



BOARD MEETING MINUTES

Teleconference Meeting

November 20, 2020

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.

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

Dee Parker, Board Chair, called the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board meeting to order at 9:01 a.m. Ms. Parker called roll; eight members of the Board were present and thus a quorum was established.

Board Members Present

Dee Parker, SLP, Board Chair
Marcia Raggio, AuD, Vice Chair
Tod Borges, HAD, Board Member
Amnon Shalev, HAD, Board Member
Holly Kaiser, SLP, Board Member
Rodney Diaz, Otolaryngologist, Public Board Member
Debbie Snow, Public Board Member
Karen Chang, Public Board Member

Staff Present

Paul Sanchez, Executive Officer
Joseph Chin, DCA Legal Counsel
Cherise Burns, Assistant Executive Officer
Tenisha Ashford, Enforcement Coordinator
Lisa Snelling, Licensing Coordinator
Heather Olivares, Legislation/Regulation Analyst

Guests Present

Brian Lewis
Carrie Bower
Marne Novick
Michele Linares
Shellie Bader

2. Public Comment for Items not on the Agenda

There were no comments from the public, outside agencies, or associations.

3. Board Strategic Planning Moderated by Department of Consumer Affairs (DCA)
SOLID Team

DCA SOLID Team facilitated a strategic planning session. The Board reviewed its mission, vision, and values. The Board decided to change its values to include transparency and inclusion. The Board also developed strategic goals for licensing, enforcement, outreach and communications, laws and regulations, and program administration. The draft strategic plan will be completed by SOLID by December 2nd and will be brought back to the Board for approval.

4. Review and Possible Approval of the February 20-21, 2020 Board Meeting Minutes

M/S/C Parker/Raggio

Motion to approve the February 20-21, 2020 Board meeting minutes with changes requested by Dr. Raggio. The motion carried 8-0.

5. Review and Possible Approval of the June 30, 2020 Board Teleconference Meeting Minutes.

The meeting minutes were reviewed and Dr. Raggio proposed clarifying changes to the meeting minutes.

6. Executive Officer's Report
a. Administration Update

Paul Sanchez provided an update on the Board's COVID-19 response. Mr. Sanchez reported the Board has maintained acceptable licensing cycle times even while navigating health and safety standards and employee furloughs.

Mr. Sanchez also reported the Board is still in the process of hiring an Associate Governmental Program Analyst position for legislation and regulations.

b. Budget Report

Mr. Sanchez reported the Board is on track to have a healthy reversion. Mr. Sanchez also provided an overview of the Board's fund condition. Mr. Sanchez stated the Board should have 5 to 6 months of expenditures in reserve. Mr. Sanchez reported the Board is moving forward with its Business Modernization Project and office relocation.

c. Regulations Report

Mr. Sanchez provided a snapshot of the current status of regulations in his written report.

d. Licensing Report

Mr. Sanchez provided a snapshot of the licensing cycle times in his written report.

e. Practical Examination Report

Mr. Sanchez reported the Board was able to resume practical exams in October 2020 for the exam dates that were canceled in April and July. Mr. Sanchez stated the Board needs more examiners.

f. Enforcement Report

Mr. Sanchez reported the Board has received close to 50 complaints during the first quarter of the fiscal year. The Board stated unlicensed activity is handled through the citation and fine process.

7. DCA Update – DCA Board and Bureau Relations

Carrie Holmes, Deputy Director for Board and Bureau Relations provided an update from DCA, including new appointments to the DCA leadership team and DCA's response to COVID-19. Ms. Holmes also reported that boards will be required to take a five (5) percent permanent budget reduction no later than Fiscal Year 2021-22.

8. Update on Speech and Hearing Related DCA Waivers related to the COVID-19 State of Emergency

Cherise Burns reported Governor Newsom issued an Executive Order authorizing DCA to waive statutory and regulatory requirements with respect to a professional license issued by a board or bureau. Ms. Burns provided an overview of the waivers issued to date, which were included in the written memo. Ms. Burns reported the Board moved forward with submitting a waiver request to remove the self-study limitation of the continuing education requirement. Karen Chang inquired about the waiver expiration process. Ms. Burns stated the waivers are reviewed and extended as needed. Holly Kaiser expressed support of the waiver request to remove the self-study limitation of the continuing education requirement, which is necessary during the pandemic. Michele Linares stated that, unless attending the conference live, only up to six hours can be credited to self-study.

