

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: February 1, 2019

Time: 2:00 p.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: June Uyehara-Isono, Audiologist, Chair
Gary Belcher, Vice Chair
Shannon Y. Ching, Audiologist
Julie Yatogo, Speech Pathologist
Lorna Hu, Speech Pathologist
Christopher Fernandez, EO
Mana Moriarty, Deputy Attorney General (“DAG”)
Susan A. Reyes, Secretary

Excused: None.

Guests: Kristina Fuentes, Professional Affairs, Hawaii Speech-Language-Hearing Association (“HSHA”)
Robin Wielins, Au.D. – Island Audiology
Dane Wielins – Island Audiology

Call to Order: There being a quorum present, the meeting was called to order by Chair Uyehara-Isono at 2:00 p.m.

Approval of Meeting Minutes: It was moved by Ms. Yatogo, seconded by Ms. Hu, and unanimously carried to approve the November 9, 2018 Meeting Minutes with the following amendments:

Correct the titles for Dr. Yatogo and Dr. Hu to Ms. Yatogo and Ms. Hu.

Applications: a. Ratifications

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

Approved for License - Speech Pathologist

SP 1754	Krystie Zoch
SP 1755	Sandra Singleton
SP 1756	Todd Hershberger
SP 1757	Alyssa Harris
SP 1758	Ruth Bass
SP 1759	Kelly Bowes
SP 1760	Michelle Stettler
SP 1761	Rachael Delashmit
SP 1762	Leslie Ortega Matias
SP 1763	Lauren Jodoin
SP 1764	Colleen Dowling
SP 1765	Maria Carpio
SP 1766	Julie-Ann Sauer
SP 1767	Linda Bondly
SP 1768	Joseph Ahuna III
SP 1769	Heaven Gouch

Approved for License – Audiologist

AUD 189	Benjamin Thompson
AUD 190	Shayla O'Connell
AUD 191	Christina Callahan

Executive Officer's Report:

a. DCCA Disciplinary Actions October through December 2018

EO Fernandez stated that there were no disciplinary actions from October through December 2018.

New Business:

a. Questions and discussion regarding Telehealth and practicing remotely

i. Island Audiology and Hearing Aid Centers

The Board asked Dr. and Mr. Wielins of Island Audiology and Hearing Aid Centers to elaborate on their written request regarding telehealth asking the Board if their company could use telehealth in various aspects of their practice.

Dr. Wielins stated that they want to use telehealth to expand more services to patients especially with travel being difficult between islands. For example, it can be used to assist patients who are experiencing ringing in

their ears, and to help patients practice putting in their hearing aids without having them come into the office.

Mr. Wielins added that hearing aid manufacturers are also moving towards remote programming type systems where audiologists can make live adjustments with the patients, communicate with them, or make a set of adjustments to the devices and send a message to the patient's phone, who then can make adjustments and call them to update on how things are going.

Mr. Belcher clarified that what Mr. Wielins was talking about was substantially different from what Dr. Wielins was talking about, which involved actual health care.

Mr. Wielins contended that adjusting hearing aids is part of their clinical practice but agreed that it is a different objective and process.

Dr. Wielins added that adjusting hearing aids can be the result of further loss of hearing and this requires intervention by the practitioner. She emphasized again whether it would be necessary for a patient off-island to come over to merely get their adjustments to due to worsening hearing, when they can do it via telehealth.

Chair Uyehara-Isono asked what services are they planning to charge with this?

As it relates to hearing aid adjustment, especially with Medicaid, Dr. Wielins said it could be for fee for services including follow up adjustments, reprogramming, hearing aid checks, and changing filters.

Chair Uyehara-Isono asked if they are charging for services to third party, or to insurance companies for those services.

As it relates to Medicaid patients, Dr. Wielins stated yes, and as it relates to private patients that are buying their hearing aids, they bundle their services, so she does not see a need to have that constant billing.

Chair Uyehara-Isono asked if Medicaid is allowing them to do this?

Dr. Wielins said that they have not approached this yet. She does have documents where it seems like it is very possible to do this now, but they have not implemented it.

Chair Uyehara-Isono asked about private insurance.

Dr. Wielins stated that they also have not started to look into this.

Chair Uyehara-Isono clarified that Island Audiology have identified tinnitus and hearing aid adjustments as potentially being addressed by use of telehealth services and asked if they are planning any other kinds of services.

Dr. Wielins said that there are some practices that incorporate an assistant on the other side to set up and facilitate hearing testing remotely, but they have not ventured into that thought process yet because they have been more about follow up care.

Chair Uyehara-Isono asked what they are asking for?

