

STATE OF NEVADA
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY
AND HEARING AID DISPENSING BOARD

MINUTES OF PUBLIC MEETING

October 18, 2019

Members Present: Nighat Abdulla, Michael Hodes, Jane McEvoy, Andrea Menicucci, Thomas Rainford

Members Absent: Tami Brancamp, Bonnie Lamping

Staff Present: Jennifer Pierce, Executive Director
Loretta Ponton, Executive Director
Stacey Whittaker, Executive Assistant/Licensing Coordinator

Public Present: None

Call to Order, Confirmation of Quorum - Andrea Menicucci, Vice Chair, called the meeting to order at 4:32 p.m. A roll call confirmed a quorum was present.

Public Comment - There were no public comments.

Approval of Minutes - Andrea Menicucci asked if there were any corrections or revisions to the minutes of the meeting of July 27, 2019. A correction was noted on page 4 to amend the following sentence (correction in bold): *Michael Hodes made the motion, seconded by Tom Rainford to accept a letter of completion from an educational institution signed by either the registrar, Dean, or Department Chair in cases where the issuance of the official transcript is delayed due to institutional policy, with follow up to ensure the official transcript is received.*

Hearing no further comments, Ms. Menicucci called for a motion. Michael Hodes made a motion to approve the minutes of July 27, 2019, as revised. Thomas Rainford seconded the motion. The motion passed.

Disciplinary Matters - Recommendation for Dismissal - Andrea Menicucci called on Loretta Ponton. Ms. Ponton reported Case No. S19-05 alleged unprofessional conduct and incomplete client records. After investigation and review of all documentation received in the case, it has been determined that there is insufficient evidence to file a formal complaint for hearing before the Board and the facts set forth in the accusation are insufficient to establish a violation of Chapter 637B of the Nevada Revised Statutes or the Nevada Administrative Code and it is recommended that the case be dismissed.

Andrea Menicucci called for a motion. Thomas Rainford made the motion to approve dismissal of Case No. S19-05. Nighat Abdulla seconded the motion. The motion passed.

Report on National Council of State Boards Conference - Andrea Menicucci called upon Jennifer Pierce, Executive Director.

Ms. Pierce summarized the Board training and overall conference. Items of note were as follows:

- **Licensure Compact Update**
The Compact design was explained in detail and pros/cons were discussed with advice given to states considering, or on the fence, regarding participation. The Compact needs ten (10) states to sign on initially and there were varying levels of planned participation present at the conference.
- **Over-the-Counter Hearing Aids**
Most states are waiting on further FDA guidance, as the FDA Reauthorization Act of 2017 was followed up with a letter in July 2018 and proposed regulations are due by August 2020. The speaker, however, characterized this matter as a “non-issue” for Hearing Aid Dispensers, as in his professional opinion these have effectively already been on the market for many years and would not significantly impact business, though in some cases could create a new line of business for those who choose to carry them.
- **Ethical Trends + Challenges**
There was general discussion around addressing requirements for criminal background checks and reference to a bipartisan “fair licensing movement” underway to ensure practitioners are not unfairly denied licensure. Additional discussion centered around how states and Boards are addressing “impaired practitioners”, i.e. those dealing with burnout/stress, wellbeing as an ethical obligation, eliminating the stigma around seeking mental health support but concurrently asking questions around mental health conditions & use of medication (prescription, medical or legal marijuana) and connecting to a practitioner’s ability to do the job, in accordance with the ADA.
- **Continuing Education on Ethics & Supervision**
Discussion with states reporting out on varying levels of requirements for practitioners to complete CEs in ethics and supervision.
- **SLPA Licensing**
There was not a standalone session on this topic but during the state report-out many noted their state’s current stance. Approximately eight (8) states did not reference the issue and seven (7) reported having some level of law/regulation in place for licensure.

Consideration of Contracting for Legislative Services to assist the Board in Legislative and Regulatory Matters – The Board reviewed the proposed *Solicitation for Government Relations Services* and discussed the need for government relations services considering its varied needs in both session and interim years and in relation to whether the Board plans to propose new legislation. Loretta Ponton explained that Paula Berkley has now retired from the Board but will meet with Jennifer Pierce several times in the near future to download pertinent legislative information to assist in the Executive Director transition.

