



## **BOARD MEETING MINUTES**

**San Diego, CA  
August 9-10, 2018**

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

### **Full Board Meeting**

Dee Parker, Board Chair, called the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board meeting to order at 1:10 p.m. Ms. Parker called roll; six members of the Board were present and thus a quorum was established.

#### **1. Call to Order / Roll Call / Establishment of Quorum**

##### **Board Members Present**

Dee Parker, Board Chair  
Marcia Raggio, Vice Chair  
Annon Shalev, HAD, Board Member  
Patti Solomon-Rice, SLP, Board Member  
Rodney Diaz, MD, Public Board Member  
Debbie Snow, Public Board Member  
Karen Chang, Public Board Member

##### **Staff Present**

Paul Sanchez, Executive Officer  
Bryce Penney, DCA Web Cast  
Breanne Humphreys, Program Manager  
Carla Newman, Enforcement Coordinator  
Kelsey Pruden, Legal Counsel  
Katrina Martinez, Analyst

##### **Guests Present**

Jodi Wojick, AuD, CAA  
Jacque Georgeson, University of the Pacific  
Julie Purdy, Rady Children's Hospital  
Carol Mackersie, San Diego State University  
Jacob Blaschko-Iveland, UOP & California Head & Neck Specialist  
Vanessa Cajina, Hearing Healthcare Providers  
Joe Bartlett, ACA, BC-HIS, Hearing Healthcare Providers  
Christine Kirsch, San Diego State University  
Heidi Lincer, OPES  
Tracy Montez, OPES

Toni Barrient, Consumer  
Carrie Bower, CAA  
Bob McKinney, CSHA

## 2. Approval of the May 31 – June 1, 2018 Board Meeting Minutes

### **M/S/C Shalev/Raggio**

- **Motion to approve the May 31 – June 1 meeting minutes. The motion carried 5-0 with Diaz abstaining.**

## 3. Public Comment for Items not on the Agenda

Mr. Sanchez discussed a letter the Board received from the International Hearing Society (IHS) regarding the United States Department of Labor's national guidelines for apprenticeships and mentorships for hearing aid specialists. Vanessa Cajina explained that the purpose of the letter was to inform the Board about the changes to the profession regarding apprentices.

## 4. Discussion and Possible Action on the Examination Requirement for Dispensing Audiologists.

- a. Discussion of the Requirements of Business and Professions Code Section 2539.1

Mr. Sanchez explained that this is a continued discussion from the previous Board meeting. He stated that B&P Code 2539.1 asks the Board to review the licensure requirements for dispensing audiologists after the next Occupational Analysis (OA) was completed.

- b. Presentation from the Office of Professional Examination Services

Heidi Lincer explained the background and purpose of the Office of Professional Examination Services (OPES) which includes providing recommendations based on regulations, professional guidelines, and technical standards related to licensure exams. OPES uses the OA to reexamine the validity for examinations the Board requires for licensure by comparing the link between the job content and the test content. The exam must provide a reliable method for identifying practitioners who are able to practice safely and competently. Tracy Montez discussed the additional ways that the OA is used for, such as evaluating continuing education, training programs, or providing information to students/mentees. Ms. Lincer reviewed the results from the OA that were discussed at the previous Board meeting. Because the training, experience, and national exam appear to be sufficient, with very little risk to the public, OPES recommends that the Board eliminate the practical exam requirement for dispensing audiologists and remove a potential barrier to licensure. She conveyed the need to continue requiring dispensing audiologists to pass the written exam and suggested the possibility of having two different written exams.

Mr. Shalev inquired whether OPES interviewed audiologists or dispensing audiologists and expressed concern with audiologists deciding to dispense after practicing for many years without ever taking an ear mold impression. Ms. Raggio brought up the fact that she learned about hearing aids and taking an ear mold impression during her time in graduate school. Mr. Shalev asked that the Board review the pass-fail rate for the practical exam is for the past 2-3 years. Ms. Montez explained that audiologists receive complex education and training and ear mold impressions are only a small portion of the scope of practice. Mr. Shalev questioned if requiring audiologist (recent graduates) to take and pass the practical exam is a barrier for licensure. Mr. Sanchez explained that barriers to licensure are not obstacles preventing from practicing but are obstacles that make it difficult to begin practicing or get a license. Mr.