9. Discussion and Possible Action regarding Speech-Language Pathology and Audiology Fees (As Stated in Title 16, California Code of Regulations (CCR), sections 1399.157, 1399.170.13, and 1399.170.14)

Cherise Burns reported the Board approved the fee regulations at the July 18-19, 2019 Board meeting. Ms. Burns stated the last fee increase for speech-language pathology and audiology was in 2002. Ms. Burns reported the fee regulations were officially noticed with the Office of Administrative Law on August 7, 2020 and the 45-day public comment period ended on September 25, 2020. The Board received four public comments which were summarized in the written memo. Ms. Burns reviewed the proposed responses to the public comments, which were also provided in the written memo. Marcia Raggio expressed support for raising the fees and stated it is unlikely the Board will lose licensees due to the fee increase. Michele Linares stated the timing of the fee increase should be considered due to COVID-19. Ms. Burns stated due to the

regulatory process it will be approximately another 6 months until the fee increase will be implemented.

M/S/C Raggio/Kaiser

Motion to adopt responses to comments received during the 45-day comment period and direct staff to develop the final statement of reasons and delegate to the Executive Office to make any non-substantive changes to the rulemaking file. The motion carried 8-0.

10. Update, Discussion and Possible Action regarding Regulations as a result of AB 2138 Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction (As Stated in Title 16, California Code of Regulations (CCR) sections 1399.132, 1399.133, 1399.134, 1399.156.1, 1399.156.2, and 1399.156.3)

Cherise Burns reported the Board noticed the regulatory proposal on March 6, 2020 and the public comment period ended on April 20, 2020. Ms. Burns reported no additional public comments were received during the 15-day public comment period which ended on July 17, 2020 and the regulatory proposal was submitted to the Office of Administrative Law for approval on November 18, 2020 for final review and approval. Karen Halbo, DCA Regulatory Counsel, stated that based on a COVID-19 waiver, the Office of Administrative Law has an additional 120 days to review regulatory proposals on top of the usual 30 working days requirement.

11. Discussion and Possible Action on Board Proposed Legislation Regarding BPC sections 2838.35 and 2539.4 Relative to Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists

Marcia Raggio provided an overview of the problems with proprietary hearing aid software, as outlined in the written memo. If a company goes out of business or the client moves out of the area, this becomes a consumer access issue, requiring the consumer to purchase a new hearing aid. Dr. Raggio reported working with Tod Borges and Board staff to develop changes to the statute. Dr. Raggio reviewed the proposed legislative language.

Karen Chang inquired if it is possible to unlock a hearing aid. Dr. Raggio stated the only way to unlock a hearing aid would be if a company agreed to provide the hearing aid software. The Board discussed the current length and font requirements of the consumer notification document.

Marne Novick stated she sees 1 or 2 patients per month with locked hearing aids that must purchase new hearing aids. Ms. Novick stated she is in support of the consumer notification and would like the consumer to be required to initial on the purchase agreement that they have been notified.

Ms. Chang inquired about pursuing legislation requiring manufacturers to provide the propriety software if needed for a consumer in California. Paul Sanchez responded the

Board does not have jurisdiction over hearing aid manufacturers. Mr. Borges stated even if a company agrees to provide the software, other users would need training on how to use the software. Cherise Burns suggested bringing this issue up as part of the Board's Sunset Review process.

M/S/C Borges/Chang

Motion to adopt the legislative language as written and direct Board staff to find an Author for the legislative proposal. The motion carried 8-0.

12. Discussion and Possible Action on Board Proposed Legislation Regarding Audiology Licensing Requirements As Stated in Business and Professions Code Sections 2532.25 and Clarified in Title 16, CCR sections 1399.152.2 and 1399.152.2

Marcia Raggio provided an overview of the issues with the current statutory language in Business and Professions Code section 2532.25(b)(2) which requires the submission of evidence of no less than 12 months of satisfactorily completed supervised professional full-time experience under the direction of a board-approved audiology doctoral program. Ms. Raggio stated this requirement is restrictive for current hearing and balance training programs. Ms. Raggio reported audiology educational programs typically require approximately 1850 clinical clock hours.

Ms. Raggio reported the Audiology Practice Committee met on September 23, 2020 and received information that students earn between 600 and 800 clinical clock hours before the Required Professional Experience (RPE) rotations begin. To address this issue, Business and Professions Code section 2532.25 should be amended to allow for supervised clinical rotations or experiences held throughout the educational program to count toward the 12 months of full-time experience.

Christy Kirsch with San Diego State University spoke in favor of keeping the 12-month RPE requirement, while allowing clinical hours to be accumulated during the four-year educational program. Shaum Bhagat with San Jose State University spoke in favor of counting pre-RPE clinical hours. Margaret Winters with Cal State LA spoke in favor of counting clinical hours completed during the educational program as well as hours that do not involve direct patient care, but support patient care.

