



Board of Examiners  
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**Meeting Minutes**  
**January 11, 2019**  
**Portland State Office Building**  
**Conference Room 445**  
**Portland, Oregon**

**PRESENT:** Gail Swanstrom, Audiologist, Chair  
Victoria Edwards, Speech-Language  
Pathologist, Vice-Chair  
Amy Martin, Speech-Language  
Pathologist  
Dustin Ooley, Audiologist  
Clarence Williams, Public Member  
Anna Sanger Reed, Public Member

Erin Haag, Executive Director  
David Linn, Administrative  
Assistant  
George Finch, Investigator  
Tyler Anderson, AAG

**EXCUSED:**

**CALL TO ORDER**

The meeting was called to order at 9:10 a.m. by Chair Swanstrom, after a roll call quorum was established.

**PUBLIC COMMENTS:**

**Telepractice Rulemaking:** The Board opened the meeting and a number of people, most of whom served on the telepractice rulemaking committee members, were present to make public comments on the version of the rules that the Board approved in October. The Board is holding a public hearing on March 15<sup>th</sup> after which public comments close. Then the Board will review the comments and consider making any changes before final rules are published, with a goal of them taking effect July 1, 2019.

Kate Morrell, SLP works at Providence and said that she is concerned about #9 in the proposed telepractice rules relating to the requirement that initial evaluations be in person rather than via telepractice. She believes it would be a great disservice to consumers, increases the cost of service and travel for the patient, and that it is anticompetitive since 19 other states allow it. Her expertise is swallowing, and her organization recently completed a three year study and found that there was a 91% correlation between swallowing evaluations that were done in person vs. telepractice. Most of their patients are post-stroke. She feels that sections #2-8 of the rules already provide adequate protections because they require services to be commensurate with those provided in person. She stated that the Oregon Physical Therapy Board does not have this requirement, and the Occupational Therapy Board leave it to the clinician to decide on whether it

is appropriate. Board member Edwards asked about outpatients and Morrel noted that they conducted research on the most difficult patients and had good outcomes. During the study's swallowing evaluations there was a licensed nurse or other person with the patient. She noted that ASHA's model rules do not require the initial evaluation to be performed in person and that as with all other services, if they do not have the education, training and skills they should not be doing it. She suggests that the Board review and consider adopting the OT Board language that states that the OT must consider whether the patient is appropriate for the modality and to ensure protocols re in place. Currently Medicare does not allow telepractice so many are not doing it due to the lack of insurance reimbursement.

Megan McGill, SLP is an Assistant Professor at Portland State University as director of a clinic that provides services exclusively via telepractice. She is also concerned about #9. They work with a lot of children and adults who stutter and have a research project going with ASHA. They have seen children as young as three, and often the young children can relate to it due to their expertise with phones and computers at a young age. Both she and Morrell served on the rulemaking committee and she is concerned about access to care in rural areas.

Julie Peddicord, SLP works for the Hello Foundation and was also on the committee. She feels the Board needs to consider the rules in the context of ethical practice, and that if someone is unethical and provides services that aren't appropriate they will do it no matter what the rules state. All of us want consumers to have the best access and services. The rules should be viewed in the context of the clinician's judgement. She and other practitioners with expertise in telepractice have formed a new group to help SLPs and educate them about this modality.

Sharon Scheurer, SLP is the VP of Operations and founder of the Hello Foundation as well as a committee member. She submitted written comments relating to the draft telepractice rules and questioned the terminology of "services must be of equal quality as in-person." She was concerned that the term was subjective and could cause confusion if patient and practitioner disagree on the quality of the telepractice service. She also objected to the in-person evaluation requirement. She noted that an investigation by the Federal Trade Commission forced Texas to abandon the in-person evaluation requirement. She has extensive experience working with children via telepractice and feels this is just another modality and between the Board's general practice rules and #2-8 in the telepractice proposed rules the public is protected. We already rely on the licensee's self-assessment of their own skills, education and experience. Board member Martin asked who is with the patient or student and commented that she does not use standardized tests for telepractice evaluations since they have not been tested for telepractice outcomes. Martin said that to prepare and IEP they must use a standardized test and it is not ethical to administer a test that has not been normed for telepractice. It was suggested that the Board break it down by diagnosis but it was pointed out that no other state does this and such a position would conflict with our other practice rules that are non-specific. Peddicord pointed out that the field is rapidly changing and at some point there will be new tests coming out that are valid for use in telepractice.