Shalev opined about the risks in taking an ear mold impression. Ms. Pruden discussed the scope of practice for audiologists with regards to the fact that audiologists can fit hearing aids and take impressions, the dispensing license is for selling hearing aids only. The legislative intent behind requiring audiologists taking an exam approved by the Board is to test the audiologist on aspects specific to *selling* hearing aids. Ms. Raggio explained that anyone can take ear molds and used the example of swim ear molds. Ms. Montez described the ways that OPES can assist the Board and Board staff in writing regulations that will align examination requirements with the scope of practice. Mr. Sanchez expressed the need for the Board to take the OA data, research, and analysis, and make a decision. Ms. Solomon-Rice stated that based on the OA data, dispensing hearing aids and assistive listening devices is not the majority of what an audiologist does. Mr. Diaz clarified that an audiologist may take an ear mold impression for a variety of other reasons outside of hearing aids and assistive listening devices. Mr. Shalev expressed concern for physicians gaining the ability to dispense hearing aids without needing to pass the practical exam. Ms. Raggio refuted the concern by explaining that audiologists receive training on audiometry, ear mold impressions, fitting hearing aids, etc. If a physician received this same training, the Board may need to reconsider the qualifications to dispense.

Jacque Georgeson explained that many audiologists have been and currently are taking ear mold impressions without dispensing hearing aids. Ms. Georgeson described the curriculum within the AuD program at the University of the Pacific with regards to ear mold impressions. Christine Kirsch elaborated on the curriculum within the AuD program at San Diego State University with regards to ear mold impressions and hearing aid devices. Jodi Wojick, a Board member with CAA, explained that her Master's degree program (completed about 40 years ago) included training on taking ear mold impressions.

Ms. Raggio asked OPES if the written exam's content will be looked at. Ms. Montez talked about the next step for the Board is to have OPES conduct an OA for hearing aid dispensers and reevaluate the written exam. Ms. Lincer added that the last OA for hearing aid dispensers was in 2012 and the Board will need to conduct a new one before OPES can offer any recommendations or suggestions for the written exam. Mr. Sanchez elaborated on the budget restraints for completing an OA as required and the regulatory process for changing the qualification requirements. Vanessa Cajina, from Hearing Healthcare Providers (HHP), acknowledged the importance of having an adequate workforce in health professions but stated that she and HHP would be opposed to removing the practical exam requirement for dispensing audiologists. Joe Bartlett (HHP) asked that the Board refrain from making any changes until the OA for hearing aid dispensers is completed. Mr. Sanchez questioned how waiting for the OA for hearing aid dispensers to be completed would benefit the Board's decision on examination requirements for dispensing audiologists. Mr. Shalev voiced his concern that the Board does not have a full HAD Committee as a second hearing aid dispenser member. He stated that the Board should wait before continuing the conversation or making any changes. Ms. Montez emphasized that any changes from an HAD OA should not impact the Board's decision regarding the dispensing audiology exam requirements but that the Board should consider the evidence that has been provided. She reiterated that the Board should consider the issues raised by the State's Little Hoover Commission regarding unnecessary barriers to licensure. She recommended that the Board should not wait for Board vacancies to be filled and continue moving forward with its work based on the information that has been provided.

Mr. Shalev declared his opposition to accepting the recommendations of OPES. Ms. Parker noted that a conference call between all Board Chairs was held with Director Dean Grafilo and the issue of barriers to licensure was brought up and is currently being discussed. Ms. Raggio made a motion to accept the recommendation of OPES to move forward with regulatory changes to remove the practical exam for

dispensing audiologists. At that time and prior to the Board vote, Mr. Shalev stated he could no longer serve on the board and exited the meeting.

