



FULL BOARD MEETING MINUTES

January 13, 2012

Department of Consumer Affairs
2005 Evergreen Street
"Hearing Room"
Sacramento, CA

Board Members Present

Lisa O'Connor, Chairperson
Alison Grimes, Au.D., Vice Chairperson
Sandra Danz, Hearing Aid Dispenser
Deane Manning, Hearing Aid Dispenser
Monty Martin, M.A.
Carol Murphy, M.A.

Staff Present

Annemarie Del Mugnaio, Executive Officer
Claire Yazigi, Legal Counsel
Breanne Humphreys, Staff
Ily Mason, Staff
Yvonne Crawford, Staff

Board Member Absent

Jaime Lee, Esq.

Guests Present

Cynthia Peffers, HHP CA
Tricia Hunter, HHP CA
Rebecca Bingea, UCSF
Marcia Raggio, CSHA, SFSU
Patti Solomon-Rice, CSHA
Bill Barnaby, CSHA
Randy Sagar, HHP
Cynthia Dines, DCA Budget Office
Wilbert Rumbaoa, DCA Budget Office
Stephanie Nunez, Respiratory Care Board
Kate McKeen, IELTS

I. Call to Order

Chairperson O'Connor called the meeting to order at 10:45 a.m.

II. Introductions

Those present introduced themselves.

III. Approval of Hearing Aid Dispensers Committee, Audiology Practice Committee, & Full Board Meeting Minutes of October 20-21, 2011.

The Board discussed minor edits to the meeting minutes of the October 20-21, 2011 Hearing Aid Dispensers Committee and Audiology Practice Committee, and full Board meeting minutes.

M/S/C: Grimes/Danz

The Board voted to approve the meeting minutes as amended.

IV. Election of Officers & Board Member Appointments to Committees

M/S/C: Grimes/Murphy

The Board voted to postpone the election of officers to the Board until a future meeting due to the vacant audiology professional member seat on the Board.

Chairperson O'Connor appointed Board member Jaime Lee to the Audiology Practice Committee and the Sunset Review Committee.

Chairperson O'Connor appointed Board member Sandra Danz to the Sunset Review Committee.

Ms. Del Mugnaio announced that the current members of the Sunset Review Committee include Board members: Alison Grimes, Carol Murphy, Jaime Lee, and Sandra Danz.

V. Consideration of English Language Competency as a Prerequisite to Licensure and Review of the International English Language Testing System (IELTS)- *Presentation by Kate McKeen, Recognition Manager, IELTS*

Ms. Del Mugnaio provided the history on the Board's research and efforts to identify an examination or measure of English language competency that may be enforced as an entry-level licensing standard for internationally trained applicants. She stated that the Board has determined that English-language competency is a consumer protection issue as a practitioner's ability to communicate effectively with their client has a direct impact on their ability to serve their client effectively. Ms. Del Mugnaio reported that Ms. Murphy has been leading the research on the issue and began communicating with representatives from the International English Language Testing System (IELTS) regarding the administration of their English-language competency examinations and processes.

Kate McKeen of IELTS provided an extensive overview of the components, administration, scoring, and statistical data of the IELTS examination.

The Board inquired about the standard setting process for the IELTS examination and whether the IELTS would be able to assist the Board in conducting a standard setting study.

Ms. McKeen agreed to work with Ms. Del Mugnaio and Ms. Murphy on discussing standard setting study opportunities and Ms. McKeen agreed to research the information on the IELTS standard setting and provide it to the Board.

Ms. Del Mugnaio stated that she would also begin working with the Department's Office of Professional Examination Services (OPES) on organizing a study group and requesting that OPES facilitate the process for the Board.

VI. Executive Officer's Report **A. Budget Update**

Ms. Del Mugnaio reviewed the expenditure reports for the Board for both the Speech-Language Pathology and Audiology budget and the Hearing Aid Dispensers budget as of Month 05, ending on November 30, 2011. Ms. Del Mugnaio reported that due to the passage of Senate Bill 933, the funds of the Speech-Language Pathology and Audiology account and the Hearing Aid Dispensers account were merged into one funding source effective January 1, 2012.

Ms. Del Mugnaio introduced Cynthia Dines of the Department's Budget Office, to explain how the budgeting process and funding source will be handled for the Board as a result of the mid-year merger of fiscal resources.

Ms. Dines provided an overview of the fund merger and how the Department of Finance (DOF) has determined the appropriation and documentation of the two program's budgets. She explained that beginning July 1, 2012, the appropriation of the Board will be consolidated into one fund and one budget.