Kira Wright, SLP works with the Hello Foundation and testified that she also is opposed to #9 and is not sure that the regulation gets to the problem we wish to avoid. She asked whether the

rule would apply to re-evaluations and that Hello actually does go on site to do initial evaluations.

Ashley Northam, SLP and program director of the Chemeketa Community College, SLPA training program, worked in eastern Oregon in a distance service model for several years and observed the evaluations. As a past Board Chair, she understands why the Board members may have a hard time sleeping at night but also believes we still need to depend on clinician judgement just as we do for in-person services and not have a fear-based approach to rulemaking. People in Oregon drastically need services and this is a valid way to provide them.

Each person who made a public comment noted that they would not deliver certain standardized tests via telepractice because of ethical concerns.

There was a discussion about complaints and how the Board might ascertain whether the patient/student/client is a candidate for treatment via telepractice. Investigator Finch suggested there could be a requirement for practitioners to document in the patient/student record their judgement as to why telepractice is appropriate for the patient/student. They should describe how and why they made that judgement and articulate the clinical rationale in the chart/record. In addition they should document whether they tested the patient/student/client via telepractice, which tests and used and why. This requirement could be added to the section on patient/student consent.

Board member Edwards said that ASHA is going to require continuing education for those supervising SLPAs and that perhaps we could have a required course for individuals engaging in telepractice. There was a general discussion that there may not be quality courses on the market yet but perhaps the board could create a class and/or work with the Telepractice Work Group run by Peddicord. There was also discussion as to whether there is training for the person in the room with the patient/student/patient and Peddicord said again, it would depend on the situation and we would rely on the ethics of the practitioner per rule. McGill said that OSHA will have a telepractice presentation and that she is doing one with Hello Foundation January 26<sup>th</sup>. Peddicord said she is happy to provide training sessions.

Board member Ooley asked what they do if the internet signal or equipment is poor quality. Kira said she re-schedules the session. Investigator Finch stated that this is another example of the importance of good documentation.

Break – 10:20 a.m. Chair Swanstrom called for a short break and thanked the attendees for their participation. The meeting was again called to order at 10:27 a.m.

**SLPA Rule Making** – Chair Swanstrom invited Ashley Northam to update the Board on the progress of the SLPA Rules Advisory Committee. Northam has been chairing the meetings since the committee was formed in August of 2018. Northam is a former BSPA Board member & Chair and has been the SLPA Program Director at Chemeketa Community College for 20 years. She was on the original ASHA committee that came up with ASHA's SLPA guidelines and serves on their new committee that is updating the standards to take effect in 2020. She explained the fears of the professionals when they originally proposed adding SLPAs to the

licensure laws. There was a concern at the time that SLPAs would replace trained and educated SLPs. After 15 years those concerns have been dispelled and many licensees wish to see the rules honor the experience of long time SLPAs. Since SLPAs are not just working in the public schools, the rules need to account for any practice setting. There were some concerns about medical based SLPAs being supervised if there was no way to bill insurance for that time. The Committee gathered comments from across the state and from several settings. Several committee members wanted the rules to put more emphasis on the responsibility of the supervising SLP. They felt that supervision requirements should be particular to the individual SLPA's skills and abilities and that the SLPAs need more time to consult with their supervisors regarding the patients served. Current Board rules are almost verbatim the original standards created by ASHA. Northam explained that the direct and indirect supervision percentages were pretty arbitrary and that it is time to look at a new method. The proposed approach would be more of a consultative model, but would ensure that each patient/student/client is being seen and treated by their SLP of record a minimum of every 60 days.