### **M/S/C Raggio/Diaz**

- **Motion to accept the recommendation of OPES to move forward with regulatory changes to remove the practical exam for dispensing audiologists and delegate authority to Board staff to work with legal and OPES to draft regulatory language to bring to the next Board meeting. The motion carried 5-1 with Chang abstaining.**

### **Closed Session**

5. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session to Deliberate on Disciplinary Matters Including Petitions, Proposed Decisions, Stipulated Decisions, Defaults, and Any Other Disciplinary Matters.

The Board entered into closed session at 4:23 p.m.

### **Open Session**

The Board returned to open session at 4:48 p.m.

6. Update on the Board's Consumer Fact Booklet on Hearing Loss and Hearing Aids.

Ms. Raggio provided an overview of the work she has done with Toni Barrient, from the Hearing Loss Association of America (HLAA), to develop a guidebook for consumers about hearing loss and hearing aids for adults. The guidebook is available on the Board's website and HLAA's website. The guidebook is designed for adults and does not address pediatric hearing loss purposefully. Mr. Sanchez commented on the limitations to the Board's outreach ability. He explained that if anyone would like hard copies to distribute at outreach events feel free to contact the Board.

7. Discussion and Possible Action Regarding Board Communications with California Children's Services (CCS).

Ms. Raggio gave a synopsis of the Board's efforts to establish communication lines with CCS. She discussed recent conversations between CCS, representatives from the Board, representatives from CAA, and representatives from DHS. One issue discussed was the Child Model Program which is a managed care pilot program that impacts audiologists. All children covered by Medi-Cal will go through this program to receive services. Ms. Solomon-Rice asked where the funding for this program will come from. Ms. Raggio replied that the assumption is both federal and state funding. She informed the Board that the goal is to improve regulation and policy language for clarity purposes. The problem regarding the cost of ear mold impressions being greater than the reimbursement amount was discussed without a true solution. CCS explained that they were not responsible for setting the amounts. They advised Ms. Raggio and the others to write a letter and it will be forwarded to the appropriate person. One of the desired outcomes is to have a dedicated liaison for audiologists to contact with questions. Although progress is being made, it is still a work in progress. Vanessa Cajina commented that HHP would be willing to join the effort or support in any way they can.

8. Discussion and Possible Action Regarding the Speech-Language Pathologist Credential Variable Term Waiver Program in California Public Schools

Ms. Parker discussed the variable term waiver credentials that the CTC issued to individuals who graduated with a bachelor's degree and were waiting to be accepted into master's degree programs. This waiver was being renewed for 15 years or more. The Board asked the CTC to place a limit of 5 years on the variable term waiver credential. The CTC realized that they imposed the 5-year limit without addressing the Title V regulations. Regulation changes need to be made before the limit can go into effect.

**August 10, 2018 Reconvene at 9:10 a.m.**

9. Discussion and Possible Action Regarding the July 24, 2018 FDA Letter Regarding Section 709 of the FDA Reauthorization Act of 2017 (FDARA) and Over-The-Counter (OTC) Hearing Aids and Requirements

Ms. Raggio discussed how the FDA is working on regulatory language for over-the-counter (OTC) hearing aids. The regulation may impose limitations to the Board's authority, however there have not been any real changes made as of the last update. Mr. Sanchez noted that Section 709 is not self-implementing until the effective date of the published final regulation. Dispensers should not advertise OTC hearing aids yet.

10. Executive Officer's Report

Mr. Sanchez opened with the need for Debbie Snow to be sworn in as a reappointed public Board member. Ms. Parker led Ms. Snow in the oath of allegiance.

a. Administration Update

Mr. Sanchez updated the Board on the four vacancies within the Board staff including a regulations/administration associate analyst, an office technician, an enforcement analyst, and a licensing analyst. He is currently interviewing applicants and expects to hire sometime this month.

b. Budget Report

Mr. Sanchez updated the Board with the Board's expenses and fund condition. We are expected to implement fee increases to alleviate the issue with spending more than the Board is bringing in. Ms. Solomon-Rice questioned when the fee increases will go into effect. Mr. Sanchez estimates beginning of next fiscal year.

c. Licensing Report

Mr. Sanchez shared with the Board the increase in the number of applications received during the 2017-2018 fiscal year. Because of this increase, the Board staff has seen an increased workload.

