



October 20-21, 2011
Department of Consumer Affairs
2005 Evergreen Street
"Hearing Room"
Sacramento, CA

MINUTES

Board Members Present

Lisa O'Connor, Chairperson
Alison Grimes, Au.D., Vice Chairperson
Sandra Danz, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Robert Green, Au.D.
Rodney Diaz, M.D.
Carol Murphy, M.A.
Jaime Lee, Esq.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Spencer Walker, Legal Counsel
Breanne Humphreys, Staff
Michelle Mason, Staff

Board Members Absent

Monty Martin, M.A.

Guests Present

Dennis Van Vliet, Audiologist
Cynthia Peffers, HHP CA
Robert Powell, CSHA
Bill Barnaby, Sr., CSHA
Tricia Hunter, HHP CA
Gloria Peterson, HHP CA
Marcia Raggio, CSHA, SFSU
Bill Barnaby Jr., CSHA

I. Call to Order

Chairperson O'Connor called the meeting to order at 4:00 p.m.

II. Introductions

Those in attendance introduced themselves.

III. Approval of Meeting Minutes July 15, 2011 Speech-Language Pathology Practice Committee & Full Board Meeting Minutes

The Board discussed minor edits to the meeting minutes of the July 15, 2011 Speech-Language Pathology Practice Committee and full Board meeting minutes.

M/S/C: Grimes/Green

The Board voted to approve the meeting minutes as amended.

IV. Executive Officer's Report

A. Budget Update

Ms. Del Mugnaio reviewed the expenditure reports with the Board for both the Speech-Language Pathology and Audiology budget and the Hearing Aid Dispensers budget as of Month 03, ending on September 30, 2011. Ms. Del Mugnaio reported that there is not much activity reported on the current year expenditures as many of the expenses have not been processed through accounting and, therefore, the early year reporting is fairly inactive. She reported that due to the passage of Senate Bill 933, which is included as an item for discussion under "Legislation," the funds of the Speech-Language Pathology and Audiology account and the Hearing Aid Dispensers account will be merged into one funding source.

B. Status of Proposed Regulations

1. Consumer Protection Enforcement Initiative (California Code of Regulations 1399.150.3, 1399.151, 1399.156, & 1399.156.5)

Ms. Del Mugnaio reported that the notice package for the regulations was filed with the Office of Administrative Law (OAL) on June 14, 2011 and that no hearing is scheduled for the proposed regulations. Ms. Del Mugnaio reported that the public comment period closed on August 8, 2011, and one comment in support of the proposal was received by the Center for Public Interest Law, San Diego. She stated that she is in the process of preparing the final rulemaking documents to submit the complete package to OAL.

2. Dispensing Audiologists Renewal Fee/Continuing Professional Development Amendments (California Code of Regulations Sections -1399.157, 1399.160.3-1399.160.6) – Discussion of Course Approval Process

Ms. Del Mugnaio reported that the proposed regulations for dispensing audiologists that are currently in effect as emergency provisions were filed with the Office of Administrative law OAL on June 14, 2011 and that no public hearing for the proposed regulations was scheduled. Ms. Del Mugnaio stated that the forty-five (45) day public comment period ended on August 8, 2011, and no comments in opposition were received. She stated that the final rulemaking file was transmitted to the Department of Consumer Affairs for review on October 3, 2011. The Department has thirty (30) days to review the file. Once approved by the Department, the complete rulemaking file will be sent to the OAL, where OAL has thirty (30) days to review the file and approve or disapprove the proposed regulations.

3. Continuing Education Requirements for Licensed Hearing Aid Dispensers- California Code of Regulation Section 1399.140-1399.143

Ms. Del Mugnaio stated that the proposal to modify the Hearing Aid Dispensers continuing education program was approved at the May 19-20, 2011 Board meeting. The notice and the proposed language will be posted on the Board's website for public input. The regulations have already been vetted with the Hearing Health Care Providers.

