

BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY

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

MINUTES OF MEETING

Date: April 15, 2020

Time: 11:30 a.m.

Place: Virtual Videoconference Meeting – Office 365 Teams

On January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern, and subsequently declared it a pandemic on March 11, 2020. On March 16, 2020, Governor David Y. Ige issued a Supplementary Proclamation that temporarily suspended Chapter 92, HRS, relating to public meetings and records to the extent necessary to enable boards to conduct business in person or through remote technology without holding meetings open to the public.

Present: Julie Yatogo, Chairperson, Speech Pathologist
Gary Belcher, Vice-Chairperson, Public Member
Lorna Hu, Member, Speech Pathologist
Susan May, Member, Audiologist
Christopher Fernandez, Executive Officer (“EO”)
Kelly Suzuka, Deputy Attorney General (“DAG”)
Shari Wong, Deputy Attorney General (“DAG”)
Ahlani K. Quiogue, Supervising Executive Officer (“SEO”)
Charlene L.K. Tamanaha, Licensing Administrator, Professional &
Vocational Licensing Division
Susan A. Reyes, Secretary

Excused: None.

Guests: Jamie Uesato, MS, CCC-SLP, Kapi’olani Medical Center for Women and
Children, Rehabilitation Services Department
Lisa Doran, Kapi’olani Medical Center for Women and Children,
Rehabilitation Services Department

Call to Order: The meeting was called to order by Chair Yatogo at 11:40 a.m., at which time quorum was established.

Chair Yatogo welcomed the guests to the meeting. The Board members, guests, and Board staff introduced themselves.

Due to technical difficulties with Chair Yatogo’s device, EO Fernandez asked if it would be acceptable to allow Vice-Chair Belcher to facilitate the meeting.

Chair Yatogo previously indicated her presence at the video-conference meeting and was able to hear the meeting participants but the participants were unable to hear Chair Yatogo. EO Fernandez, however, was able to receive Chair Yatogo's comments via text and the chat function on Office 365 Teams. Thus, DAG Wong answered in the affirmative that the meeting could continue with Vice-Chair Belcher facilitating the discussion.

Telehealth,
Tele-practice, and
Teletherapy during
the COVID-19
Pandemic:

Vice-Chair Belcher informed those present that the Board would consider allowing individuals licensed pursuant to HRS chapter 468E and Hawaii Administrative Rules ("HAR") chapter 16-100, to provide services by using telehealth, tele-practice and teletherapy to patients in Hawaii during the COVID-19 pandemic and social distancing requirements in place.

By way of background, EO Fernandez stated that at its meetings on February 1, 2019 and September 6, 2019, the Board issued an informal opinion pursuant to HAR section 16-201-90 that, individuals licensed pursuant to HRS chapter 468E should refrain from the use of telehealth, tele-practice, and teletherapy because its statutes are silent on the matter.

Vice-Chair Belcher invited Ms. Uesato and Ms. Doran to present their comments. He informed them that they would be given five (5) minutes to provide their comments regarding this matter.

Ms. Uesato stated that she and Ms. Doran are requesting that the Board review and reconsider its previous informal opinions on telehealth in light of the COVID-19 pandemic and social distancing mandates. She went on to say that she is unable to provide outpatient services. She and her colleagues would like to provide services using teletherapy during the COVID-19 pandemic and also in the future to provide more convenient access to care for neighbor island patients.

Ms. Doran stated further that they wanted to collaborate and connect more efficiently with community providers, including the Department of Education, through telehealth. Due to the Board's informal opinions, their employers and professional association are not allowing them to use this modality to provide services to Hawaii patients until they receive clarification from the Board.

EO Fernandez suggested that the Board members open the floor for discussion and that they use this opportunity to ask questions of the guests.

In reference to the Board's informal opinions, EO Fernandez informed the members that even though the Board's statutes and rules are silent regarding the practice of telehealth, this does not prohibit their licensees from providing telehealth services.

Ms. Hu asked Ms. Uesato and Ms. Doran whether Kapi'olani Center for Women and Children ("Kapi'olani") is providing any services at the current time.

Ms. Doran advised the Board that Kapi'olani is only providing essential services and in-patient services. She advised further that the majority of patient services are on hold.

Vice-Chair Belcher asked Ms. Uesato and Ms. Doran whether they have the capability and facilities (i.e. infrastructure) to conduct telehealth in a safe way and is beneficial for patients.

Ms. Doran indicated that that they definitely do have safe and secure locations for providing the services since most of the other healthcare professionals are already provide these services (e.g. physicians, occupational therapists, physical therapists, etc.).

Vice-Chair Belcher asked EO Fernandez and SEO Quiogue what the time-frame of the Board's informal opinion should be if it were to issue one specific to this inquiry. For instance, should it be for an indefinite amount of time, etc.

SEO Quiogue stated that the Board must adhere to the parameters of the agenda item. The agenda item specifies that the Board will consider whether it will allow its licensees to provide telehealth, tele-practice, and teletherapy to patients in Hawaii during the COVID-19 pandemic and social distancing requirements in place. More specifically, the time-frame of the informal opinion should be limited to the length of the COVID-19 pandemic.

