



FULL BOARD MEETING MINUTES

July 26, 2010

East End Complex
1500 Capitol Avenue
"Hearing Room #72.167"
Sacramento, CA

Board Members Present

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

Staff Present

Annemarie Del Mugnaio, Executive Officer
LaVonne Powell, Legal Counsel
Kathi Burns, Staff
Cynthia Alameda, Staff
Yvonne Crawford, Staff
Debbie Newcomer, Staff

Guests Present

Tricia Hunter, Hearing Health Care Providers California (HHP CA)
Cindy Peffers, HHP CA
Jody Winzelberg, Director of Rehabilitative Services Lucile Packard Children's Hospital at Stanford
Marcia Raggio, California Academy of Audiology (CAA)
Rebecca Bingea, University of California, San Francisco (UCSF)
Robert Powell, California Speech-Language-Hearing Association (CSHA)
Erica Kano, Executive Staff, Department of Consumer Affairs (DCA)
Ryan Arnold, DCA, Legislative and Policy Review
Tim Shannon, HHP CA
Barry Brokaw, CAA
Randy Sager, HHP CA
Bill Barnaby, CSHA
Luis Farias, Deputy Director, Communications, DCA

I. Call to Order

Chairperson O'Connor called the meeting to order at 10:40 a.m.

II. Introductions

Those in attendance introduced themselves.

III. Approval of Meeting Minutes for May 26-27, 2010 Hearing Aid Dispensers Committee Meeting, Audiology Practice Committee Meeting & Full Board Meeting Minutes

The Board discussed minor edits to the practice committee and full board meeting minutes.

M/S/C: Grimes/Green

The Board voted to approve the meeting minutes as amended.

IV. English Language Competency as a Prerequisite to Licensure and the Proposal for Conducting a Standard-Setting Study for the Test of English for International Communication (TOEIC) Examination - Attendance from Eileen Tyson and Feng Yu from the Educational Testing Service

Ms. Murphy provided a brief summary of her prior report given at the full board meeting on May 26, 2010, which provided background on the Board's efforts to establish entry-level licensing standards and evaluation processes for internationally trained applicants. As a result of previous discussion, Eileen Tyson and Feng Yu of Educational Testing Services (ETS) attended the meeting, at the Board's request, to provide clarification on standard-setting concerns as identified by the Board. Ms. Tyson and Mr. Yu recommended that in order to establish a stable, credible and appropriate minimum passing score for the varied professional settings where speech-language pathologists provide services in California, the Board should consider engaging in the formal standard-setting process. Ms. Tyson and Mr. Yu provided the Board with a brief explanation of the formal standard-setting process that, as facilitated by ETS staff, utilizes a panel of experts charged with identifying minimum standards of English language proficiency. Ms. Tyson and Mr. Yu communicated the possibility of ETS assuming a portion of the overall cost of the process. The Board requested specific information on the length of time required to complete the process, the resources needed, and the cost associated with the formal standard setting process. Ms. Tyson and Mr. Yu estimated they could provide the Board with the requested information within three weeks.

Chairperson O'Connor inquired about whether other states have approached ETS about setting standards for an English language proficiency examination.

Ms. Tyson stated that ETS is usually approached by state associations or national councils of state boards.

Ms. Del Mugnaio inquired of Chairperson O'Connor whether the American Speech-Language-Hearing Association (ASHA) may be interested in working with ETS to conduct a standards-setting workshop for the TOEIC examination.

Chairperson O'Connor agreed to discuss the issue with ASHA.

V. Executive Officer's Report

A. Budget Update

Ms. Del Mugnaio referenced the budget projections for both the Speech-Language Pathology and Audiology (SLPA) budget and the Hearing Aid Dispensers/Dispensing Audiology (HAD) budget. She stated that the expenditures for the SLPA budget are extremely high in relation to the budget appropriation such that spending restrictions for the budget year must be enforced. Ms. Del Mugnaio indicated that, in contrast, the HAD budget appropriation is more than sufficient to provide for the operating expenses. However, she indicated the fund balance for the HAD fund is not solvent, as operating costs have exceeded licensing revenue for the past few years and that ultimately the HAD fund must collect additional revenue by way of increasing fees.