B. Status of Proposed Regulations

Ms. Del Mugnaio provided a written report regarding the status of the following regulations:

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

The regulations will expand the Board's enforcement authority to: delegate to the Executive Officer to accept default decisions and approve settlement agreements for revocation, surrender, or interim suspension orders of a license, compel applicants to undergo a mental/physical examination if there is suspected mental illness; deny or revoke a license for committing an act of sexual abuse or misconduct; prohibit licensees from entering into settlements including gag clauses; take disciplinary action against a licensee for failing to provide the Board lawfully requested documents or information, including reporting felony convictions, arrests, or misdemeanors, or disciplinary action taken by another licensing entity. The proposed regulations include the authority for the Board to deny an application or revoke a license of a registered sex offender. The regulations were initially filed with the Office of Administrative Law (OAL) on June 14, 2011. No public hearing was scheduled or requested. 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. The final rulemaking file is being prepared for submission to OAL.

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

Established the renewal fees and CPD requirements for dispensing audiologists. Emergency regulations have been in effect since March 1, 2011. Final regulations were approved by OAL on December 28, 2011 and will remain in effect unless later amended.

3. Continuing Education (CE) Requirements for Licensed Hearing Aid Dispensers- California Code of Regulations Sections 1399.140-1399.143

Proposed amendments to the CE changes for hearing aid dispensers to include: A minimum of twelve (12) hours of CE due annually, with no grace period; no more than three (3) hours may be applied as self-study courses; a licensee must maintain CE records evidencing course completion for a period of three years following the license renewal date; and, restrictions on courses where the content focuses on personal finance and business matters, marketing and sales, and office operations that are not for the benefit of the consumer. The notice package has been prepared and is being filed with OAL.

4. Cleanup Regulations: Merger of Hearing Aid Provisions with Speech-Language Pathology & Audiology

Senate Bill 933 merged the Practice Acts of Speech-Language Pathologist and Audiologist B&P Chapter 5.3 (Sections 2530 et.seq.) and the Hearing Aid Dispensers Chapter 7.5 (Sections 3300 et.seq.) pursuant to the merger of the two oversight bodies under AB 1535. The Department's Legal Office has assisted the Board with making the necessary amendments to regulations CCR 1399.100- 1399.144 (currently the regulatory provisions for HADs) to merge the provisions to CCR Division 13.4 (where the provisions reside for SLP/AU) and change the enabling statutory references pursuant to the amendments in SB 933.

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

Ms. Humphreys provided an overview of the following Administrative Updates:

- The Board will be added to the new BreEze program as of February 2013. Ms. Humphreys is working with the Department's Project Team on transition issues.
- The Board is currently recruiting to fill the vacancy of the Office Technician position.
- Announcement of the new: Director of the Department, Denise Brown; Deputy Director of the Department, Awet Kidane; and Deputy of Director of Board Relations, Reichel Everhart

Randy Sagar addressed the Board and announced that he is working with the Department's OPES on the Hearing Aid Dispensers' Occupational Analysis study. He stated that the practice analysis survey document has been prepared and will be sent to all dispensing practitioners within the next few weeks. Mr. Sagar stated that the survey will be web-based and has been considerably condensed from previous practice analysis surveys.

Ms. Del Mugnaio stated that the Board is granting two hours of continuing professional development credit for completing the entire survey.

VI. Practice Committee Reports-

A. Hearing Aid Dispensers Committee Report and Recommendations for Advertising Regulations & Internet Sale of Hearing Aids

Chairperson Manning provided the report of the Hearing Aid Dispensers Committee (included under the Hearing Aid Dispensers Committee Meeting Minutes). He stated that the following report and recommendations were made by the Committee:

- Report on the Board's activity regarding seeking public input on regulation amendments to the current advertising provisions for hearing aids.
- Direct to Claire Yazigi, Legal Counsel, to prepare an exemption letter to the Federal Drug Administration (FDA) requesting an exemption to the FDA rules regarding the sale of hearing aids over the Internet.
- Direct to Claire Yazigi, Legal Counsel, to draft a letter to send to other states' licensing boards inquiring about their efforts to regulate the internet sales of hearing aids and to share California's efforts regarding the same.

M/S/C: Manning/Grimes

The Board voted to adopt the recommendation of the Committee.

Ms. Grimes requested that Board staff post a survey on the Board’s website soliciting input from consumers and licensees to provide their opinion on the issue of regulating internet sales of hearing aids.

B. Speech-Language Pathology Practice Committee Report and Recommendations for Proposed Regulatory Amendments for Speech-Language Pathology Supervision and Training Program Standards

Chairperson Murphy provided the report of the Speech-Language Pathology Practice Committee and stated that the Committee has recommended the Board adopt the proposed regulations amending the SLPA regulations in California Code of Regulations Sections 1399.170, 1399.170.6, 1399.170.10, 1399.170.11, and 1399.170.15.

M/S/C: Murphy/Grimes

The Board voted to adopt the recommendation of the Committee.

VII. 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 Sections 1399.131 & 1399.155)

Ms. Del Mugnaio referenced the draft disciplinary guidelines document included in the meeting packets and explained that the Board reviewed the draft document at its October 21, 2011 Board meeting. She stated that during the October meeting discussion, the Board expressed their concern about the amendments related to the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as the Board did not feel as though they had the expertise to determine whether the imposed standards are appropriate for the licensing population regulated by the Board. Ms. Del Mugnaio stated that the Board requested her to 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 introduced Stephanie Nunez, Executive Officer of the Respiratory Care Board, and stated that she asked Ms. Nunez to share her research and experience with crafting regulations to amend their disciplinary guidelines and substance abuse standards.

