noted around the potential risk of harm to patients should these procedures not be done correctly. It was also suggested that prohibiting the practice could exacerbate current healthcare access issues in many communities, should a patient have to be referred out to a physician or urgent care for treatment, with discussion around the level of training provided to medical assistants and others who provide treatment in urgent care and similar settings. Ms. Pierce agreed to conduct follow up research to determine if there are specific training courses on the topic and whether any states specifically prohibit the practice. The Committee discussed the thorough guidelines included in Tennessee regulation, and consensus was that cerumen management should be considered within the scope of practice but if allowed, prescribed guidelines like the example should be included with consideration to also address required training. Timothy Hunsaker called for a motion. Melissa Maestas made a motion to recommend that the Board consider adopting rules and regulations to allow cerumen management and consider the Tennessee example with a requirement for training included. Nanci Campbell seconded the motion. The motion passed, but not unanimously as Jennifer Joy-Cornejo voted against.

Tinnitus Care & Definition

Ms. Pierce explained that the Committee previously recommended adding this revision, but the matter was sent back by the Board for further consideration regarding the cerumen management section previously addressed. Tinnitus care is included in the IHS Scope of Practice for Hearing Aid Specialists and IHS offers a Tinnitus Care Provider Certificate that may be earned following a three-day training workshop culminating in an exam. Nationally, North Carolina is the only state that currently addresses tinnitus care in rules and regulations. Ms. Pierce also suggested that a new definition for tinnitus care be included in any recommendation the Committee makes to include this revision. The Committee discussed the matter and Melissa Maestas shared her experience with completing the IHS course. Timothy Hunsaker called for a motion. Jennifer Joy-Cornejo made a motion to recommend that the Board include the revision to include tinnitus care in the scope of practice with verbiage that includes a requirement for a practitioner to have completed “a Board-approved certification or course in tinnitus care”, as well as a new definition for tinnitus care. Nanci Campbell seconded the motion. The motion passed unanimously.

Review and Recommendation to the Board on Possible Revisions to Examination Requirements in NRS 637B and NAC 637B for HAS License to Engage in the Practice of Fitting and Dispensing Hearing Aids

Ms. Pierce summarized that following the discussions on HAS training and licensing requirements at the January 2024 Committee and Board meetings, the Board office received a request from IHS for the Board to consider waiving both the written and practical dispensing examinations for an applicant holding current NBC-HIS

certification. IHS suggests that since NBC-HIS certification includes an exam demonstrating skills and knowledge, a person who has passed that exam and is maintaining board certification should be able to move from one state, where licensed, to another without taking the entry licensure exam. Florida's HAS license requirements were cited as an example, though Florida does not require a practical examination. Ms. Pierce further summarized that 40 states currently require a HAS applicant to pass both a written and practical examination, and 9 states require only a written examination. Many states indicate some level of reciprocity granted, but the number of states that fully waive examination requirements for those holding NBC-HIS certification and/or out-of-state licensure is unknown. Ms. Pierce also explained that in addition to a waiver for NBC-HIS certification, the Committee might also consider whether to recommend a waiver for either exam when an applicant has passed the same IHS version of either exam in another state. Currently, NAC 637B allows the Board to accept a passing score within the past 12 months on the Written ILE exam, and this has been identified to extend to 24 months in the Board's current revision in LCB File R108-23 scheduled for a public hearing later this month. There was much discussion with the general consensus being that it seemed reasonable to consider accepting a score on the same or a "substantially equivalent" exam from an applicant holding an out-of-state license in good standing, and to consider accepting current NBC-HIS certification in lieu of the Written ILE exam. The matter was tabled, and the Committee asked Ms. Pierce to draft possible NRS and NAC revisions to better visualize the changes and further consider recommendations at the next meeting. No action was taken.

Reports from Committee Chair and Members

Jennifer Pierce reported that the contract with IHS for the new revised dispensing examination has been approved and she will be working with IHS and reaching out to exam proctors regarding availability for a training session. The next meeting was confirmed for Wednesday, July 17, 2024 at 4:30pm.

Public Comment

Timothy Hunsaker called for public comment. There was no public comment.

Adjournment

Timothy Hunsaker adjourned the meeting at 6:05pm.