## BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY

Professional and Vocational Licensing Division Department of Commerce and Consumer Affairs State of Hawaii

## MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by §92-7(b), Hawaii Revised Statutes (HRS).

Date: November 9, 2018

<u>Time</u>: 2:00 p.m.

- <u>Place</u>: Queen Liliuokalani Conference Room King Kalakaua Building 335 Merchant Street, 1st Floor Honolulu, Hawaii 96813
- <u>Present</u>: June Uyehara-Isono, Audiologist, Chair Gary Belcher, Vice Chair Shannon Y. Ching, Audiologist Lorna Hu, Speech Pathologist Julie Yatogo, Speech Pathologist James Kobashigawa, Executive Officer ("EO") Christopher Fernandez, EO Shari Wong, Deputy Attorney General ("DAG") Susan A. Reyes, Secretary

Excused: None.

<u>Guests</u>: Erin Firmin, Professional Affairs, Hawaii Speech-Language-Hearing Association ("HSHA")

<u>Call to Order</u>: There being a quorum present, the meeting was called to order by Chair Uyehara-Isono at 2:05 p.m.

Approval of<br/>August 4, 2017It was moved by Vice Chair Belcher, seconded by Ms. Hu, and<br/>unanimously carried to approve the July 27, 2018 Meeting Minutes as<br/>circulated.

Applications: a. Ratifications

Upon a motion by Ms. Yatogo, seconded by Dr. Ching, it was voted on and unanimously carried to ratify the following:

Approved for License - Speech Pathologist

SP 1729 Brittany Evans

Approved for License - Speech Pathologist - (Continued)

Approved for License – Audiologist

AUD 186	Kelsey Alpeter
AUD 187	Autumn Berry
AUD 188	Eliza Mae Cioffi

Executive Officer's a. DCCA Disciplinary Actions June through September 2018 Report:

EO Fernandez stated that there were no disciplinary actions from June through September 2018.

Legislation: a. <u>Hawaii Speech-Language-Hearing Association ("HSHA")</u> <u>Presentation – HSHA will be sharing a draft of a provisional</u> <u>license bill they intend to introduce this upcoming legislative</u> <u>session.</u>

Chair Uyehara-Isono welcomed Erin Firmin, HSHA to the Board meeting.

> Ms. Firmin provided a brief history and rationale behind the two companion bills that she is requesting introduction during the 2019 legislative session. Ms. Firmin informed the Board that the proposed bills are supported by Senate President Ronald Kouchi and Representative Dee Morikawa.

Board members were given copies of the house bill and the senate bill drafts to review.

Ms. Firmin explained that according to current rules and statutes, when you get a master's degree in speech language pathology and you go to get a job, you are required to complete 1 year of supervised clinical fellowship in order to qualify for national certification. In Hawaii, you can only apply for a license after you have your national certification. So, the only place new graduates are able to work is in the schools because the Department of Education ("DOE") allows new graduates to work under supervision while they are meeting the requirements to obtain a license.

Ms. Firmin explained that Medicare does not allow unlicensed practitioners to bill for services. As such, new graduates typically do not work in clinics and hospitals because they are unable to bill for services. Establishing a provisional license will allow new graduates to be hired by these different companies, since they can bill for their services.

HSHA hopes this will have a positive effect on the public, because there is typically a long wait list to get into speech and language services. By having this, companies and agencies might be able to fund more positions. They expect this will also increase recruitment and retainment, including getting Hawaii-students that have gone to school on the mainland back home, so they continue to work here. Hawaii is one of the last states to have something in place for this type of procedure. There are many states that have provisional licenses, and some states give licenses straight out of college. It varies, but the majority have some sort of provisional license procedure.

Ms. Firmin stated that since the last time she came in front of the Board, revisions were made and incorporated into their new drafts, but they have not yet been numbered. One of the revisions that the Board had asked for was to specify the renewal period be one additional year, which they incorporated in the bill. So, the provisional license will be valid for one year and be able to be renewed for one additional year. Also, another change from last meeting was to delete that the board determines the fee. Ms. Firmin asked the Board if there are any other comments and that she would be happy to suggest any revisions as they go through the process.

After some discussion, the Board expressed concerns about the definition of 'supervision' and the specifics of what that would entail.

