

AGENDA
BOARD OF HEARING AID SPECIALISTS
GENERAL BUSINESS MEETING
Sheraton Sand Key Resort
1160 Gulf Boulevard
Clearwater, Florida 33767
(727) 595-1611
Friday, July 8, 2011 at 1:00 p.m.

CALL TO ORDER/ROLL CALL

The meeting was called to order at 9:00 am by Ms. Polhill, Chair. Those present for all or part of the meeting included the following:

Members present

Leanne Polhill, Chair
John Fischer
Maria Hernandez
Robert Pickard, M.D.
Douglas Moore
Joseph Someillan
Randy Ellsworth

Members absent:

Pat Polumbi
Thomas Hollern

Staff Present

Allison Dudley, Board Counsel, Asst. Attorney General
Sue Foster, Executive Director
Penny Johnson, Regulatory Supervisor
Tobey Schultz, Prosecutor, Asst. General Counsel

APPROVAL OF MINUTES

July 16, 2010 General Business Meeting

The minutes of the July 16, 2010 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Ellsworth to approve the minutes
Second: by Fischer
Vote: unanimous

November 22, 2010 General Business Meeting

The minutes of the July 16, 2010 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Someillan

Second: by Mr. Moore
Vote: unanimous

MOTION FOR FINAL ORDER BY INFORMAL WAIVER HEARING
Scott Allen Rose Case # 2010-08426 (Lowell & Fischer)

Mr. Rose was not present and was not represented by counsel. An administrative complaint filed February 9, 2011 alleged violations of s. 456.072(1)(q), F.S. of a violation of a lawful order of the board. Respondent failed to pay fine of \$2000 within 180 days and costs of \$1968.88. His license is null and void.

Motion: by Mr. Ellsworth to accept the investigative file into evidence
Second: by Mr. Moore
Vote: unanimous

Motion: by Mr. Ellsworth to find that respondent was properly served
Second: by Mr. Moore
Vote: unanimous

Motion: by Mr. Moore to adopt the findings of fact and conclusions of law set forth in the administrative complaint and find that they are a violation of the practice act
Second: by Mr. Ellsworth
Vote: unanimous

Motion: by Mr. Ellsworth to issue a reprimand, \$5000 fine and suspension of license until compliance with previous final order
Second: by Mr. Moore
Vote: unanimous

Motion: by Mr. Ellsworth to assess costs of \$591.21
Second: by Mr. Moore
Vote: unanimous

Michael E. Thurston – Case #2009-18619 (Lowell and Fischer)

Mr. Thurston was not present nor represented by counsel. A two count administrative complaint filed February 9, 2011, alleged failure to report plea of nolo contendere to domestic violence battery to the Board within 30 days. Section 456.072(1)(w), F.S. requires reporting to the Board. Possible violation of 456.072(1)(x), F.S. in which respondent entered a plea of nolo contendere /adjudicated guilty of reckless driving charges on 3/09 in Lee county. A settlement agreement was presented to the Board at the meeting. Following discussion, the following action was taken by the Board:

Motion: by Mr. Moore to accept the settlement, with fine of \$250, costs of \$666.77 and probation for 6 months
Second: by Dr. Pickard
Vote: unanimous

PETITION FOR VARIANCE OR WAVIER
Christine I. Ryan

Ms. Ryan was present and was not represented by counsel. She is requesting a variance to rule 64B6-8.003(1), F.A.C. She is requesting that she be permitted to take the exam in September rather than January. She will not have completed her training and it is understood that if she passes the exam, the license will not be issued until 6 months after 4-27-11. She has a bachelor's degree in Communicative Disorders and holds an audiology assistant license.

Following discussion, the following action was taken by the Board:

Motion: by Mr. Moore to deny based on lack of demonstration of insufficient hardship

Second: by Mr. Ellsworth

Vote: motion fails with Dr. Pickard, Ms. Hernandez, Mr. Someillan and Mr. Fischer opposed

Motion: by Dr. Pickard to allow Ms. Ryan to take the exam in September, but must complete the training program before licensure

Second: by Mr. Someillan

Vote: motion passed with Mr. Moore, Mr. Ellsworth and Ms. Polhill opposed.

HEARING AID SPECIALISTS INFORMATION PACKET DISCIPLINARY PROCESS

Ms. Foster reviewed the information packet. She noted that a consumer member is needed to serve on the Board. She reviewed the process of a complaint and discussed mediation – 128 hearing aid complaints have been mediated in the past 5 years.