B. Status of Proposed Regulations

1. Dispensing Audiologists Renewal Fee/Continuing Professional Development Amendments (California Code of Regulations Sections - 1399.157, 1399.160.3-1399.160.6)

Ms. Del Mugnaio explained that the Board adopted the amended language at its May 26-27, 2010 Board meeting; however, she stated that after consulting with the DCA Budget Office and Executive Staff, she was advised that the language should be adopted by emergency in order for the provisions to take effect immediately upon filing and so that the necessary licensing renewal revenue could begin to be collected from dispensing audiologists. Ms. Del Mugnaio stated that filing the regulations by emergency will also clarify the continuing professional development requirements for dispensing audiologists.

M/S/C: Grimes/Green

The Board voted to approve the filing of the regulation amendments (California Code of Regulations Sections 1399.157, 1399.160.3-1399.160.6) on an emergency basis.

2. License renewal Requirements –Retroactive Fingerprinting – (Adopt California code of Regulations Section- 1399.157.3)

Ms. Del Mugnaio stated that the language regarding retroactive fingerprinting was adopted by the Board at a prior meeting; however, the regulations have not been filed with the Office of Administrative Law (OAL). She stated that staff is currently working on transition issues surrounding the merger, and that the regulations will be filed once the emergency regulations regarding dispensing audiologists have been submitted to OAL.

3. Regulatory Proposal Regarding Audiologists' Role in Cochlear Implant Fitting and Mapping (California Code of Regulations Section 1399.150.2-Definitions)

Ms. Del Mugnaio stated that the proposal regarding the audiologists role in cochlear implant fitting and mapping was adopted at a previous meeting and that the regulation package will be filed once the emergency regulations have been secured.

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

Ms. Del Mugnaio distributed the draft language and stated that the Board has reviewed a prior version of the regulatory amendments at its May 27, 2010 Board meeting which would implement by regulation the unprofessional conduct provisions formerly contained in Senate Bill 1111. However, the draft language was changed substantially and is still pending legal review. Ms. Del Mugnaio indicated that the final proposed language will be prepared for the next Board meeting at which time the Board may take formal action.

C. Operational Updates - Budget Impasse/Staff Relocation

Ms. Del Mugnaio stated that due to the budget impasse, several spending restrictions are in place, including travel, supplies, payment of vendor invoices, payment or execution of contracts, and most other operational expenses. She indicated that the Board must be extremely frugal with its resources until such time that a budget is passed.

VI. Chairperson's Report California Commission on Teacher Credentialing Special Education Credentialing Reform

Chairperson O'Connor reported on the Board and Committee Chair Teleconference with the Department of Consumer Affairs' (DCA) Executive Staff conducted on July 13, 2010. DCA Executive Staff updated all participating chairpersons on administrative issues of importance to the Department. The topics discussed included anticipated impact of the Federal Health Care Reform, SB 1441 - Uniform Standards Implementation, Budget Impasse, Board Member Vacancies, Licensing Reform, Internal Audit of the Maximus Contract for Drug Testing, and Agency Review of Regulation Packages.

Chairperson O'Connor provided an update regarding the California Commission on Teacher Credentialing Special Education Credentialing Reform. She reported that the Speech-Language Pathology Credential was amended to remove the references to "medical terminology" (i.e., clinical) and was set for final action on September 30, 2010. Chairperson O'Connor reported that the Communication Disorders Credential is still under review.

VII. Practice Committee Reports A. Hearing Aid Dispensers Committee Report and Recommendations for Proposed Regulatory Amendments for Continuing Professional Development Provisions, Modifications to the Song-Beverly Consumer Warranty Act, Use of the Term Audioprosthologists by Licensed Hearing Aid Dispensers

Mr. Manning provided an overview of the matters discussed at the Hearing Aid Dispensers Committee Meeting and outlined the recommendations of the Committee before the Board (included under the Hearing Aid Dispensers Committee Meeting Minutes).