Based on the prior discussion, Chair Uyehara-Isono asked what would happen if the clinical fellowship year ("CYF") is not completed in time.

Ms. Firmin responded that her guess is that the process would be the same as the American Speech Language Hearing Association's ("ASHA") where the person would have to re-apply. She also added that she researched the effects of the new provisional license would have on the Board. Ms. Firmin informed the members that there would be an average of twenty-three (23) applicants applying for this license per year.

Ms. Yatogo, referred to line 11 of the draft bill, and asked, whether "under the supervision of a licensed speech pathologist", would be specified further"?

Ms. Firmin answered no, and explained that it would be extra work for the Board to have to monitor this. It is Ms. Firmin's belief that if the Board could have similar or the same requirements as ASHA, it would be adequate.

Ms. Yatogo asked who would be responsible for the license if there was a breach of ethics, would the licensee be held accountable or would the supervising licensed professional ("SLP").

Chair Uyehara-Isono explained that the licensee would be held responsible for any violations. She went on to clarify that like other alleged violations of the Board's statutes or rules, the process would be to have RICO investigate the matter.

Chair Uyehara-Isono inquired whether the Board could amend its rules clarify the amendments to its statutes.

DAG Wong answered in the affirmative, and explained to the Board that if it were to clearly articulate all of the requirements in its statutes, then the Board would avoid having to go through the lengthy rule process She went on to say that other professions have struggled with supervision issue, and asked Ms. Firmin what type of supervision was

intended. For example, did they mean direct supervision, supervision requiring the parties to be at the same physical location, or do they mean only legal supervision?

Ms. Firmin answered that the requirements for national certification requires a minimum number of hours of supervision: six (6) hours of direct supervision and six (6) hours of indirect supervision. She went on to say that an individual does have to be at the same location, nor is it required that they be in the room when direct services are being provided. The hours are divided into trimesters (12-week segments, 6 hours of each). She also explained that a range of different skills are checked, such as services assessment and management procedures.

Chair Uyehara-Isono questioned if it would it be feasible then to say something in the bill to reflect the minimum amount of supervision that is required.

Ms. Yatogo suggested that HSHA model the language regarding supervision after ASHA's requirements. She went on to state that she is concerned that there is such a shortage that they are picking up students that do not have their undergraduate degree in speech pathology. So, when they enter a master's program in 2 to 2-1/2 years, that it is such a condensed educational program, that some are coming out not as equipped as they should be.

Ms. Yatogo emphasized that it is the supervisor's responsibility to ensure appropriate supervision and immediately correcting any breach in ethics. She went on to say that someone must be held accountable.

Chair Uyehara-Isono stated that she recently read an ASHA position paper regarding informed consent, and it made clear that by agreeing to supervise, the supervisor will be held liable for any actions of the supervisee.

DAG Wong referred to page 2, line 3 of the bill, which states that "...only under the supervision of the licensed speech pathologist named on the provisional license." DAG Wong offered a revision, which includes "only under the supervision **as responsibility of the licensed**...".

Ms. Yatogo stated that this suggested amendment may address her concern. However, she is concerned that supervisors take the supervision seriously.

Ms. Firmin indicated that the draft bills are to be used as a starting point for the Board. The Board would then determine the specifics.

Chair Uyehara-Isono went on to state that the specifics of supervision and the responsibilities that are required can be accomplished through amendments to its rules. Essentially, if the Board believes that it wants stricter requirements for supervisors, then it may do that.

Ms. Firmin said that the Board can go beyond what ASHA is recommending because an applicant cannot apply for a full licensure without their certificate of clinical competency ("CCC") and they cannot complete the CFY year without getting their required supervision.

Dr. Ching asked if this bill would allow a supervisee to have multiple supervisors.

Ms. Firmin suggested that would be a procedure to be determined.

Ms. Yatogo stated, and Chair Uyehara-Isono agreed, that there is no reason why someone would not be able to have multiple supervisors.

Dr. Ching clarified his original concern by asking what would happen if the supervisor left or died.

EO Kobashigawa asked the Board if it makes a difference if it was A, B, or C supervisor?

Ms. Yatogo said it was fine so long as the supervisor is named on the license. If this information was not included, then the Board would not be aware of who was doing what.

