



BOARD MEETING MINUTES
Radisson Hotel/S.F. Airport Bay Front
February 7, 2014
5000 Sierra Point Parkway
Brisbane, CA 94005
Room: MARINA 5
(916) 263-2666

Board Members Present

Alison Grimes, Chair, Dispensing Audiologist
Patti Solomon-Rice, Vice Chair, Speech-Language Pathologist
Amnon Shalev, Hearing Aid Dispenser
Marcia Raggio, Dispensing Audiologist
Dee Parker, Speech-Language Pathologist
Debbie Snow, Public Member
Jaime Lee, Public Member

Board Members Absent

Rodney Diaz, Otolaryngologist
Deane Manning, Hearing Aid Dispenser

Staff Present

Breanne Humphreys, Interim Executive Officer
Sabina Knight, Legal Counsel

Guests Present

Michael Valentine, Deputy Attorney General
David Benjamin, Office of Administrative Law
Linda Pippert, CSHA Treasurer
Michael Snow
Guadalupe Castillo, DCA – Division of Legislative & Policy Review
Randall Sager, HHP
Kim Craig, HHP

I. Call to Order

Chairperson Grimes called the meeting to order at 9:02 a.m.

II. Introductions

Those present introduced themselves.

III. Hearing on Petition for Reconsideration of Penalty Relief for Licensee – Mika Moore (Winkle)

David L. Benjamin, Office of Administrative Law Judge, convened the hearing. Ms. Moore represented herself. Michael Valentine is the Deputy Attorney General representing the people of the State of California.

Ms. Winkle was placed on seven (7) years probation effective May 8, 2010 for multiple acts of gross negligence and incompetence for her treatment of infants.

CLOSED SESSION

IV. The Board met in closed session pursuant to Government Code Section 11126(c) (3) to discuss and vote on this matter.

RETURN TO OPEN SESSION

V. Approval of Meeting Minutes

A. November 25, 2013 Telephonic Board Meeting Minutes

M/S/C Shalev/Lee

Minutes approved as written.

B. October 10-11, 2013 Board Meeting

M/S/C Solomon-Rice/Parker

Minutes approved with a minor edit.

VI. Executive Officer's Report

Budget Update - Ms. Humphreys explained that the budget projection for the close of this fiscal year ends with a \$320,000 surplus (a 17% savings: \$113k in Personnel Services and \$207,000 in Operating Expense and Equipment). The Governor's loan repayment schedule is still scheduled with the first payment of \$300,000 due by end of this fiscal year. The second payment of \$400,000 is due during FY 14/15 and the final payment of \$450,000 is due during FY 15/16.

Administrative Updates:

BreEZe

Ms. Humphreys reported that BreEZe launched Phase I October 2013. Phase II has not launched. Our Board is in the last phase, Phase III, which has an anticipated launch date for late fall of this year. She explained some of the benefits of BreEZe for applicants and licensees:

- Apply for or renew license

- Pay with a major credit card in a secure environment
- Track the status of an application or licensing request
- Submit address changes
- Obtain proof of renewal status

Personnel

Ms. Humphreys reported that the Board currently has two vacant positions: Executive Officer (EO) and Special Investigator.

The search committee is actively recruiting for the EO position. The Special Investigator position has been vacant for a year. This position has been under review by the Department of Personnel Administration. The Special Investigator handles the Board's probation monitoring and outside investigations. Ms. Humphreys reported that she currently is handling the Board's probation monitoring and DOI is conducting the investigations. Due to the continued backlog in enforcement cases, she recommends reducing this position to an inside enforcement analyst, giving the Board three (3) enforcement analysts positions and contracting with DOI for the Board's investigations. She commented that the new executive officer should make this decision because once the position is reduced, the Board would not be able to upgrade it back to a special investigator position.

She also reported that the Board's office technician is currently out on paternity leave and is due back at the end of February. A licensing analyst's spouse had major surgery and she has been out caring for him and is now working half days.

Ms. Humphreys explained that these absences are greatly impacting the Board's standard level of customer service. The Board's general email address receives on average 40 daily emails and the Board's main extension receives on average 40 daily telephone calls. Overtime is being worked and documentation has been submitted for approval to hire a seasonal clerk.