Ms. Nunez addressed the Board and provided an overview of the disciplinary guidelines and substance abuse standards as adopted by the Respiratory Care Board. She stated that the regulatory amendments are currently under review by OAL. Ms. Nunez reported that the Respiratory Care Board has retained discretion as to when the substance abuse standards should be enforced, in terms of cease practice orders, and random drug testing frequency.

Ms. Yazigi commented and stated that there has been a legal opinion issued by the Legislative Counsel which concludes that the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees as adopted by the Department’s SB 1441 Substance Abuse Coordination Committee are to be implemented by boards and bureaus without modification, as such standards are mandatory.

She stated that the Board may choose to include proposed “trigger language” which would establish the criteria for when the standards should be applied to specific enforcement cases. Ms. Yazigi reviewed the proposed “trigger language” with the Board.

Ms. Del Mugnaio explained that the current draft disciplinary guidelines includes provisions for the manner in which the Board must administer the drug testing program and specifics regarding specimen collection. She stated that such provisions are not the responsibility of the respondent licensee or probationer and should probably be removed from the disciplinary guidelines.

The Board reviewed the proposed guidelines and requested Ms. Yazigi and Ms. Del Mugnaio to amend the disciplinary guidelines to include the proposed “trigger language” and remove the administrative provisions regarding the Board’s drug testing responsibilities.

Ms. Del Mugnaio agreed to provide the Board with the amended document to consider at the April Board meeting.

VIII. Discussion Regarding Changes to the National Examination in Audiology and Recommended Changes to Examination Passing Score

Ms. Del Mugnaio reported that the Educational Testing Service (ETS) notified all states that a revised national examination in audiology has been developed and has been put in circulation as of November 2011. She explained that the passing score for the national audiology examination has been changed based on the new examination format and scoring scale. Ms. Del Mugnaio explained that many states have the passing scores identified in their respective regulations and, therefore, the changes implemented by ETS drastically effects other states’ ability to acknowledge the new examination and passing score as a qualification for entry-level licensure. She stated that the Board does not reflect an actual minimum passing score in regulation, but rather provides for a passing score acceptable by the Board.

Vice Chairperson Grimes expressed her concern regarding the validation process for the new audiology examination as administered by ETS. She stated that it is difficult to assess how the new examination compares to the previous version and what actual changes have been made. Vice Chairperson Grimes commented that the only clear distinction is change to the scoring methodology. She requested that Ms. Del Mugnaio write to ETS to request an explanation of the changes including scoring information regarding the mean, standard deviation, scoring percentiles, and pass/fail statistics. Vice Chairperson Grimes further suggested that a statistician from the Department who is well versed in examination scoring methodology review the information provided by ETS.

Ms. Del Mugnaio agreed to request the information from ETS and report the findings to the Board.

IX. Develop Proposed Regulatory Amendments for Audiology Aide Supervision Standards and Practice Limitations (California Code of Regulations Sections 1399.154-1399.154.4)

Ms. Del Mugnaio referenced draft regulations crafted by her and Ms. Grimes that was based on input from professional experts, research of other states’ licensing provisions on audiology support personnel, national guidelines and position statements regarding the use of audiology assistants/aides, and the current provisions on supervision standards for speech-language pathology assistants.

Ms. Grimes stated that in the absence of another audiology professional member on the Board, she does not believe it is appropriate to move forward with adopting the draft regulations for audiology aides without input and consideration from another audiology professional member.

Ms. Grimes, in her capacity as the Chair of the Audiology Practice Committee, appointed Ms. Bingea to a workgroup with the charge of further refining the audiology aide supervision

standards and practice limitation regulations. Ms. Grimes stated that she and Ms. Bingea will work together to further develop the draft regulations.

X. Licensing / Enforcement/Examination Statistical Data

The Board reviewed the statistical data as provided by staff.

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

There were no further public comments.

Ms. Murphy requested that the issue of amending the supervisor qualifications for the Required Professional Experience (RPE) Temporary License holder to require that a qualified supervisor possess two-years of professional experience prior to assuming a supervisory role, be placed on the April agenda.

Chairperson O'Connor requested that the Board revisit the prospects of implementing a continued competency program for licensees to replace the current continuing education requirements and request a presentation from the Citizens Advocacy Center regarding the benefits of continued competency programs.

XII. Announcements - Future 2012 Board Meetings – April 19-20, 2012, July 19-20, 2012, October 18-19, 2012 (Locations TBD)

The Board reviewed the meeting calendar and confirmed the dates.

XIII. Adjournment

Chairperson O'Connor adjourned the meeting at 2:10 p.m.