BOARD OF HEARING AID SPECIALISTS STATISTICS

Fiscal Year 2009-2010 Statistics

Ms. Foster reviewed the statistics with the Board – there are currently 803 active licenses, down from 960 licenses in F/Y 07/08. Currently we have 159 trainees, last year was 115.

There were 151 complaints received last year, 35 were legally sufficient for investigation. This year we have received 95 complaints and 23 of them were legally sufficient which is a 37% drop in complaints.

Last year there were 13 unlicensed activity complaints filed and this year only 1 was filed.

The website has been revised and there were 44,787 hits on the website last year.

The projected cash balance is improving and the Board is projected to be out of a deficit in FY 2012 -2013.

Examination Statistics

Exam statistics were provided to the board for the past three years.

CORRESPONDENCE DISCUSSION

Joanne Slater, CE Administrator, Audiology Online - 64B6-5.002 F.A.C.

Dr. Slater requested an appearance before the Board based on phone calls and emails from hearing aid specialists requesting online continuing education. She is the CE Administrator of Audiology Online. Only 3 states do not allow online CE – Florida is one of them. She has listed the benefits of online CE in an email sent May 16, 2011 on page 110 of the agenda.

Following her presentation, it was determined that this would be placed on a future agenda for the Board's discussion.

PROPOSED LEGISLATIVE DISCUSSION

Permitting of Hearing Aid Establishments

Proposed legislation from 2002 was placed on the agenda pursuant to a request of one of the Board members.

Following discussion, the following action was taken by the Board

Motion: by Mr. Moore that Board is in favor of proceeding with the permitting of establishments

Second: by Mr. Fischer

Vote: unanimous

It was determined that the Society would discuss the language changes and would seek this change in statute.

BOARD RATIFICATION

Trainee/Sponsor and Transfer List

Motion: by Mr. Fischer

Second: by Mr. Moore

Vote: unanimous

TOPIC DISCUSSION

JIM KING KEEP FLORIDA WORKING ACT

The board reviewed the legislation regarding employment of ex-offenders. The Board is required to review all of the laws and rules governing hearing aid specialists and list any disqualifying laws or rules that will be included in a report to the Governor and Legislature by December 31, 2011.

Motion: by Mr. Someillan that there are no disqualifying rules or laws in the Hearing Aid Specialist Practice Act

Second: by Mr. Fischer

Vote: unanimous

CS/CS/HB 1565 – Legislative Ratification of Rules

This law states that if a proposed rule has an adverse impact on small businesses or it increases regulatory costs over \$200,000 within one year, the agency must prepare a Statement of Estimated Regulatory Costs (SERC).

CS/CS/HB 155 – Privacy of Firearm Owners

The Board reviewed the legislation involving the privacy of firearm owners. A violation of this law, s. 456.072, F.S. (mm) violating any of the provisions of s. 790.338 could be addressed under our current rule 64B6-7.002(2)w; Guidelines for Disposition of Disciplinary Cases of

violating Chapter 484 or 456, F.S. or any of the rules adopted there under or failing to perform a legal obligation.

REPORTS

Assistant Attorney General - Rules Report

Ms. Dudley reviewed the current rules report with the Board.

Assistant General Counsel, Prosecution Services Unit

Mr. Shultz gave the following report: there are 16 cases currently in the Legal section, 6 are pre-probable cause and 10 are post –PCP. Six are possible considerations at Division of Administrative Hearings.

Board Executive Director

Budget Information

Ms. Foster reviewed budget information in the agenda showing expenditures and cash balance. Division projections show a positive cash balance in FY 2012 -13.

Board Members

Ms. Polhill stated that Dr. Pickard had funds available for free hearing aids for disadvantaged population and that anyone needing information could contact him.

OTHER BUSINESS

Delegation of Authority

Motion: by Mr. Someillan to approve the delegations of authority to Executive Director, CE Committee, Board Chair, board staff

Second: Mr. Fischer

Vote: unanimous

Meeting Dates and Locations for 2012

1. March

2. July

3. November

It was determined that proposed dates and locations would be emailed to members.

FYI

A. Correspondence from Courtney Ray

B. Letter from International Hearing Society (Computer-based ILE)

C. Continuing Education Audit Report.

D. Chapter 456.005 Long-Rang Planning (Chair/Vice-Chair meeting on September 27, 2011 – Tallahassee)

E. Citations for 2009/2010

ADJOURNMENT

The meeting was adjourned at 3:00 p.m.