Referring to an earlier statement by Ms. Firmin regarding requirements for national certification, EO Kobashigawa asked Ms. Firmin to describe the supervision breakdown of six (6) hours of indirect supervision and six (6) hours direct supervision.

Ms. Firmin responded that the way that she does it is that, for indirect supervision, she reviews individual assessments created by the licensee and speaks with colleagues where the supervisee works. For direct supervision, she observes the supervisee in session doing therapy and attends meetings with the supervisee.

Chair Uyehara-Isono stated that six (6) hours per quarter does not seem like much.

Ms. Yatogo agreed with Chair Uyehara-Isono's opinion that six (6) hours per quarter does not seem like much, but guessed that because they have already gone through a practicum they are ready to be practicing.

In reference to his earlier question regarding supervision, Dr. Ching, asked if a person has a difficult working relationship with their supervisor (e.g. conflicts in personality, ability to do the job appropriately, etc.), would the supervisee be required to amend their provisional license.

Ms. Yatogo responded that it is her assumption that the supervisee would have to amend their provisional license to reflect the most current information.

DAG Wong advised the Board would need to be notified of this change in supervisors.

Ms. Yatogo provided the Board with the following scenario that she experienced:

- An individual graduated five (5) years ago and applied for a CFY;
- This individual was then employed by the DOE as a speech pathologist II. This particular CFY position has no expiration;
- This individual failed to pass the CFY year, and because of this is no longer being appropriately supervised, but this individual is still employed as, and is functioning as a speech pathologist II;
- This individual reapplied for the CFY year only after it was brought to the attention of the appropriate individuals; and
- Since reapplying for the CFY, this individual has not passed the PRAXIS exam, and has been practicing and employed as a SP II for about four (4) years.

Ms. Yatogo queried how this type of scenario protects the consumers, but most importantly the children of the State.

DAG Wong was unsure of the circumstances of the scenario Ms. Yatogo provided and asked her to clarify how this is relevant to the matter.

Ms. Yatogo explained that ASHA says that you have a total of 6 years to get your license. Even if you do not at that time you would need to reapply as a new person, and so then you would have to update your qualifications and meet the requirements. This is one way to ensure that a person who is applying is current in their information and knowledge. The last time the criteria was changed was 2014, and the next change will be 2020. Technically someone could be practicing from 2014–2020 and not be fully licensed under the DOE job description of a SP II.

DAG Wong stated she was still did not clearly understand what was being relayed, and indicated that she understands that ASHA requires a person to become licensed within six (6) years, but not the scenario with the DOE.

Ms. Yatogo responded that the DOE allows the individual described in the scenario to work and present themselves as a SP II when actually, this individual is not licensed.

DAG Wong said she does not know how the Board can opine on what the DOE is doing.

Ms. Yatogo stated that this was what she was trying to figure out, and wanted to know if this individual needs to be reported to the Board,

Chair Uyehara-Isono explained that any complaints would be forwarded to RICO.

DAG Wong asked if this particular individual was within the six (6) year timeframe.

EO Kobashigawa answered affirmatively, but indicated that it needs to be determined whether this is considered unlicensed activity.

Ms. Yatogo agreed, and stated that it comes down to the supervision and ensuring that this individual is being appropriately supervised.

Chair Uyehara-Isono asked if Ms. Yatogo was saying that the DOE will allow you to practice without first obtaining a license.

Ms. Yatogo responded that they are being hired as an SP II, which technically means that this individual should be supervised.

DAG Wong asked for clarification as to whether this individual is action as an intern/extern or something similar.

EO Fernandez asked the Board to address and limit its discussion to the agenda item.

Ms. Yatogo stated that she was speaking about provisional licenses and that this person could be a potential candidate for the provisional license.

After some discussion, the Board asked Ms. Firmin if, for the provisional license, the bill would require a CFY year.

Ms. Firmin indicated that it would.

Chair Uyehara-Isono responded that in the scenario he was not in CFY. In order to get in to a CFY year you would have to pass the PRAXIS on your way to licensure.

Ms. Yatogo answered that she believes you do not, though to get CCCs, it is a part of the process. She went on to say that you can apply for the CFY, but you need to pass the PRAXIS within one year. The scenario though is that he has never taken the PRAXIS, and he did not pass it when he tried to take it recently. So even if a person came out, applied, did their one year, didn't pass the PRAXIS (in other words did not pass their CFY year), but they are still employed, and keep telling their boss they are going to take it, but it keeps getting pushed and pushed, then there is no checks and balances there.