C. Administrative Updates: Occupational Analysis for Hearing Aid Dispensers Examination, BreEze, Personnel Changes, Strategic Planning, Executive Orders

Ms. Humphreys provided the administrative update as follows:

- Occupational Analysis of the Hearing Aid Dispensers Examinations: Conducted two workshops. Trying to recruit more dispensing audiologists to have a balanced number of subject matter experts (SMEs) of dispensing audiologists and hearing aid dispensers.
- Hearing Aid Dispensing Practical Examination: Fifty-five (55) candidates registered to take the November 5, 2011 examination in Sacramento.
- New Practical Examination Training for SMEs: Eight (8) SMEs will be trained on October 29, 2011.
- Update on BreEze Project: The Board is included in the 2nd Phase of the project and is scheduled to be onboard with the web-based data system as of February 2013.
- Board's Enforcement Analyst: Announced that Patty Rodriguez started on July 18, 2011.
- Board's new second Licensing Analyst position: Christy Small has been promoted to this position; however, the Board must back-fill Christy's position as the Administrative Assistant before she can transfer to her new assignment. It may take time to fill the vacancy, as the state hiring freeze is still in effect.
- Strategic Planning session: The Board is scheduled to participate in this on January 12, 2012, which will be facilitated by the DCA. Board members have been asked to complete an Environmental Scan in preparation for the planning session.
- Website Merge: The website information for speech-language pathologists, audiologists, and hearing aid dispensers will be merged into one site, with tabs specific to each profession. The website is being revamped to make access to applicant, licensing, enforcement, and consumer-related information easy to navigate.

Ms. Humphreys requested the Board review the proposed Board Mission and Vision statements. The Board made minor changes to the statements.

M/S/C: Grimes/Manning

The Board adopted the proposed Board Mission and Vision statements as amended and delegated to the staff to post the statements on the Board's website.

The Board meeting was adjourned at 4:25 p.m. to be continued on October 21, 2011.

V. Call to Order

Chairperson O'Connor reconvened the full Board meeting on October 21, 2011 at 9:10 a.m.

VI. Introductions

Those in attendance introduced themselves.

Items on the agenda were taken out of order:

VII. Hearing on Petition for Early Termination of Probation- Kellie Henkel, SP 15547

The Hearing on the Petition for Early Termination of Probation for Kellie Henkel was presided over by Administrative Law Judge Rebecca Westmore. Deputy Attorney General John-Pierre Francillette represented the State.

VIII. Closed Session (pursuant to Government Code Section 11126 Subsection (c)(3)- Proposed Decisions/Stipulations/ Other APA Enforcement Actions To Deliberate Petition for Early Termination of Probation and Other Disciplinary Matters

The Board adjourned into closed session at 11:42 am.

The Board reconvened in open session at 12:00 p.m.

IX. Practice Committee Report

A. Hearing Aid Dispensers Committee Report and Recommendations for Proposed Advertising Regulations, Internet Sale of Hearing Aids & Proposed Regulatory Provisions for Song-Beverly Consumer Warranty Act

Ms. Del Mugnaio provided the report of the Hearing Aid Dispensers Committee in Chairperson Manning's absence (included under the Hearing Aid Dispensers Committee Meeting Minutes). She stated that the following recommendations were made by the Committee:

- Seek public input (consumer and licensee) on proposed amendments to the Advertising Regulations for Hearing Aid Dispensers.
- Send letters of education to companies doing business via the Internet regarding current laws and regulations governing the sale of hearing aids in California through the Internet.
- Amend proposed legislative and regulatory changes for the Song-Beverly Consumer Warranty Act as identified and send forward to Tricia Hunter for assistance in seeking a legislative author.

M/S/C: Grimes/Green

B. Audiology Practice Committee Report and Recommendations for Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations

Ms. Grimes provided an overview of the issues discussed at the Audiology Practice Committee meeting regarding the regulatory amendments for the audiology aide supervision standards and practice limitations (included under the Audiology Practice Committee Meeting Minutes).