Dr. Wielins was asking for guidance on whether this is okay to do or not and, to make sure they are abiding by any statutes or rules, and to see if there are certain things that are already set in motion that they could follow accordingly.

EO Fernandez said that right now the interpretation is that if the statutes are silent on telehealth, then the profession should refrain from using telehealth. He stated that he looked to the Board of Medicine's approach on October 12, 2017. At that time the Board of Medicine discussed a question that was posed by an individual that was seeking clarification regarding Hawaii's medical licensure requirements for a licensed physician providing telehealth services while residing in Hawaii to a patient located in another jurisdiction in which the physician is licensed. To support their informal decision, the Board of Medicine referred to an informal opinion from February 13, 1998 that stated that when a physician is located in Hawaii and the patient is elsewhere, the recommended policy is as follows:

“...When the physician has a full and unrestricted Hawaii Medical license and practices from Hawaii across state lines using any available means including electronic equipment, the licensing requirement of the state or country in which the patient resides shall prevail. That is, the practice of medicine occurs where the patient is located. The practice of medicine from Hawaii to another state or country without meeting the legal requirements of the state or country for the practice of medicine shall constitute unprofessional conduct. The Board’s informal opinion was that a physician while residing in the state of Hawaii may provide telehealth services to a patient physically located in another jurisdiction in which a physician is licensed without having to first obtain a Hawaii Medical license or osteopathic medical license. This was a decision in accordance with HAR 16-201-90 and is for informational explanatory purposes only, i.e. it was an informal opinion...”

DAG Moriarty reminded the Board that the Hawaii Board of Medicine’s opinions will go as far as the jurisdiction of that Board. The patient resides in another jurisdiction and there is another set of laws presumably governing whether telehealth was permitted in that jurisdiction to which the practitioner is subject to that jurisdiction’s laws.

EO Fernandez cited another example from the Naturopathic Medicine chapter:

§455-1.5 Exceptions; scope of chapter.

(4) The practice by a doctor of naturopathic medicine duly registered or licensed in another state, territory, or the District of Columbia who is called into this state for consultation with a licensed naturopathic physician, including in-person, mail, electronic, telephonic, fiberoptic, or other telehealth consultation; provided that:

(A) The naturopathic physician from another state shall not open an office, appoint a place to meet patients, or receive calls within this state for

the provision of care for a patient who is located in this state; and

(B) The licensed naturopathic physician of this state retains control and remains responsible for the provision of care for the patient who is located in this state.

EO Fernandez stated that this example and the one prior are indicative of the language that exists in other chapters regarding telehealth, but do not necessarily represent answers to the question being asked of the Board. The examples show different ways that telehealth has been defined and show that what practitioners can do in Hawaii depends on their scope and the contexts involved. Also, if the Board were to look in the Nursing chapter they would find a definition of telehealth which might be helpful if the Board, or the association for that matter, decides they would like a change to the statutes regarding telehealth.

Chair Uyehara-Isono said that there is nothing in our statutes that addresses this issue and that there is nothing the board can do to approve the practice of telehealth. Furthermore, there is nothing in the statutes that could lead to formulating a rule defining practices that are allowed. If interested parties want to proceed with this, her suggestion is to go through a statute change, which is legislative and not a rule change.

DAG Moriarty echoed Chair Uyehara-Isono and added that there are other boards that have asked the legislature to go into their statutes to make the change. They received explicit authority to use telehealth in their profession. Together with this amendment, the legislature also went into the insurance code and they made amendments to the insurance code to recognize the ability of insurers as opposed to provide the reimbursement for charges incurred in telehealth.

Regarding insurance, Chair Uyehara-Isono said there would be a definite tier off between in-person fees and telehealth fees. But, it is much more complicated than that again reiterating that the Board cannot approve, since this will have to go through a statute request.

After some discussion the Board clarified that:

- Any telehealth privilege will need to be introduced through legislation.
- It could possibly include both Audiologists and Speech Pathologists.
- It would exclude those federally employed.
- It could exclude those employed at the DOE, so long as there is an exemption in the statutes.
- It may also require adjusting state insurance statutes.

Mr. Wielins asked if it would be the work of this Board to make a recommendation of language to the legislature, or would it be the work of us as the interested parties, and if so, would the Board be interested in being part of this process?

DAG Moriarty said that it is a general practice for all the Boards to track the legislation that is within their wheelhouse. So, certainly this Board will be aware of and follow the progress of that legislation once the bill is introduced.

Chair Uyehara-Isono said that Dr. and Mr. Wielins could find a supportive senator or representative to format a bill for it, but the Board's hands are tied as far as the statutes right now. She continued, that if the Board knows about the bill, and the Board supports it, the Board can send a supportive letter before the bill is heard. This will be something to look into if they are going to put it through.