M/S/C Raggio/Borges

Motion to seek statutory changes to Business and Professions Code section 2532.25 to allow hours obtained by participation in supervised clinical rotations or experiences during the educational program and Required Professional Experience. The motion carried 8-0.

13. Discussion and Possible Action on Board Proposed Legislation to Address Emergency Waiver Authority for the Board

Cherise Burns reported that during the COVID-19 pandemic, the Board needed to move quickly to identify statutory and regulatory requirements that needed to be waived to ensure continuity of care for consumers. Ms. Burns stated the Board lacks

authority to waive its own requirements without statutory authority or an Executive Order authorizing the Board to waive requirements. Without this authority, the Board must rely on DCA to approve waivers, resulting in significant delays or denials of Board requests which have negatively impacted applicants and licensees. Ms. Burns reviewed the proposed legislative language which would provide the Board emergency waiver authority.

Marcia Raggio inquired if other boards have pursued similar legislation. Ms. Burns stated other boards that are considering this legislative change will be discussing this issue at their fall board meeting. The Board discussed the best timing for moving forward with this legislative proposal. The Board also discussed working with other boards to pursue this issue together or pursuing this change as part of the sunset review process. The Board decided to table this issue for now.

14. Legislative Report: Update on Proposed Legislation

a. Chaptered Legislation

- AB 2113 (Low) Refugees, asylees, and immigrants: professional licensing

Cherise Burns provided a summary of the bill which was included in the written memo. This bill requires the Board to expedite, and authorizes the Board to assist, the initial licensure process for an applicant who supplies satisfactory evidence to the Board that they are a refugee, have been granted asylum, or have a special immigrant visa. Ms. Burns stated Board staff does not anticipate adopting regulations to implement this bill, but the Board's applications will be updated effective January 1, 2021.

- AB 2520 (Chiu) Access to medical records

Cherise Burns provided a summary of the bill which was included in the written memo. This bill requires Speech-Language Pathologists and Audiologists to provide a patient or the patient's representative with all or any part of the patient's medical records that the patient has a right to inspect, subject to the payment of clerical costs incurred in locating and making the records available, following a written request from the patient. This bill also requires Speech-Language Pathologists and Audiologists to provide one free copy of the relevant portion of the patient's record if the patient, the patient's representative, or an employee of a nonprofit legal services entity representing the patient presents proof to the provider that the records are needed to support an appeal regarding eligibility for a public benefit program. Ms. Burns stated the Board supported this bill.

- SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times

Cherise Burns provided a summary of the bill which was included in the written memo. Beginning July 1, 2021, this bill requires the Board to prominently display on its website, on at least a quarterly basis, either the current average timeframes for processing initial and renewal license applications or the combined current average timeframe for processing both initial and renewal license applications for each license

type. Ms. Burns stated the Board has been posting processing times on the website intermittently, but will begin posting the timeframes more regularly in compliance with this legislation that goes into effect July 1, 2021.

- SB 1474 (Senate Business, Professions and Economic Development Committee) Business and Professions

Cherise Burns provided a summary of the bill which was included in the written memo. Ms. Burns explained how this bill impacts the Board's sunset review process and prohibits a contract for the provision of services by a Board licensee from including a provision limiting the consumer's ability to file a complaint with that board or to participate in the board's investigation into the licensee.

b. Dead Legislation

Cherise Burns provided a brief summary of legislation of interest to the Board that died including AB 613 (Low) Professions and vocations: regulatory fees and AB 2028 (Aguiar-Curry) State agencies: meetings. Additional legislation was included in the written memo.

15. Legislative Items for Future Meeting

There were no legislative items requested for a future meeting.

16. Election of Officers

Paul Sanchez provided an overview of the responsibilities for the Board Chair position.

M/S/C Chang/Shalev

Motion to nominate Marcia Raggio as Board Chair. The motion carried 8-0.

Paul Sanchez provided an overview of the responsibilities for the Vice Chair position.

M/S/C Raggio/Parker

Motion to nominate Holly Kaiser as Vice Chair. The motion carried 8-0.

17. Future Agenda Items and Potential Dates for Board Meetings and Standalone Committee Meetings

Marcia Raggio requested that cognitive screenings performed by audiologists and speech-language pathologists be added to a future agenda. Board members can also submit agenda items to Paul Sanchez or Cherise Burns via email.

The Board also discussed Board meeting dates for 2021. The scheduled dates are February 5, 2021, May 14, 2021, August 6, 2021, October 8, 2021, and possible sunset review teleconference on November 5, 2021. Standalone Committee Meetings will be scheduled in between the Board meeting dates.

The meeting moved into closed session at 4:39 p.m. and adjourned after closed session.