d. Practical Examination Report

Mr. Sanchez updated the Board with the April 21, 2018 practical exam results. There is one more practical exam scheduled for the year.

e. Enforcement Report

Mr. Sanchez shared with the Board the increase in the number of complaints received during the 2017-2018 fiscal year. He commented on the fact that the Board has also seen a significant increase in anonymous complaints. Mr. Sanchez provided a breakdown of the number of complaints received based on license type.

f. Continuing Education (CE) Audit

Mr. Sanchez updated the Board with the results of the 2018 CE Audit. He explained the process for dealing with licensees who failed the audit. Ms. Raggio asked why there was a difference in the number of licensees who failed the audit and the number of licensees who corrected the deficiency. Ms. Raggio asked about the different reasons for failing the audit. Katrina Martinez explained that many licensees were not in compliance with the requirements for CE even though they had completed the number of CE hours (including completing too many hours of self-study or completing courses through non-approved providers). Mr. Sanchez elaborated on the fact that the Board members have approved a change for completing 50% of the CE requirement as self-study however the regulatory change has not gone into effect yet. Ms. Martinez discussed how the licensee's renewal cycle is different from ASHA's certification cycle and many licensees made the mistake of confusing the two. She explained that the Board worked with these licensees and continue to work with these licensees to make up the deficient CE hours. Mr. Sanchez added that some licensees who did not respond or were cited for not completing any CE were a result of not updating the Board (either not updating their addresses or not updating their status, i.e. retirement).

11. Discussion and Possible Action regarding RPE Direct Monitoring Requirements (As Stated in California Code of Regulations Section 1399.153.3) and Remote or Tele Supervision

Mr. Sanchez informed the Board that this is a continuation of the conversation from previous Board meetings to include regulatory language changes. Ms. Pruden provided an overview of the changes to CCR 1399.153.3 including changing direct "monitoring" to direct "supervision," placing a limit to the number of tele-supervision hours allowed, limiting the number of tele-supervision hours allowed each month, adding information regarding the supervisor being ultimately responsible for the client's consent for tele-supervision, and requiring the supervisor to evaluate or demonstrate the functions performed by the RPE before using tele-supervision. Ms. Solomon-Rice stated that the regulation language needs to be clear that the RPE cannot perform activities if the supervisor cannot demonstrate the activities before tele-supervision is allowed. Mr. Sanchez discussed how stakeholders want unlimited tele-supervision hours. Ms. Pruden stated that there will be the option for public comment.

**M/S/C Solomon-Rice/Snow**

- **Motion to approve regulatory changes as amended and to delegate to the Executive Officer the authority to make non-substantive changes and move forward with the 45-day public comment. The motion carried 6-0.**

12. Discussion and Possible Action regarding Supervision of Trainee-Applicants, Supervision and Training Required, and Direct Supervision (As Stated in California Code of Regulations, Sections 1399.16, 1399.118, 1399.119)

Mr. Sanchez explained that this is a continued conversation regarding the supervision requirements for hearing aid trainees and the types of supervision required. He described how a subcommittee worked on drafting the regulation language. Current regulations do not require trainees to complete a specific number of hours of training/supervision before taking the written and practical exams. HHP and others are working on developing apprenticeship programs. The regulatory changes drafted will help clarify supervision requirements for trainees.

Ms. Pruden reviewed the proposed regulation changes for 1399.116 and the qualifications of the supervisor of a trainee. The completion of continuing education (CE) in supervision training is a new inclusion. Mr. Bartlett explained that current CE offerings do not include supervisory topics and expressed concern whether the Board would approve this course content. Ms. Solomon-Rice questioned whether 4 hours of supervision training is consistent with supervision requirements for SLPAs and RPEs. Implementing a CE requirement for trainee supervisors will help professionalize the field. Mr. Bartlett stated that HHP frequently receives questions from individuals who would like to become hearing aid dispensers and there is not a training program in place and without a supervisor willing to hire the trainee, these individuals will not have resources or training available.