Mr. Wielins said they will let the Board know.

Dr. Wielins asked if it was safe to say that, if they want to do the remote programming with a patient that is not having to pay extra, they can still go ahead and do that since there are no rules against it?

DAG Moriarty said that it is the opposite of what the Board just said; just because there are no rules against it, it does not mean that you can go ahead and do it.

Chair Uyehara-Isono said that once you open one door, you have to realize that there are other doors that might be opened. We can't avoid it in the future, but we must be very careful.

Dr. Ching arrived at 2:28 p.m.

ii. Nancy Sugarman MS, CCC-SLP

Inquiring whether an out-of-state Hawaii licensee can provide services remotely to a non-resident student living in Hawaii for 3 months.

Chair Uyehara-Isono said that this again regards something that is not in the statutes. The answer to Ms. Sugarman's question would be no, she cannot provide services remotely.

b. Maria Haberle of Fuel Medical Group

Are audiology assistants or oto-technicians allowed to practice in the state of Hawaii?

Chair Uyehara-Isono said that there is no special licensure for an audiology assistant or oto-technician. The closest licensure would be a hearing aid dealer and fitter ("HADF").

EO Fernandez said when he discussed this with Ms. Haberle, he also referred to the HADF Chapter. He was also looking at the exemptions, as well as the license required, but there was nothing that really addressed this and so wanted the Board's expertise to decide whether these titles would fall within this chapter. He added, that he asked Ms. Haberle to define these two titles and she responded that they are different than a HADF. Neither the audiology assistant nor the oto-technician do any measurements of the ear or fitting of the hearing aid itself. While audiology assistants do maintenance on hearing aids they do not measure them or fit them. Oto-technicians do initial hearing evaluation testing and do not work with hearing aids at all.

Chair Uyehara-Isono said that audiology assistants are becoming more popular across the country. It is unclear as to what their actual roles are, per se. There are a few states that have licensed these people, but there are not too many. It is a new thing and at this point, the HADF is the closest license.

DAG Moriarty said that the Board's answer should be that they are not allowed under our chapter and they should ask the question to the HADF Program.

Chair Uyehara-Isono said the Board cannot do much going into areas that are licensed by other chapters. The Board needs to know more about what these titles will be doing.

Legislation:

a. HB 252 Relating to Speech Pathology

Establishes a provisional license for speech pathologists

EO Fernandez asked the Board if they had reviewed it and wanted to confirm if the recommended amendments the Board requested in November were added to the bill by HSHA.

Ms. Fuentes, a representative from HSHA, introduced herself and referred to page 1, line 13 of the bill where the Board wanted to take out:

“...licensure as a speech pathologist...”

Ms. Fuentes informed the Board that ASHA asked to keep this until they get a definition on what a clinical fellowship is.

Ms. Fuentes said that they did make one change that the Board requested and referred to page 2, line 6 and 7:

“...the date of issuance and **may be renewed for an additional one year period** if needed to fulfill the requirements for licensure...”

It was moved by Vice Chair Belcher, seconded by Ms. Hu, and unanimously carried to support this bill.

b. SB 307 relating to Speech Pathology

Establishes a provisional license for speech pathologists

This is a companion bill to HB 252. Please see above discussion.

c. SB 202 Relating to Professional and Vocational Licensing

Establishes repeal dates for all professional and vocational regulatory programs under the professional and vocational licensing division of the department of commerce and consumer affairs. Requires the auditor to perform an evaluation of each program prior to repeal.

EO Fernandez said that the Director's office will be submitting testimony on this if it is referred to committee and wanted to get the Board's position for support. He provided information on a 2000 audit that was done on the Board suggesting the profession remain regulated.

Ms. Yatogo said that her understanding was that their association had to fight for the licensure to continue by providing proof. She continued, stating that back in 2000 there was a recommendation that licensure for speech pathologist and audiologist discontinue, and that is why they needed to provide proof of why it needed to continue. So, all that is required of the Board is to say that we support continuation.

It was moved by Dr. Ching, seconded by Ms. Yatogo, and unanimously carried to oppose this bill.

Next Meeting
Date:

Friday, June 7, 2019
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Adjournment:

There being no further business to discuss, the meeting was adjourned at 3:02 p.m.

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Reviewed and approved by:

Taken and recorded by:

/s/ Christopher Fernandez
Christopher Fernandez
Executive Officer

/s/ Susan A. Reyes
Susan A. Reyes
Secretary

CF:sar

02/2019

Minutes approved as is.

Minutes approved with changes; see minutes of _____.