Chair Uyehara-Isono said that she was under the assumption that the provisional license was to correct the CFY year not being licensed. She addressed Ms. Firmin, and asked why it could not be a requirement to require a provisional license for the CFY year with the understanding that they would need to pass the PRAXIS prior to the provisional license.

Ms. Yatogo responded that this is because ASHA does not require it.

Chair Uyehara-Isono replied that technically you would need to pass the PRAXIS to get licensed. If this is a CFY fix, then you should follow CFY regulation so that the person applying for the provisional license is applying as a CFY candidate with the intention of taking the PRAXIS and being licensed within the year, and you get one year to fuss around with that. She then asked Ms. Yatogo if this is what she had in mind when introducing the scenario.

Ms. Yatogo replied that this was the first time she had heard of such a situation, and that she had no idea such a person existed. She believed that the Board needs to see, through ASHA, how many people do not pass their CFY year.

After some discussion, the Board agreed that this bill is a fix for billable Medicare issues and so licensees should pass their PRAXIS and complete their CFY year. However, the Board considered whether the PRAXIS should be completed prior to the CFY year.

DAG Wong asked what the normal sequence is: graduate, take the PRAXIS exam, and then the CFY.

Ms. Firmin commented that most people would take the PRAXIS a month or two before they graduate, because they would start working as soon as their degree is conferred.

EO Kobashigawa asked whether an individual would have to go through the CFY if they did not want to obtain their CCCs.

Dr. Ching answered in the affirmative, but clarified that this only applies if you are working in a state that does not require passing the PRAXIS.

Chair Uyehara-Isono said she believed that all states require that you pass the PRAXIS. If you passed the PRAXIS and you have the clinical hours and the degree, you can get a license. You do not have to have your CCCs or belong to ASHA (CCCs are tied to ASHA). By law, applicants and practitioners are not required to become a member of ASHA.

Dr. Ching stated that it is an option to take the PRAXIS while they are still in school versus after graduation. However, they would need to take it before they are licensed.

Chair Uyehara-Isono stated that ASHA gives you six (6) years.

Ms. Yatogo clarified that ASHA will give you six (6) years to complete the entire process; however, you must pass the PRAXIS exam within four (4) years.

Dr. Ching indicated that with the provisional license you would only get one (1) year plus one (1) extension.

> Ms. Yatogo said that after the one-year extension they can reapply. The only time that it would be difficult for the person applying, is if and when ASHA changes their requirements and if the Board follows suit.

> Chair Uyehara-Isono asked what happens if they do not complete this within 2 years?

Ms. Yatogo answered that they would reapply to the Board.

Chair Uyehara-Isono replied that this is not stated in the bill.

EO Kobashigawa said that they would lose the license after two (2) years and then could probably reapply.

Chair Uyehara-Isono asked how long are we going to allow someone to reapply?

Ms. Yatogo stated that ASHA will be changing the requirements for graduation in 2020. Based on this, would the Board need to submit something to ensure its requirements mirror ASHA's.

Ms. Firmin indicated that she would need to check with ASHA regarding this matter.

EO Kobashigawa said that it is based on what the statutory requirements are. If there are changes, then the Board would need to decide if our requirements need to change.

Regardless of what ASHA does, DAG Wong asked whether Board would require someone to come back again for a provisional license? DAG Wong expressed her concern she is unaware of any other Board that does this. They give you a set amount of time and you may have an extension, but that is the end of the road.

EO Kobashigawa said it should be spelt out on the bill.

Chair Uyehara-Isono stated that it should be a one-time deal.

Ms. Yatogo agreed. She felt that it should be stated since it is implied through ASHA requirements, that they have 6 years.

DAG Wong referred to the senate draft, specifically, page 2, line 3, which reads: "speech pathology only under the supervision **and responsibility** of the licensed". Then on the same page, line 6 should read as: "the date of issuance and may **only** be renewed for an

> additional one year". She asked the Board if there is a maximum number that a supervisor can supervise and that this should be set in statute.

Chair Uyehara-Isono stated that it is dependent on the number of speech interns a supervisor can realistically supervise at any one time.