DAG Wong stated that the time-frame is determined by the Emergency Proclamations and Executive Orders issued by Governor Ige. For the members and guests' edification, DAG Wong stated that Governor Ige issued his initial Emergency Proclamation on March 4, 2020 and a Supplementary Proclamation on March 16, 2020, as well as subsequent Supplementary Proclamations and Executive Orders. The Proclamations and Orders have specified periods, unless terminated by a separate proclamation.

DAG Wong requested that the minutes reflect that Board considered the following materials: (1) the Board's February 1, 2019 meeting minutes; (2) the Board's September 6, 2019 meeting minutes; (3) HRS sections 468E-2 and 468E-3; (4) telehealth inquiry from Jamie Uesato, MS, CCC-SLP, Kapi'olani Medical Center for Women and Children; and (5) American Speech-Language-Hearing Association ("ASHA") Code of Ethics.

DAG Wong inquired whether the Board adopted the ASHA Code of Ethics.

Ms. Hu stated that she believes the Board adopted the ASHA Code of Ethics and reminded members that State licensure requires that applicants meet the requirements of ASHA, which she assumes also include the Code of Ethics. She added that the ASHA Code of Ethics permits the use of telehealth.

DAG Wong clarified that, to be eligible for licensure by the Board as a speech pathologist or audiologist, an applicant shall, among other things, submit evidence of eligibility for meeting the requirements of ASHA for the Certificate of Clinical Competence (“CCC”) in speech pathology or audiology, or both.

DAG Wong questioned whether the ASHA Code of Ethics apply to licensees that are not members of ASHA. DAG Wong referred to the ASHA Principles of Ethics which state:

- I. Individuals shall honor their responsibility to hold paramount the welfare of persons they serve professionally or who are participants in research and scholarly activities, and they shall treat animals involved in research in a humane manner.
 - N. Individuals who hold the Certificate of Clinical Competence shall not provide clinical services solely by correspondence but may provide services via tele-practice consistent with professional standards and state and federal regulations.
- II. Individuals shall honor their responsibility to achieve and maintain the highest level of professional competence and performance.
 - B. Members who do not hold the Certificate of Clinical Competence not engage in the provision of clinical services; however, individuals who are in the certification application process may engage in the provision of clinical services consistent with current local and state laws and regulations and with ASHA certification requirements.

DAG Wong asked members if the vast majority of its licensees hold the CCC.

Ms. Hu stated she believes they do.

Dr. May informed the Board that 80% of the audiologists at her place of employment hold the CCC and the remainder of individuals are certified by the American Academy of Audiology.

Ms. Hu reminded the Board that those employed by a federal agency are exempt from the Board's license requirements.

EO Fernandez confirmed that HRS section 468E-4(4) provides that nothing in HRS chapter 468E shall be construed as preventing or restricting any person employed by any federal government agency as a speech pathologist or audiologist from performing that person's duties as an employee of the agency if the person must qualify for employment under government certification or under civil service regulations.

DAG Wong noted the ASHA Principles of Ethics IV states that:

- IV. Individuals shall uphold the dignity and autonomy of the professions, maintain collaborative and harmonious interprofessional and intraprofessional relationships, and accept the professions' self-imposed standards.
- R. Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research.

Discussion followed. It was moved by Vice-Chair Belcher, seconded by Ms. Hu, and unanimously carried with a voice vote taken and all members voting aye (EO Fernandez read Chair Yatogo's vote via Office 365 Teams that she believes speech pathologists and audiologists should be allowed to provide essential services through teletherapy during the time of this pandemic as long as they abide by their code of ethics) to issue a revised informal opinion. The revised informal opinion would allow individuals licensed pursuant to HRS chapter 468E and HAR 16-100 to provide services using telehealth, tele-practice and teletherapy to patients in Hawaii during the COVID-19 pandemic emergency period, as determined by the Governor, and while social distancing requirements are in place.

For purposes of clarity, DAG Wong asked if there was any distinction between the terms, telehealth, tele-practice and teletherapy, and recommended that the Board choose one term to use in the future.

Members stated that there is no distinction between the terms.

EO Fernandez stated that it would be difficult to choose one because his research reflected that the terms are used interchangeably in the fields of speech pathology and audiology. He suggested that if one term was

chosen that it be made clear that the term represent the remote practice modality that each of the three terms is referring to.

Lastly, in accordance with HAR section 16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

Next Meeting To be determined.
Date:

Adjournment: There being no further business to discuss, the meeting was adjourned at 12:05 p.m. by Vice Chair Belcher.

Reviewed and approved by:

Taken and recorded by:

/s/ Ahlani K. Quiogue

/s/ Christopher Fernandez

Ahlani K. Quiogue
Supervising Executive Officer

Christopher Fernandez
Executive Officer

AKQ:cf

04/15/20

[x] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____.