VIII. Department of Consumer Affairs Director's Report

Erica Kano provided the Director's Report to the Board on behalf of the DCA Executive Office. Ms. Kano highlighted issues previously addressed in Chairperson O'Connor's report on the July 13, 2010 Board and Committee Chair Teleconference. Additionally, Ms. Kano discussed the Consumer Protection Enforcement Initiative budget change proposal, which included a non-sworn investigator position for the Board. Further, the proposal included Department funding for the development and implementation of a replacement applicant, licensing, and enforcement tracking system (BreEZe). The Board accepted Ms. Kano's offer to schedule a presentation for the Board on BreEZe by the Department's Chief Information Officer, Debbie Balaam.

IX. Proposed Legislation/Regulation Amendments

B. Senate Bill 1489 - Negrete-McLeod. Omnibus Submission - Amendments to AB 1535/ Amendments to Business and Professions Code Section 2539.6 & 3365.5 – Conditions for Referral for Dispensing Licensees

Ms. Del Mugnaio provided a brief recap on SB 1489, the omnibus bill carrying non-controversial clean-up language for the Board regarding AB 1535. Ms. Del Mugnaio reported that there was no formal opposition to the bill at this time.

C. Assembly Bill 2072 – Mendoza. Hearing Screenings; Resources and Services

Ms. Del Mugnaio briefly summarized the provisions of the bill that provide for the development and dissemination of resource materials to parents of children who are identified with a hearing loss at a follow-up appointment with an audiologist after failing the newborn hearing screening. Ms. Del Mugnaio updated the Board on the most recent amendments of June 9, 2010, which identified the National Institute on Deafness and other Communication Disorders as the source of the resource materials, which would relieve the fiscal burden on the state or individual audiologists to produce new materials. The recent amendments also removed ambiguous language referencing “other related professionals.”

Vice Chairperson Grimes stated that she strongly favored a partnership between the California Department of Education, California audiologists, and the California Newborn Hearing Screening Program to develop parent resource materials on communication options for deaf or hearing-impaired children. Vice Chairperson Grimes reported that when the Newborn Hearing Screening Program was established in 2000, one of the program’s responsibilities was the development of resource materials for parents of children who are diagnosed with a hearing loss. She reported that the limited educational materials in current circulation contain statements that are not supported by the most recent data/research regarding hearing intervention. Vice Chairperson Grimes further stated that the response to the lack of available educational information has resulted in individual clinics collecting resource material from varied nationwide sources for dissemination to parents.

M/S/C: Grimes/Green

Vice Chairperson Grimes made a motion that a letter be sent to the Newborn Hearing Screening Program citing the responsibility vested in the program to develop and provide adequate resource materials for parents of children who are diagnosed with a hearing loss after failing the newborn hearing screening. She further recommended that the Board’s letter bring attention to both the lack of adequate resource materials, as well as the inaccuracies in the existing resource documentation. Vice Chairperson Grimes concluded by recommending that the Board invite representatives from the Newborn Hearing Screening Program to attend the next Board meeting to discuss the consumer protection issues raised regarding inadequate educational resource materials for parents, and to request an overview of the implementation and effectiveness of the Newborn Hearing Screening Program.

D. Senate Bill 1172 Negrete-McLeod. Regulation Boards/Diversion Programs – Review Revised Disciplinary Guidelines Regarding Substance-Abusing Healing Arts Licensees and Related Amendments

Ms. Del Mugnaio reported that the task force assigned to the Uniform Standards on Substance Abuse resulting from SB 1441 continues to meet regarding compliance issues and is still finalizing their recommendations for the Committee. As a result, Ms. Del Mugnaio advised the Board to delay

adopting language until the formal recommendations are approved by the Committee. In the meantime, Board staff will continue to work on updating the disciplinary guidelines for review by the Board.

E. Senate Bill 1282 – Steinberg. Applied Behavior Analysts

Ms. Del Mugnaio reported that due to significant concerns and controversy over the provisions of SB 1282, the author elected not to pursue the proposed legislation. The bill was amended into a health care coverage bill with no direct impact or overlap with the profession of speech-language pathology.