Ms. Firmin stated that it would depend. A clinical director could possibly supervise six (6) interns, but she was not sure.

Ms. Yatogo stated that it is not as important to her as long as the Board knows who the licensee responsible is.

DAG Wong asked if the DOE can say whatever title, referring to a supervisor type, is responsible for 200.

Ms. Yatogo responded that yes, they could say that, but it's the SLP that has to put their foot down as a professional.

DAG Wong asked how many SLPs are in the DOE.

Dr. Ching said he thought the DOE wasn't under this bill and that it would apply to those in private practice.

Ms. Firmin confirmed that this would apply to those in private practice as the DOE currently hire unlicensed persons.

Dr. Ching asked what would happen if someone left the DOE and tried to get the provisional license if they haven't completed their CYF year.

EO Fernandez asked if the Board was concerned with the crossover between two different avenues of practicing: in the DOE and privately?

Ms. Yatogo stated that it shouldn't matter.

Chair Uyehara-Isono redirected the conversation by stating that the purpose of the bill is to allow provisional licensure for CFY's, so that there will be more job opportunities in non-DOE facilities. So, the question DAG Wong has is valid not in terms of schools, but in hospitals, nursing homes; venues that have the need for speech people, but cannot hire a CFY. With that being said, when you say how many people can you logistically supervise, and still be responsible, and do all the things you need to do, it does depend on the venue. So, whether it's a clinic or nursing home. It is difficult to set a number to that. Although out of the DOE, you are not talking about

> an excessive amount of people. In the nursing home, they have about 3 speech pathologists at the moment where they may contract out. A hospital may have six (6) to twelve (12), but not all are CFY's or have provisional licenses. It is hard to set a number as to whether it should be a statute or not and I think it would be easier to get a rule after the fact. Regarding what we are talking about, DOE does not come into play as much, because they have their own deal.

Ms. Yatogo stated that she believed the professionals should be policing themselves. If someone is aware that someone else should not be practicing speech language pathologist then it should be reported.

Ms. Firmin also reminded the Board about the ethical standards.

Ms. Uyehara-Isono acknowledged this statement, but she agreed with DAG Wong that the Board needs to be as specific as possible so that the Board does not get stuck, and making the changes suggested by DAG Wong regarding limitations on the provisional license, like making sure it is a one-time deal, will help.

EO Kobashigawa suggested language be included that states that it is a CFY year.

Chair Uyehara-Isono agreed.

DAG Wong referred to page 1, paragraph (a)(2) of the bill draft where it states: "Engages in clinical or academic practice under the supervision of a licensed speech pathologist for such period of time as needed to fulfill the necessary requirements for licensure as a speech pathologist pursuant to section 468E-5". She asked Ms. Firmin what was meant by "such period of time as needed to fulfill the necessary requirements"?

Ms. Firmin responded that it refers to the current licensure.

DAG Wong clarified that 465E-5 currently states that one must possess a master's degree, submit to the Board eligibility requirements of ASHA, and pass the written exam prior.

## DAG Wong excused herself from the meeting at 2:55pm.

Chair Uyehara-Isono clarified by posing a hypothetical where someone graduates and goes for a CFY or its equivalent, gets the hours, and passes the PRAXIS under the provisional license. They

> now have to apply for a license. So, when they apply for a license, they have to provide documentation of required hours. And that is where that comes in. So, the provisional license is only good for two years; its two and no more. If they don't provide hours to qualify, then they cannot get licensed and would have to start in a job that will pay them without a provisional license, such as with the DOE.

## DAG Wong returned to the meeting at 2:58pm.

After some discussion, the Board requested that Ms. Firmin include in the draft the requirement to complete the CFY or the equivalency of hours for CFY, in order to make clear that the applicant meets the requirements of standard licensure at the end of the provisional license.

DAG Wong suggested that it should read that they complete hours equivalent to one fellowship year.

Chair Uyehara-Isono believed that would fix the issue.

EO Fernandez asked if the standard license supersede the provisional. For example, if someone needed the extra time during their provisional license, but not the entire time. Can they go ahead after they got those hours and just apply for the standard license. And then what happens to that person, are they carrying two licenses at that point?

EO Kobashigawa answered that they would get their regular license.