M/S/C: Green/Danz

The Board voted to adopt the recommendation of the Committee.

X. Review Proposed Amendments to the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines for Speech-Language Pathologists, Audiologists & Hearing Aid Dispensers (California Code of Regulations 1399.131& 1399.155)

Ms. Del Mugnaio provided background regarding the development of the uniform standards, including the history of the enactment of Senate Bill 1441 as previously discussed with the Board. She explained that many of the standards apply to diversion programs; however, the probationary terms for substance-abusing licensees must be amended into the Board's Disciplinary Guidelines (DGs) in order for these provisions to be included in disciplinary order and stipulated settlements.

Ms. Del Mugnaio explained that the proposed standards are prescriptive and leave no discretion to the Board in negotiating appropriate settlements. She stated that the provisions of SB 1441 direct the Board to adopt the uniform standards. Ms. Del Mugnaio outlined the most significant changes:

- Suspension of the license of a substance-abusing licensee pending the outcome of a diagnostic evaluation.
- Drug testing frequency.

Ms. Del Mugnaio referenced the terms in the uniform standards that require the Board to adhere to specific administrative procedures for drug testing and arranging clinical diagnostic evaluations.

Ms. Del Mugnaio inquired of legal counsel whether removing the administrative procedures in the DGs would pose an issue for the Board in enforcing the uniform standards.

Mr. Walker indicated that the policies regarding how the Board conducts the drug testing is procedural and does not impact the Board's authority to impose certain terms on a subject licensee. Mr. Walker stated that the uniform standards as adopted are prescriptive and not discretionary.

Ms. Tricia Hunter addressed the Board and stated that the Board of Registered Nursing is not adopting the uniform standards because the standards lack due process, especially where the standards require the automatic licensure suspension pending the clinical diagnostic evaluation. She commented that the standards leave no discretion for the Board to consider the mitigating facts of individual cases. Ms. Hunter explained how the BRN diversion program functions and indicated that licensees often volunteer to enter a diversion program in order to rehabilitate.

The Board requested that Ms. Del Mugnaio invite an expert on substance abuse treatment and monitoring to address the Board and explain how the uniform standards serve to rehabilitate substance abusing licensees.

Ms. Del Mugnaio stated that she would email the Board members the working documents from the Substance Abuse Coordination Committee, as the background documents may provide some insight into the development of the uniform standards.

XI. Discussion Regarding Licensing Procedures – Document and Equivalency Verification, Internal Policies, and Opportunities for Electronic Document Submission

Ms. Del Mugnaio referenced an email to Robert Powell of the California Speech-Language-Hearing Association (CSHA) outlining the internal processing timelines for applications and supporting documents and the issues with delays in issuing licenses. She stated that a number of proposed solutions, which are also included in the email, have been identified by Board staff.

Existing Issues

Licensees are not notified of file deficiencies until 8 weeks from the application received date and then are waiting another 2+ weeks for processing.

- Mail receipt issues: Applicants claim to have mailed items to the Board that are not received.

- Delays in issuing an RPE's permanent license: May occur if the final verification form is submitted near expiration of the RPE temporary license.
- Significant delays in receiving fingerprint clearance from the Department of Justice: May occur due to illegible prints.

Solutions

- Recruit another full-time licensing analyst; to begin October 2011.
- Begin using prompt email notification to confirm receipt of submitted documents.
- Process Verification Forms Upon Receipt (no 8-week processing timeframe).
- Propose changes to entry-level requirements; legislative/regulatory.

Robert Powell addressed the Board and expressed his appreciation to Board staff for recognizing the delays and developing probable solutions. He stated that his hope, as the Board moves toward on-line application processing, is that some of the redundant steps involved in credential verification may be omitted and current application forms may be simplified. Mr. Powell commented on the application process for out-of-state applicants who possess the Certificate of Clinical Competence (CCC) from the American Speech-Language-Hearing Association (ASHA). He stated that the applicants are occasionally denied a state license due to an examination requirement. Mr. Powell stated that applicants must take and pass the same national examination for the CCC as is required for state licensure.

