



**Washington State
Board of Hearing and Speech
Meeting Minutes**

November 2, 2012

Board Members Present

Jody Magnusson, Chair; Sheryl Arends, Acting Chair; James Deal, Public Member; Rudy Gahler, MD; Trice Konschuh, Public Member; Cary Larson; Tom Putaansuu; Gail Rothwell

Staff Present

Janette Benham, Program Manager
Jason Howell, Assistant Attorney General (AAG)
Judy Young, Staff Attorney
Dave Magby, Director, Office of Investigation & Inspection
Don Painter, Chief Investigator
Allison Kohl, Project Manager

Members Absent

Lynn Bishop, Vice-Chair
Wes Brosman, Public Member

Others Present

Lloyd Wright	Joey Niemuun
Troy Flynn	Melissa Brewer
Dave Moore	Nathan Ball
Lacey Nelson	Mark S. Pierce
Jamie Weems	Norma Mears
Dean Gainer	Rick Giles
Edward Gavronski	Melissa Johnson

On November 2, 2012, the Board of Hearing and Speech met in Tumwater, WA at the Department of Health, Town Center Two, 111 Israel Rd SE, Room 158, Tumwater, WA 98501. In accordance with the Open Public Meetings Act, the meeting agenda was emailed to the Hearing and Speech listserv.

OPEN SESSION – 9:00 a.m.

1. CALL TO ORDER – Jody Magnusson, Chair 9:11 a.m.

Ms. Magnusson called the meeting to order and announced her resignation from the board. Board Members moved, seconded, and approved Sheryl Arends, Acting Chair.

1.1 Approval of the agenda

The agenda was amended to add Item 1.3 Introductions. The agenda was approved as amended.

1.2 Approval of the August 3, 2012 Meeting Minutes

The August 3, 2012 meeting minutes were approved as presented.

1.3 Introductions

Board members, staff, and guests introduced themselves. The board welcomed Trice Konschuh, Public Member, to the board.

2. **EXECUTIVE DIRECTOR REPORT – Bob Nicoloff, Executive Director**

2.1 **Current Budget Report**

Janette Benham, Program Manager, provided an updated report on the Hearing and Speech program budget through September of 2012. She reported that the program's overall budget was in good shape. The report showed that some areas of the budget were currently overspent (AG support and Goods and Services). Program budgets can fluctuate and generally balance out over the span of the biennium. The program's current overall reserve is approximately \$411,917.

2.2 **Performance Measures**

Dave Magby, Director of the Office of Investigation and Inspection, provided updated reports on performance measures. Performance measures are monitored on a monthly basis. The reports presented included:

- Percentage of open investigations beyond 170 days
- Percentage of investigations completed within 170 days
- Percentage of open cases in case disposition beyond 140 days
- Percentage of cases in case disposition completed within 140 days
- Percentage of complaints in intake/assessment completed within 21 days

Mr. Magby reported that the performance measures for the Hearing and Speech program met performance expectations. When the graphs show a significant dip, it means there were zero complaints for that time period. He also explained the possibility of "outlier" cases that may cause expectations to not be met. The reasons for the outlier cases may be extensive interviews, extensive evidence, etc.

3. **PRESENTATION ON SUICIDE EDUCATION STUDY – Alyson Kohl, ESHB 2366 Suicide Education Study Project Manager**

Alyson Kohl, Project Manager, presented information regarding the Suicide Education Study that is mandated by Engrossed Substitute House Bill (ESHB) 2366 which the legislature passed in 2012.

ESHB 2366 contains three sections. Section 1 requires mental health professionals and occupational therapy practitioners to obtain continuing education on suicide assessment, treatment, and management every six years. Section 2 requires an evidence-based study of training programs. Section 3 requires an additional study be conducted to evaluate the effect of evidence-based training on suicide assessment, treatment, and management and the licensed healthcare professional's ability to identify, refer, treat and manage patients with suicidal ideation. Ms. Kohl explained the purpose and requirements of the study and how the study may impact the board. All healthcare providers will be asked to complete an online survey. Ms. Kohl provided a progress update on the study and will provide another update after the first of the year. The research-based report is due to the legislature in 2014.