Continuing Education Audit & Survey

As reported at the last Board meeting the Board started a CE audit and survey for SLP, AU, DAU, and HAD. Audit letters were sent and the Board has received correspondence back but due to the holidays and staffing shortages, staff has been unable to devote the time to the audit. The CE auditor is also a licensing analyst and has been covering the front desk duties of the OT.

Pending Regulation Changes

Uniform Standards/Disciplinary Guidelines – The Board adopted the Uniform Standards and Disciplinary Guidelines language at its June 2013 Board meeting. In December, the Department's Division of Legislative and Policy Review assisted the Board with developing some of the justifications for the changes the Board adopted but it is unfinished. Lupe Castillo reported to the Board that Leg and Policy review would be able to finish the changes.

HAD CE Regulations - The language and regulatory documents are complete and have been reviewed by legal counsel. The packet is pending submission to the Office of Administrative

Law. Mr. Shalev and Mr. Sager reported that the Board has not gone out for informal public comments. Standard practice for the Board is to reach out to the interested parties on proposed regulatory changes and bring the parties comments back to the committee for consideration prior to the adoption by the full Board. Ms. Humphreys will research and report back to the Board.

HAD Advertising Regulations - At the June 2013 Board meeting the Board adopted HAD advertising regulatory language. It has been reviewed by legal counsel but to date, no further regulatory documents have been developed.

VII. Legislative Update

In October 2013 the Board adopted to move forward on three statutory provisions and submit them through the Senate Business, Professions and Economic Development Committee's (SBP&EDC) Omnibus Bill. An omnibus bill is a catch all bill and is a vehicle for moving proposed legislation through that is non-substantive in nature. Non substantive changes are defined as administrative corrections or adjustments.

A. Academic Equivalency for Internationally Trained Students – SBP&EDC accepted to carry this in their omnibus bill.

- The original intent of the provision was to apply to internationally trained applicants. By amending the law, it closes the gap for a graduate from an U.S. unaccredited program from appealing for equivalency.
- It also removed terminology that does not relate to some international programs and was replaced with general language identifying the requirements.
- It increased the required supervised clinical practice hours to 375, to reflect what is now required by the national accredited academic programs.

B. National Practitioners Data Bank was rejected by SBP&EDC as being substantive and not an administrative correction or adjustment.

This legislation change was to require applicants, who are or were previously licensed in another state, to submit a self-query from the NPDB with their application package. The cost for an applicant to self-query is \$8.

The committee declined to carry this because it is increasing the licensure costs for the applicant and the committee deems it as too substantive.

The Board discussed the importance of having an NPDB query on all applicants for licensure.

M/S/C Raggio/Parker

The Board voted to change by statute and regulation the requirement that applicants must pay for their NPDB report as a condition of licensure.

C. AB 1000 –Maienschein & Wieckowski– Professional Corporations: Healing Arts Practitioners

At the October 2013 Board meeting, the Board adopted proposed language amending B & P Code 655.2 to close a loop hole in the employment arrangements of our three professions and include this in the SBP&EDC omnibus bill. At that time AB 1000 was still pending and has since passed. Legal counsel recommended not including this in the omnibus bill to allow the Board to review the effects of AB 1000 on our professions.

Currently under B & P Code 655.2 a physician and/or audiologist are prohibited from employing a hearing aid dispenser, unless they too are licensed to dispense hearing aids. There is no provision for the alternate employment arrangement for a hearing aid dispenser. Current law allows for a hearing aid dispenser to employ a physician and/or audiologist who are not licensed dispensers. The intent of the statute was to prohibit such employment arrangements to prevent either party from benefiting from the other. Legislation was needed to make the employment arrangement bi-directional.

With the passing of AB 1000, anyone licensed under Division 2 can be an employee of a professional corporation. Therefore, without other statutory limitations, hearing aid dispensers could be employed by any of the professional corporations listed in Division 2, subsections a-p of Moscone-Knox.

M/S/C Lee/Parker

The Board voted to submit the original language that was adopted in October to the SBP&EDC omnibus bill.

VIII. Practice Committee Reports

A. Hearing Aid Dispensers Committee Report and Recommendations on the Development of a Practice Guideline Document for Hearing Aid Dispensing and the Discussion of Bone-Anchored External Sound Processors

- Ms. Grimes reported that Mr. Manning was still revising the proposed guidelines for hearing aid dispensing and it should be available for review at the May Board meeting.
- Ms. Grimes gave a brief explanation of bone-anchored devices. It is a two-part integrated system. The first component is an internal device, in which a surgeon implants it into the skull in the mastoid bone behind the ear. This component is classified as a Class II medical device. The second component is an external device which is snapped on and programmed for a specific hearing loss.