Loretta Ponton suggested that the Board consider the pros and cons of employing a lobbyist, explaining that a formal solicitation would have to be issued if the Board decided to proceed in doing so. Ms. Berkley has provided the Board with the names and contact information for three potential lobbyists that she recommends the Board invite to submit proposals. Ms. Ponton further recommended that due to the fast moving nature of the legislative environment, it is beneficial to have a lobbyist in place who can monitor, notify, and assist the Board when relevant matters come up, as often there is little advanced notice given for agenda items and especially when the Board is submitting changes to legislation. Ms. Ponton advised that the Board should also consider the fiscal impact of the expenses related to government relations services and it is unknown what figures will be proposed by potential lobbyists.

Ms. Ponton suggested that the Board consider 1) whether it wants to solicit for a lobbyist, 2) make any relevant changes to the Solicitation and consider a tentative start date, and 3) consider whether the Board wants to receive/hear presentations on the proposals from applicants or direct the Executive Director to review the proposals.

Thomas Rainford also asked if Jennifer Pierce is currently registered as a lobbyist as this has been beneficial in the past for Ms. Ponton to have been registered. Ms. Ponton confirmed that she is currently registered, but Ms. Pierce is not and would not be able to do so until the legislative session, but she would recommend Ms. Pierce do so. Mr. Rainford questioned whether there is a need for an action item for Ms. Pierce to register as a lobbyist. Ms. Ponton stated that would not be needed, and the Board could consider this in a future meeting, add the registration cost to the budget, and approve the action through the budgetary process. It was agreed that this topic would be added to the agenda for the next meeting and Ms. Pierce can report further as to her preference for how to participate in the legislative process.

It was agreed that the Board should consider proposals from potential lobbyists to further understand the associated costs and services a lobbyist can assist with. Andrea Menicucci called for a motion. Michael Hodes made the motion to approve and issue the *Solicitation for Government Relations Services*. Andrea Menicucci seconded the motion. The motion passed.

Consideration of Budget Revisions – Andrea Menicucci called on Jennifer Pierce and Loretta Ponton. Ms. Pierce summarized the three line items proposed for revision and the specific work associated with the increased costs related to the new office space, website development, and the previously discussed item around contracting for Government Relations Services. A separate proposal for adding an online application system to the new website was also reviewed with a recommendation to consider accepting the bid but deferring the costs and the work to FY21.

There was some discussion regarding the current website costs and the proposed move to hosting by Albertson Consulting with savings in maintenance costs and consultant services following the move to the new site. Additional discussion was held around the proposal for additional funds to support Government Relations Services if the Board chooses to move forward with a new lobbyist.

It was agreed that the Board would consider approving the current proposed budget revisions for this fiscal year to increase the line items for office space, website development, and government

relations services, and separately consider accepting and deferring the proposal for the online payment system to FY21.

Andrea Menicucci called for a motion on the revised FY20 budget. Thomas Rainford made the motion to approve the proposed FY20 budget as revised. Jane McEvoy seconded the motion. The motion passed.

Andrea Menicucci called for a motion on the online application proposal. Michael Hodes made the motion to accept the online application system proposal and plan to defer work/expenses to FY21. Nighat Abdulla seconded the motion. The motion passed.

Work Session - NAC 637B, Board Regulations; NRS 637B, Board Law

PROPOSED NEW/REVISED REGULATIONS

Ms. Ponton summarized the three proposed changes to regulations and explained the process for moving forward on these revisions. If the Board approves moving forward with these revisions the first step will involve sending them to the Legislative Counsel Bureau (LCB) for formal drafting, and then holding a series of public workshops and meetings to approve the final language. Ms. Ponton suggested that the process could take anywhere from six months to a year, and recommended the Board consider starting this work now since we are in a non-Legislative session year.