4. PROGRAM MANAGER REPORT – Janette Benham, Program Manager

4.1 Licensing Statistics

Ms. Benham provided updated licensing statistics. The handout included licensing statistics for November 2011, August 2012, and November 2012. Statistics for November 2012 are as follows:

	Fitter/Dispenser	Audiologist	SLP	SLPA
Active Licenses	291	404	1879	206
Inactive License	44	33	27	0
Expired License	885	171	795	34
Revoked License	22	0	1	0
Suspended License	14	1	0	0

4.2 Update on expired board member positions, board member recruitment, and board member appointments

Ms. Benham updated the board on recruitment efforts to fill vacant board positions, including efforts to recruit for the MD Advisor position currently held by Dr. Gahler. Current vacant board positions include the audiologist and fitter-dispenser positions. Ms. Benham will send recruitment announcements to Melissa Johnson and Tom Putaansuu per their request, and will send the announcement on the Hearing and Speech listserv.

4.3 Online Renewal Project Update

Ms. Benham provided an update on the online renewal project. More professions are being added to the list of those that can renew online. Currently SLP and SLPAs can renew online. Due to the bond requirement, online renewal is not yet available to Audiologists and Fitter/Dispensers. Ms. Benham will continue to provide updates at future meetings regarding the online renewal project.

4.4 Update on International Hearing Society (IHS) computer-based fitter/dispenser examination

Ms. Benham provided an update on IHS's progress toward the computer-based fitter/dispenser examination. IHS administered the beta test (new test form) for the September exam. Ms. Benham reported that during the beta testing period, exam score reports would be supplied later than normal. The new test would be administered in the paper-and-pencil format until the complete conversion to computer-based testing that will happen toward the spring of 2013.

Ms. Benham reported that there were seven exam candidates who took the September exam. There were significant irregularities with the administration of the test. IHS and the department have been working together and with exam candidates to offer an additional exam to those candidates. An audience member asked how exactly the new exam was developed. Rick Giles, a member of the public, was familiar with how the test was developed. Mr. Giles explained that test questions were developed based on a

competency model and were developed by subject matter experts. Audience members discussed the difficulty of transitioning from one test to another.

Several audience members were in attendance to discuss the September exam and to ask questions about the administration of the new exam. Some of the concerns addressed included:

- **The delay in receiving exam scores**
 - Applicants did not feel it was appropriate to have to wait for exam scores as it would impact their ability to receive their degree from the schools and their license from the department. They stated it would also impact their ability to register and prepare for the next available exam by the registration date if they did not pass. Ms. Benham reported that in developing a new exam, exam scoring had to be determined and that was the reason for the delay. The department will work with IHS regarding subsequent exam dates and the registration process.
- **The administration of the September exam created a hardship for students traveling and preparing for the exam.**
 - Applicants and students expressed frustration that the September exam had problems with administration. They were concerned that any future exams would have the same problems. Ms. Benham reported that IHS had administered an additional exam for candidates who wanted to re-take the exam. Members of the audience who had taken the additional exam stated that there were no problems with the administration of that exam. IHS and the department are continuing to work with candidates to find an alternative to meet their needs. IHS and the department are also working together to ensure there will be no more irregularities in exam administration.
- **After receiving exam scores, how long would it take to issue a license? Would there be further delays?**
 - Applicants were concerned about any additional delays after exam scores were reported. Ms. Benham reported that the department has dedicated additional staff if needed to ensure licenses are issued as soon as possible after applicants are notified of a passing score on the test.

4.5 Update on CMS guidelines for reimbursement in school districts

Ms. Benham updated the board regarding federal reimbursement guidelines for SLPs. The Centers for Medicare and Medicaid Services (CMS) requires SLPs be licensed to receive reimbursement for services. As a result of this requirement, school district ESAs, will need to be licensed to receive reimbursement. This will increase the number of licensed SLPs in Washington.

5. DESIGNATION OF BOARD REPRESENTATIVE FOR LEGISLATIVE UPDATE MEETINGS (MEET-ME-CALLS)

The board did not designate a legislative representative at this time. Ms. Benham will contact the members who were absent to determine their interest in acting as the meet-me-call representative for the 2013 legislative session. Board members suggested that Lynn Bishop, vice-chair, would be a great representative. Ms. Benham will update the board at the next meeting, scheduled for February 2013.

6. ASSISTANT ATTORNEY GENERAL REPORT – Jason Howell, AAG

6.1 Update on internet sales of hearing instruments

Mr. Howell presented information he obtained at a webinar he attended in October regarding the North Carolina Dental Board vs. the Federal Trade Commission. The webinar addressed the significance of the case to boards and commissions and their ability to enforce their statutes. The internet sale of hearing instruments and the ability of the board to regulate this may be affected by the outcome of this decision. In addition, the consumer protection complaint regarding internet hearing aid sales needs to be researched further. Mr. Howell will research a federal preemption regarding conflicts between Washington law and federal law and will report back at the February meeting.