The Board has been asked if the external sound processor can be dispensed or fit without a hearing aid license. The Board has been informed by a manufacturer of this bundled system that the FDA does not require the person fitting the external component to have a hearing aid license.

State laws cannot be more stringent than FDA laws. We may have to address this issue with the FDA and obtain a waiver. Ms. Knight will contact the FDA for further clarification.

- Ms. Grimes reported that the FDA is still reviewing the Board's exemption request on mail and internet order and catalog sales of hearing aids.

M/S/C Raggio/Shalev

The Committee report was accepted.

B. Speech-Language Pathology Practice Committee Report and Recommendations on the Discussion, Proposed Regulatory Amendments Regarding the Scope of Responsibility and Supervision Standards for Speech-Language Pathology Assistants and a Report From the California Commission on Teacher Credentialing (CCTC) Regarding Credential Waivers Issued to Speech-Language Pathologists

- Ms. Solomon-Rice reviewed the proposed SLPA regulatory changes and the informal public comments. Lack of supervision has been an issue with the management of SLPAs. The committee will research other avenues for supervision compliance: inquire with the national board of speech-pathologists; inquire with other healthcare Boards on how they monitor supervision, and review the current RPE supervisor form for language.

The committee recommended to the full board to add the word **live** to the definition of electronic means and to correct the language to reflect the current 2013 ASHA document.

- California Commission on Teacher Credentialing (CCTC) will attend the May Board meeting in Sacramento to address:
 - a) Process for applying for Variable Term Waiver (VTW)
 - b) Minimum qualifications of the VTW
 - c) Pre-requisites for being a VTW SLP
 - d) Scope of practice of the VTW SLP
 - e) Oversight mechanism of the CTC over school districts granting VTWs
 - f) Statistical information as available
 - i) Number of VTWs and number of SLP service credentials/rehab services credentials over the past 5 years
 - ii) Full-Time Equivalent of both VTWs and SLP service credentials/rehab services credentials over the past 5 years
- Ms. Solomon-Rice reported that the SLP Occupational Analysis is underway and should be concluded in August.

M/S/C Grimes/Shalev

Accept report with recommendations and delegate to Executive Officer to make the SLPA proposed regulatory changes.

- C. Audiology Practice Committee Report and Recommendations on the Discussion Regarding the Proposed Regulations for Audiology Aide Supervision Standards, Training, and Practice Limitations; Discussion on Clarifying the Language for Ease of Understanding the Continuing Education Requirements for Dispensing Audiologists; Discussion of Services Provided by Regional Centers to Children Who Are Deaf or Hard of Hearing
- Ms. Grimes reported that the committee developed tasks that were outside the scope of responsibility of an audiology aide. The committee delegated to Ms. Humphreys to send out for informal comments to those interested parties. She will then present those comments to the committee for further review.
 - The committee reviewed a document that Ms. Humphreys and her team reworked to clarify the CE requirements for dispensing audiologists. This document will replace the current posting on the Board's website.
 - Ms. Grimes reported that the Board's Sunset Report highlighted issues with the Regional Centers not providing the early intervention diagnostic for infants and children up to three years of age who are deaf or hard of hearing. The Senate Business, Professions and Economic Development Committee ruled that this issue was outside their jurisdiction and suggested we work with three committees: Health, Human Services and Education.

Ms. Grimes will write a letter and Ms. Humphreys will send to both houses of those committees.

M/S/C Shalev/Solomon-Rice

The committee report is accepted.

IX. Licensing/Enforcement/Examination Statistical Data

Statistical data was reviewed.

X. Update on Executive Officer Recruitment

Ms. Solomon-Rice and Ms. Raggio reported that few applications have been submitted. The search committee will work with OHR to extend the recruitment to the end of March 2014.

XI. Public Comment on Items Not on the Agenda/ Future Agenda Items- Pending Issues Before the Board

No public comments.

XII. Announcements- Future 2014 Board Meetings

- A. May 22-23, Sacramento
- B. Aug 20-21, Los Angeles (meeting date was changed from Aug 21-22)
- C. Nov 13-14, San Diego

XIII. Adjournment

The meeting was adjourned at 1:05.