- *NAC - New - Practice Within the Scope of Credential (NRS 637B.080)*
This item has come up in prior discussions, but formal language has been drafted for the Board to review. The proposed revision clarifies the scope of the licensing credentials issued to Speech-Language Pathologists and Audiologists by the Department of Education. The revision would make clear that these practitioners could not work under that credential if they are not an employee of a public educational institution, are a contractor, or are providing services in a private setting. This revision benefits the Board and the public by ensuring providers are working within the scope of their licensed practice.
- *NAC - New - Citations, Administrative Fines (NRS 637B.290)*
This revision would give the Board authority to issue a citation and administrative fine for practicing without the required license or endorsement. This authority may be useful in cases where a complaint is not received but the Board becomes aware of the unlicensed practice, or in complaint cases that are not considered egregious. This revision benefits the Board by allowing for punitive sanctions in these situations.
- *NAC - New - Jurisprudence Exam (NRS 637B.191)*
This revision was written to provide the Board with authority to require a Jurisprudence Examination as part of the licensure process. Ms. Ponton explained that many boards already require these exams and the prior Hearing Aid Dispensing Board did so prior to the merge into the current Board. This revision is a benefit to the Board and the public as it ensures licensees are aware of state laws governing their practice.

- NAC 637B.0391 - *In-Service Training for Apprentice - Credit For Prior Training*
This revision allows for a Hearing Aid Specialist Apprentice to receive credit for up to two years of prior training in cases where they began the apprenticeship but were unable to finish and their license has expired. This allowance is not clearly addressed in the current regulation and would benefit practitioners by giving the Board authority to give credit for experience earned, when appropriate, especially in hardship cases.
- NAC 637B.0396 - *Qualifications to Act as Sponsor of Apprentice - Employment*
This revision clarifies that a Hearing Aid Specialist sponsor or Dispensing Audiologist sponsor and their apprentice must work for the same employer. This is not clearly addressed in regulations now and would give the Board authority to deny potentially problematic situations where a sponsor would be reviewing the work and records of an entirely separate company.

There was discussion on all five proposed regulations. The Advisory Committee on Fitting and Dispensing Hearing Aids has previously discussed the Jurisprudence Exam but not in detail. The Board discussed the language stating that the applicant “*must have achieved a passing score*”. A suggestion was made to revise this language to replace “*must*” with “*may be required*” so as to allow the Board some flexibility in implementing this regulation, possibly making it optional at first. There was further discussion about how the exam would be administered with acknowledgement that the process could be developed by the Board later, but this would not preclude moving forward with drafting the regulation.

Andrea Menicucci called for a motion on the proposed regulations. Thomas Rainford made a motion to approve all five new/revised regulations as written with the exception of changing “*must*” to “*may*” in the Jurisprudence Exam regulation and sending them on to the Legislative Counsel Bureau for drafting. Michael Hodes seconded the motion. The motion passed.

DISCUSSION ON EXISTING/POTENTIAL NEW LAWS

These existing laws were presented for discussion and consideration for future meeting agenda items by the Board. Ms. Ponton noted that any revisions will require legislative action and suggested that if the Board chooses to move forward with a legislative bill, that it consider the timelines leading up to either the 2021 or 2023 sessions based on the research and lead work that will be required.

- NRS 637B.175 - *Fees*
This revision proposes changing the law to increase the maximum allowable fees the Board can charge but would not require the Board to actually increase the fees immediately. When this Board was created/merged in 2015 and the professions were consolidated, some practitioner types saw changes to their fees but there were no formal changes made to the fee structure at that time. Ms. Ponton explained that all fees have remained low and the Board has been efficient within the rate structure, but that as the Board grows, costs will as well. The current fees are at the maximum authorized caps which will not allow the Board to increase fees, if needed, without legislation. Ms. Ponton recommended the Board consider this work now, as the next legislative session is 2021 and it will take some time, if approved,

for new caps to take effect. If the Board waits until the 2023 session it may hamper the Board's ability to grow and fund future initiatives.

- *NRS 637B.238 - Apprentices: Limitation on Period of Apprenticeship*
This revision allows the Board authority to grant a one-year license extension to a Hearing Aid Specialist Apprentice who has not yet passed the required examination for licensure, when a showing of good cause is made. There was some discussion about Apprentices having difficulty passing the national exam, how "good cause" would be defined, and referring this item to the Advisory Committee.
- *NRS - New - Speech-Language Pathologist Assistant, Audiologist Assistant*
This proposed new legislation would define and create authority and criteria for licensing Speech-Language Pathology Assistants and Audiology Assistants in the State of Nevada. This is a national trend with many states moving towards some form of legislation and licensing requirements. The Board reviewed the Model Language drafted by the American Speech-Language Hearing Association (ASHA) and will continue to research and discuss the matter.