6.2 Any additional updates/information/research

Mr. Howell informed the board of an unlicensed practice complaint recently received against Wal-Mart for dispensing hearing aids. He believes that if the complaint goes to investigation Wal-Mart will vigorously defend their ability to dispense hearing aids.

7. CORRESPONDENCE

7.1 The board discussed a draft response to a question from a practitioner regarding whether it was legal for an audiologist to sell hearing aids to a patient who has normal hearing. The board determined that the hearing aid can be dispensed to a patient who has normal hearing as long as it is dispensed in compliance with Hearing and Speech laws and rules, RCW 18.35 and WAC 246-828, and federal laws and regulations. The board directed program staff to respond to the practitioner.

8. COMMITTEE WORK

8.1 Rules Committee

Members: Gail Rothwell; Wes Brosman; Cary Larson; Rudy Gahler, MD; Trice Kenschuh

- The committee will designate a committee chair.
- The committee will review and rules that were pending prior the rules moratorium and prioritize them for action after the moratorium ends.

8.2 Education/Exam Committee

Members: Lynn Bishop; Sheryl Arends; Cary Larson; Trice Kenschuh

- The committee will designate a committee chair.
- The committee will review a letter from the International Hearing Society suggesting Washington formally adopt their recommended passing score on the fitter/dispenser exam.

8.3 Disciplinary Committee

Members: Jim Deal; Sheryl Arends; Gail Rothwell; Lynn Bishop; Tom Putaansuu

- The committee will designate a committee chair.
- The disciplinary committee will meet in closed session to review any new cases.

8.4 Public Relations Committee

Members: Tom Putaansuu; Jim Deal; Rudy Gahler, MD

- The committee will designate a committee chair.

- The committee will review any lists and labels requests that have been received by staff.
 - Request from Idaho Physicians Network

9. COMMITTEE REPORTS

Rules Committee

- The rules committee designated Gail Rothwell as committee chair.
- The committee reviewed and discussed rules that were pending prior the rules moratorium. The committee recommended and the full board voted to prioritize the pending rules for action after the moratorium ends as follows:
 1. SLPA Continuing Education
 2. Audioprosthologist
 3. Minimum Practice Standards

Education/Exam Committee

- The education/exam committee designated Lynn Bishop as the committee chair.
- The committee reviewed and discussed a letter from the International Hearing Society that suggested Washington formally adopt their recommended passing score on the fitter/dispenser exam. When IHS scores exams, they give a recommended passing score. It is up to the licensing body to ultimately determine the pass/fail score of an exam. The board decided to adopt the IHS recommend passing score and wanted to further review how the exam was developed and scored in order to make a long-term determination.

Disciplinary Committee

- The committee designated Tom Putaansuu as committee chair.
- The disciplinary committee did not meet in closed session.

Public Relations Committee

- The committee designated Jim Deal as committee chair.
- The committee reviewed and discussed a request for lists and labels from Idaho Physicians Network. The committee recommended that the lists and labels request from the Idaho Physicians Network be denied. The board moved, seconded, and approved to deny the list and labels request from Idaho Physicians Network.

10. REVIEW OF INTERPRETIVE STATEMENT REGARDING THE DEFINITION OF “NEW” AND “USED” HEARING INSTRUMENT – The board reviewed and discussed the Draft Interpretive Statement regarding the definition of “new” and “used” hearing instrument. A motion was made, seconded and the full board voted to accept the Interpretive Statement as presented.

11. REVIEW OF INTERPRETIVE STATEMENT REGARDING THE RECISSION PROCESS AND REFUNDS FOR SERVICES – The board reviewed and discussed the Draft Interpretive Statement regarding the rescission process and refunds for services. The board corrected a statutory reference and made two additional changes.

12. AGENDA ITEMS FOR FUTURE MEETINGS

The board discussed adding the following items to future meeting agendas:

- More information regarding exam cut–score and passing score
- Review IHS contract
- Review exam information
- Rules
- Internet sales – AAG memo to board

13. PUBLIC COMMENT PERIOD

A member of the public asked that the board consider a discussion regarding the protocols used for addressing student applications as a future agenda item.

14. ADDITIONAL ITEMS

There were no other items for board discussion at this time.

15. CONSENT AGENDA

15.1 A copy of the October 2012 issue of “The Sentinel News for DOH Employees” was provided in the board member packets for review.

CLOSED SESSION – The board did not meet in closed session.

16. APPLICATION REVIEWS – There were no applications to review at this time

17. ADJOURNMENT – 1:18 p.m.

Prepared By: Janette Benham, Program Manager

Date

Approved By: Sheryl Arends, Acting Chair

Date