Ms. Pruden discussed the proposed regulation changes for 1399.118 and asked the Board whether there should be specific timelines outlines for when training should be completed. Mr. Bartlett explained that different tasks will require different types of training. He stated that access to “real ear” equipment may result in compliance issues with regards to 1399.118(c)(10). Ms. Raggio explained that even though “real ear” equipment is included as part of American Academy of Audiology’s (AAA) best practices, only about one-third of audiologists follow this recommendation. The regulatory language will be updated to specify knowledge of verification techniques including real ear measurements, to remove limitations for trainees unable to access real ear equipment. Ms. Raggio stated one the most common exclusions from audiometric evaluations she sees from dispensers is that it lacks masking. This is probably due to individuals not knowing how to perform masking. She asked how trainees are trained on masking for hearing tests. Mr. Bartlett commented that he was required to know masking when he took his state exams and he wasn’t sure if he was doing it correctly with regards to asymmetrical ears. He added that it was only after many years of practicing, studying, and continuing education courses that he understood masking. Mr. Bartlett agreed there is not enough knowledge out there regarding masking. HHP offers CE courses on masking and real ear measurements. Supervisors and trainees need to be held accountable for ensuring trainees get adequate training. The addition of 1399.118(c)(12) will include the assessment and creation of ear mold impressions.

Ms. Pruden described the proposed changes to 1399.119 and the supervision requirements for a trainee. The Board discussed the difference between “direct” and “immediate” supervision. A requirement to provide direct supervision 100 percent of the time for the first 90 days has been added. Board staff and legal will make edits to the drafted proposed regulation language to be reviewed at the next Board meeting.

### 13. Legislation Update, Review, and Possible Actions

- a. AB 11 (McCarty) Early and Periodic Screening, Diagnosis, and Treatment Program: screening services

Ms. Raggio reported that AB 11 is currently in the suspense file with an appropriations committee until August 17, 2018. She will report back to the Board with any future updates but is under the impression that once this happens to a bill, it usually does not move forward.

b. AB 1659 (Low) Healing arts boards: inactive licenses

Mr. Sanchez explained that AB 1659 would prohibit a licensee with an inactive license from representing that he or she has an active license. Ms. Pruden clarified that an inactive license allows the licensee to maintain a license without completing the CE requirement. To reactivate an inactive license the licensee is required to submit evidence of completion of the CE required for one renewal cycle. Mr. Sanchez added that letting a license lapse is not the same as an inactive license.

c. AB 1801 (Nazarian) Newborns: cytomegalovirus public education and testing

Ms. Raggio commented that a certain percentage of children suffer from delayed onset hearing loss because the mother had cytomegalovirus. She reported that an operation like this (public education and testing) is costly and AB 1801 is currently in the suspense file with a senate appropriations committee. She will have more information after August 17, 2018.

d. AB 2138 (Chiu) Licensing boards: denial of application: criminal conviction

Mr. Sanchez described how AB 2138 is particularly important to the Board as it would limit the enforcement in the discipline programs of the Board. Although changes have been made, the bill was amended to allow the board authorization to deny, revoke, suspend, etc. a license or applicant only if the conviction occurred within the previous 7 years except for serious crimes. He clarified that serious crimes do not include white collar crimes. The bill would require the Board to report statistical information which would affect our workload. Mr. Sanchez opined that this would limit our ability to protect consumers. He included information regarding the Little Hoover Commission. Mr. Sanchez described the options the Board may take including opposition, opposition unless amended, etc. Ms. Chang explained that the intent of the bill is to allow convicted applicants to obtain a license and join the workforce and any amendments to the bill would remove the spirit of the bill.

**M/S/C Snow/Solomon-Rice**

- **Motion to oppose AB 2138. The motion carried 5-0 with Chang abstaining.**

14. Future Agenda Items and Future Board Meeting Dates

Future agenda items include tele-supervision and post-baccalaureate/SLPA discussion.

- a. November 29-30, 2018 – Sacramento
- b. February 7-8, 2019 – Los Angeles
- c. May 2-3, 2019 – TBD – San Jose, Santa Clara, or Sacramento

15. Adjournment

The meeting adjourned at 12:03 p.m.