Board members were polled for ideas about related future agenda items and Michael Hodes suggested future discussion around the regulation of practical exams for the dispensing practical examination, specifically addressing whether there should be a waiting period in between exam attempts and a set maximum number of attempts allowed.

The Board agreed to continue discussing all four issues as future agenda items. No action required.

Report from Advisory Committee on Fitting and Dispensing Hearing Aids – Michael Hodes reported that the Advisory Committee meeting scheduled in September 2019 was cancelled and there is no report. Another meeting will be scheduled prior to the next full Board meeting.

Executive Director's Report - Andrea Menicucci called on Jennifer Pierce who directed the members to the written report.

- *Licensure Statistics*
Jennifer Pierce reported on licensure statistics as of September 30, 2019, showing a net increase of 25 new licensees, 6% higher than Q1 FY19.
- *FY 2019 Final Balance Sheet*
Ms. Pierce summarized the final FY19 Balance Sheet with revenue totaling \$172,950.04. This is completed in lieu of an audit since the budget is less than \$200,000 annually but was submitted to the Legislative Counsel Bureau and State Budget Division for review as required. Ms. Ponton pointed out that there are slight changes from the Q4 Financial Report previously reviewed by the Board due to outstanding financial items at that time, so this is the official year-end financial report requiring the Board's approval.

- *Q1 FY20 Fiscal Review*

Jennifer Pierce summarized the FY20 first quarter financial statements. Total revenue for the quarter is \$42,714.39 which is 26.45% of the FY20 budget. Expenses are \$47,086.40 which is 24.86% of the budget. Deviations include attorney general fees, which can't easily be anticipated given that we do not know the frequency and types of complaints that will be received, and IT/Technical Support which was an anticipated one-time cost to add the payment page to the website. Total cash assets are \$148,678.86 and Total Assets, Liabilities, and Equity equal \$154,224.00.

- *Complaints*

Jennifer Pierce reported that there are two outstanding complaints in the investigative process.

Andrea Menicucci called for a motion. Michael Hodes made a motion to approve the FY19 Financial Statement and Balance Sheet as submitted. Nighat Abdulla seconded. The motion passed.

Report from Legal Counsel – There was no report as legal counsel was not present in the meeting.

Report from Board Chair and Board Members –

- *Meeting Schedule*

Jennifer Pierce discussed the 2020 proposed meeting schedule, suggesting that days other than Fridays could also be considered. Ms. Pierce also reported that the Board will be ready to start holding meetings via ZOOM Meeting (with video and audio) instead of just telephone conference in January 2020.

Michael Hodes proposed looking at weekdays other than Fridays and the members in attendance agree to this, stating they could generally be available on other days. It was suggested that the Board look at a tentative date now for the January 2020 meeting and Ms. Pierce would connect with the entire Board via email to confirm the date. Thursday, January 23, 2020 was proposed, and all members present indicated that day would work but Ms. Pierce will follow up with the entire Board to set a firm date. The remaining 2020 schedule and strategic planning work session will be discussed again at that meeting.

- *Regulation Workshop*

The Board can participate in a regulation workshop in conjunction with the next meeting to address new/proposed regulation items.

- *Board Orientation*

There has been no notification from the Governor's Office regarding a new appointee to take Jane McEvoy's seat on the Board. It would be ideal to hold a Board Orientation session when new members come on board, but either Ms. Pierce or Ms. Ponton can do a presentation for the Board at the next meeting on the law & regulation process.

- *Board Laws & Regulations*

FINAL - Minutes approved at the January 22, 2020 meeting

The Board will hold continued discussion around proposed new and revised legislative items.

Public Comment – Andrea Menicucci acknowledged and presented Loretta Ponton with an award for her service as the Board’s Executive Director from 2012 to 2019.

Adjournment – Andrea Menicucci adjourned the meeting at 6:03 p.m.