Northam then walked the Board through each section and explained the reasoning behind the proposed changes. Highlights include requiring SLPAs to hold an associates or bachelor's degree from an accredited institution (new applicants only), language to strengthen the definition of caseload, a requirement for supervisors to take a 2 hour SLPA supervision course, requiring the SLP to treat the patient him or herself at least every 60 days, mandatory meetings to discuss caseload, requirement for both the SLP and SLPA to keep a copy of supervision logs, increased emphasis to SLPs that it is their caseload and license on the line for each patient/student/client. There was discussion that both access and quality of care are critical. The statute allows the Board to make rules about the role of educational assistants and those rule are not being changed. However it was suggested that the Board conduct training for EAs on what they are allowed to do (and not do) and again, be sure all of this is documented in the IEP and/or patient and student records.

The Board reviewed the draft rules and still had questions and suggestions for additional changes. They asked Northam to take the input back to the committee with the hope of having an updated draft for Board review at the April 5<sup>th</sup> meeting.

## **EXECUTIVE DIRECTOR'S REPORT:**

**Budget Report** – Director Haag provided the Board with the income statement showing we are over budget on revenue and under on expenses. She also provided budget projections and stated that there will be some fairly large expenditures next biennium for investments in a new IT position, an updated fiscal analyst position, and database, all three split with 6 other other Oregon health licensing boards.

Swanstrom moved to accept the budget report, Edwards seconded, and the motion passed unanimously.

**Letter Requesting SLPA Board Member** – The Oregon Speech & Hearing Association (OSHA) submitted a letter making the formal request that the Board add an Speech-Language

Pathology Assistant (SLPA) board member. There was a discussion regarding the role of each board member to represent the public interest and that they represent the public rather than their profession on the Board. Several board members expressed that it would be good to have the perspective of an SLPA on the Board. There were questions about whether the change would require two additional members to retain an odd number to prevent tie votes and/or to ensure balance between speech-language pathology and audiology. Director Haag explained that it would require a statutory change and approval of the Governor. The consensus was that the Board members support the concept without adding a ninth board position. They asked staff to forward the letter to the Governor's office signaling the Board's support of the idea, and ask if the Board may submit it as a legislative concept for the 2021 session.

**Telepractice Rule Making** – Given the public comments and legal advice supplied by the Board's AAG, the Board decided to table the draft telepractice rules until next board meeting. Staff will work with the committee members to generate options for Board consideration.

**PREVIOUS MEETING MINUTES:** Sanger Reed moved to approve the October 26, 2018 minutes. Ooley seconded. The motion passed unanimously.

The public session ended at 11:20 a.m. (break)

### **EXECUTIVE SESSION**

Chair Swanstrom called the Executive Session to order at 11:35 a.m. to consider information obtained as part of investigations of licensee or applicant conduct as provided in ORS 192.660(2)(k), consider information or records that are exempt by law from public inspection as provided in ORS 192.660(2)(f), and to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed as provided in ORS 192.660(2)(h).

The executive session ended at 1:50 p.m. and the Board returned to public session.

### **MOTIONS FOLLOWING EXECUTIVE SESSION**

**2018-10:** Edwards moved to close with no action. Ooley seconded. The motion carried unanimously.

**2018-35:** Sanger Reed moved to close with no action. Swanstrom seconded. The motion carried unanimously.

**2018-32:** Ooley moved to close with no action. Swanstrom seconded. The motion carried unanimously.

**2017-39:** Ooley moved to close with no action. Sanger Reed seconded. The motion carried unanimously.

**2017-80:** Sanger Reed moved to close with no action. Martin seconded. The motion carried unanimously.

Martin moved to ratify the issuance of the licenses between October 30, 2018 and January 4, 2019. Swanstrom seconded. The motion carried unanimously.

**Open Cases** –Edwards moved to extend the Board’s open cases. Ooley seconded. The motion carried unanimously.

**ADJOURNMENT**

The Board meeting adjourned at 2:00 p.m. The next Board meeting will be held at 8:30 a.m., Friday, April 5th, 2019.