Ms. Del Mugnaio replied that the denial is typically based on the age of the examination scores and the fact the applicant has not been practicing in the field for a number of years prior to applying for a California license.

Chairperson O'Connor addressed the issuance of the CCC through the ASHA Quadrilateral Recognition Agreement and stated that the Board does not recognize the CCC for internationally trained applicants through the Agreement.

Mr. Powell stated that CSHA is working with ASHA to provide the verification of the CCC via electronic transmission to the Board. He again thanked the Board for working with CSHA to address the internal processing issues and is pleased that the new BreEze program will result in greater efficiencies.

XII. Legislation

Ms. Del Mugnaio reviewed the following bills with the Board:

A. SB 933 - Runner - Merger of the Speech-Language Pathologist and Audiologist/Hearing Aid Dispensers Practice Act(s)

- Merger of the practice acts of speech-language pathologists, audiologists, and hearing aid dispensers and merges the two existing funds.
- The Board initiated the bill as a clean-up measure; letters of support have been forwarded.
- The bill was signed by the Governor and will take effect on January 1, 2012.

B. SB 541- Price- Regulatory Boards: Expert Consultants

- SB 541 would enable boards and bureaus to utilize expert consultants under a simplified and expedited contract process.

- The bill was signed by the Governor and is an urgency measure so it takes effect immediately.

C. AB 415- Logue - Healing arts: Telehealth

- Establishes the Telehealth Advancement Act of 2011 to revise and update existing law to facilitate the advancement of telehealth as a service delivery mode in managed care and the Medi-Cal Program.
- The bill was signed by the Governor and will take effect on January 1, 2012.

D. Assembly Bill 136- Beall – Telecommunications: Universal Service: Speech Disabilities

- AB 136 – Beall- would Require the PUC to expand the deaf and disabled program to include assistance to individuals with speech disabilities that impair access to and use of the telephone network and ensure funding for speech-generating devices, accessories, and mounting systems and specialized telecommunications equipment, including infrared telephones, speaker phones, and telephone interface devices; evaluate options for controlling the program costs of providing speech-generating devices as part of an existing report to the Legislature; ensure that eligibility for speech-generating devices is limited to state residents who are certified as speech-impaired by a licensed physician, licensed speech-language pathologist, or qualified state or federal agency; provide appropriate speech-generating equipment consistent with the recommendation of a licensed speech-language pathologist and with the economy, efficiency, and quality of equipment available for purchase in the state; be the provider of last resort and limit device costs to the Medi-Cal rate.
- The bill was signed by the Governor and requires the PUC to adopt regulations to implement the bill by January 1, 2014.
- CSHA supported the bill.

E. Other Legislation of Interest to the Board

No further legislation was discussed under this item.

XIII. Licensing / Enforcement/Examination Statistical Data/ Enforcement Program Update

The Board reviewed the statistical data as provided by staff.

Ms. Humphreys provided an overview of the statistical data.

The Board requested that enforcement data for support personnel be extracted and reported under separate headings.

XIV. Public Comment on Items Not on the Agenda/Future Agenda Items

There were no public comments.

Ms. Murphy requested the following items be included on the January meeting agenda:

- Speech-Language Pathology Assistant Supervisor Qualifications

- English Language Competency Standards for Internationally Trained Applicants

Ms. Del Mugnaio stated that the new Educational Testing Service Praxis Examination in Audiology will be a topic on the next meeting agenda, as the nationally recognized passing score has changed.

XV. Announcements - Future 2011 Board Meetings January 12-13, 2012, April 19-20, 2012, July 19-20, 2012, October 18-19, 2012 (Locations TBD)

The Board reviewed the meeting calendar and confirmed the dates.

XVI. Adjournment

Chairperson O'Connor adjourned the meeting at 12:32 p.m.