Chair Uyehara-Isono said that once you get your regular license whether you paid for provisional license or not, it doesn't matter because it would be replaced.

DAG Wong said that this license shall expire on the condition of licensure requirements of a regular license.

Dr. Ching stated that the bill should not refer to hours, but instead equivalency should be the requirement for obtaining the CCCs.

EO Kobashigawa agreed that Hawaii Revised Statutes ("HRS") §465E-5 is referring to the requirements to obtain one's CCCs.

DAG Wong asked Dr. Ching if he was saying that the draft should read that one must fulfill the requirements of the CCC instead of CFY.

Dr. Ching responded yes or its equivalent.

Chair Uyehara-Isono stated that completing your CFY is built into getting your CCCs, so written in such as way should be acceptable.

Ms. Yatogo added that in order to meet the requirements of the provisional license they would need to meet the graduating requirements, i.e. practicum hours.

Dr. Ching said that the provisional license is for them to continue to practice while they fulfill the requirements for the CCCs.

Ms. Yatogo offered the scenario where someone graduates, and they want to work tomorrow and the company wants to be able to get reimbursements. As long as they meet the practicum hours, they can receive a provisional license. When working and getting CFYs, the hours to become licensed, this is the period that the provisional license is in operation. So, in order to apply for the provisional license, you only need to meet the practicum hours to graduate.

EO Kobashigawa stated that this was what he was figuring out. Practicum hours are before graduation and CFY is after.

Ms. Yatogo continued that the bill needs to include that this is what is required for graduating: A minimum of 375 hours of supervised clinical observation, clinical practicum with individuals who present with a variety of communication disorders which experience shall have been obtained within the applicants training institution or in one of its cooperating programs. It should say this.

DAG Wong asked if Ms. Yatogo wanted to reference Hawaii Administrative Rules §16-100-20(c)(1).

Ms. Yatogo answered yes.

DAG Wong was ok with this reference since it is narrower than HRS §468E-5.

After some discussion, the Board decided that the bill should on page 1, line 13 and page 2, line 7 state the following: "...requirements for clinical fellowship..." instead of "...requirements for licensure...".

It was moved by Dr. Ching, seconded by Ms. Yatogo, and unanimously carried to approve and support the S.B. bill with the changes that the Board recommended.

	Ms. Firmin lastly added that the changes may have to come after the bill is introduced to which Chair Uyehara-Isono responded that that would be fine.	
Old Business:	a.	Discussion on Examination Requirement for Audiologists: Update
	EO Fernandez informed the Board that the website was updated with the changes regarding the examination requirements for audiologists.	
<u>Correspondence</u> :	а.	Email from Luke Wasserman requesting update to the "Speech Pathology and Audiology Important Announcements" page of the Hawaii State Board of Speech Pathology and Audiology website regarding "SB 2258, Act 143, Gov. Msg. No. 1282".
	EO Fernandez stated that he will be starting to update the website to reflect the Act change.	
<u>Board Member</u> <u>Disaster/Emergency</u> <u>Training</u> <u>Preparedness</u> :	a.	The board will view the AVOID/DENY/DEFEND training video developed by Advance Law Enforcement Rapid Response (ALERRT™): The intuitive, easy-to-remember three-step plan for survival in the event of an active shooter event or other public acts of violence. The training video may be viewed at: https://www.youtube.com/watch?v=j0lt68YxLQQ.
	EO Fernandez advised the Board that this training video must be watched by all Board members and if they need to leave they can access it on the above link.	
	Ms. Hu, DAG Wong and EO Kobashigawa left the meeting at 3:22 p.m.	
<u>Next Meeting</u> Date:	Friday, February 1, 2019 Queen Liliuokalani Conference Room King Kalakaua Building 335 Merchant Street, 1 <sup>st</sup> Floor Honolulu, Hawaii 96813	
Adjournment:	There being no further business to discuss, the meeting was adjourned at 3:32 p.m.	

Reviewed and approved by:

Taken and recorded by:

<u>/s/ Christopher Fernandez</u> Christopher Fernandez Executive Officer <u>/s/ Susan A. Reyes</u> Susan A. Reyes Secretary

CF:sar

12/19/2018

[ ] Minutes approved as is.
[X] Minutes approved with changes; see minutes of <u>February 1, 2019</u>