F. Assembly Bill 2382 – Blumenfield. California State University Doctor of Physical Therapy Degrees

Ms. Del Mugnaio reported that AB 2382 amends the master plan for the California State University (CSU) system to award the doctorate degree in physical therapy. The University of California system will continue to be the state educational system awarding doctorate degrees; however, the under the provisions of AB 2382, the CSU would be authorized to award a clinical doctorate in physical therapy.

G. AJR 31 - Buchanan. Special Education Funding

Ms. Del Mugnaio reported that the resolution passed which encouraged the Federal Government to enact HR 1102 and other special education funding bills pending before Congress in order to fully fund special education.

H. Legislation of Interest to the Board

Ms. Del Mugnaio reported that Negrete McLeod's SB 294 (Department of Consumer Affairs - Regulatory Boards) identifies the sunset date of the newly merged Board for January 1, 2014, unless extended. The provisions of SB 294 require that the Board provide a Sunset Review Report to the Joint Committee of the Assembly Business and Professions Committee and Senate Business, Professions and Economic Development Committee in September of 2012. Ms. Del Mugnaio reported that she would provide a copy of the prior report completed in 2006 for review at the Board meeting scheduled for January 2011.

X. Entry Level Licensing Standards for Audiologists and 4th year Audiology Doctoral Students completing the Required Professional Experience (Review Business and Professions Code Section 2532.25)

Ms. Del Mugnaio explained that currently this law requires a 12-month externship. This is problematic as some programs calculate completion of the 4th year in hours, not months, and the hours do not always total a full 12-month time period. If a student completes the externship early, the student is often forced to find other employment and supervision in order to complete the 12-month experience.

To resolve this problem, it was determined that the statute should be amended to include a specific number of hours as an alternative to specifying a number of months to define the minimum standard for the 4th year externship.

Ms. Grimes offered to seek assistance from the American Academy of Audiology to determine the proper number of hours.

Ms. Del Mugnaio will request this amendment be included in the Department's Omnibus bill next year.

XI. Licensed Audiologists and Hearing Aid Dispensers Participation in Discount Hearing Service Programs and Issues with Business and Professions Code Section 650 Regarding Prohibited Referrals

Ms. Del Mugnaio presented proposed regulatory language from the Department of Managed Health Care that would provide guidelines for certain types of discount health care programs. She stated that the provisions may be in direct conflict with Business and Professions Code Section 650 in terms of the referral bases for the discount program.

It was decided that Ms. Del Mugnaio would seek the assistance of the Office of the Attorney General to determine if there is a conflict with this language and then make contact with the Department of Managed Health Care regarding the findings.

XII. Licensing / Enforcement / Examination Statistical Data

Ms. Del Mugnaio presented the fiscal year 2009/2010 statistics and entertained questions. She announced that due to an unexpected staffing issue, the licensing statistics for Speech-Language Pathologists and Audiologists will be prepared and mailed separately, as well as posted to the Board's website.

Ms. Del Mugnaio pointed out that, per the request of the Board, the information regarding Hearing Aid Dispensers advertising complaints were now included in the enforcement data.

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

Ms. O'Connor reported that she had been provided details regarding a county organization that pays an SLPA with an AA degree less than one with a BA degree. Since there is virtually no difference in a SLPA's ability to perform the job based on the type of degree they possess, this will be placed on a future agenda for further discussion.

Ms. O'Connor expressed concern regarding the Hearing Aid Dispenser Examination failure rates. She was reminded that the examination is scheduled to be evaluated this coming year.

**XIV. Announcements – Schedule Future 2011 Board Meetings – January 27-28, 2011 San Francisco
Next Scheduled Board meeting October 21-22, 2010 San Diego**

The following Board meeting schedule was agreed upon: October 21-22, 2010 – San Diego; January 27-28, 2011 – San Francisco; April 14-15, 2011 – Sacramento; July 14-15, 2011 – Los Angeles; and October 20-21, 2011 – San Francisco.

XV. Adjournment

Chairperson O'Connor adjourned the meeting at 3:15 pm.