



Board of Examiners
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Meeting Minutes

November 7, 2008

Portland State Office Building Conference Room 1-C Portland, Oregon

PRESENT:

Ashley Northam, SLP, Chair
Alison Metcalf, Audiologist, Vice Chair
Carol Clupny, SLP Member
Evan (Butch) Evans, Audiologist Member
Charles Murphy, Public Member
Elisa Williams, Public Member

Sandy Leybold, Executive Director
Jeff Dover, AAG (arrived 11:30 a.m.)
Nancy Dunn, Audiologist, Consultant
(arrived 11:30 a.m.)

Excused Absence:

Mark Wax, MD, Otolaryngologist

CALL TO ORDER

The meeting was called to order at 10:00 a.m. by Chair Northam.

WELCOME/APPROVE AGENDA

The agenda was approved as circulated.

APPROVE MINUTES OF SEPTEMBER 5, 2008 MEETING

Action: The minutes were approved through acclamation.

PUBLIC INPUT

Chair Northam noted that no members of the public were present.

CHAIR'S REPORT

Chair Northam reported on the National Council of State Boards of Examiners for Speech-Language Pathology & Audiology (NCSB) that she and Leybold attended. One topic for consideration is implementation of criminal background checks. Other ideas will be discussed in the last agenda item.

Metcalf suggested a follow-up meeting where Northam and Leybold could share materials and learning from the conference.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Leybold distributed a summary of accomplishments in September and October. Items included:

- Completing the Agency Request Budget (narrative circulated previously for Board review)
- Attending TSPC meeting & meeting with Health Licensing Agency (responsible for regulating hearing aid dispensing)
- Responding to disciplinary records subpoena in support of a federal case where our licensee was an expert witness
- Covering Administrative Assistant functions during employee vacancy

Upcoming Issues

- Revenue increase is needed during next biennium. Fee survey is underway. On-line payment process will be completed for 2010 renewals.
- Final budget proposal will go to Governor's office and Legislature this fall
- Upcoming legislative initiatives: proposal for three public members for each Board (in lieu of one professional member). Discussed consequences for small, working Boards.

Current Financial Status

- As of Month 14 of the biennium, BSPA shows only \$21,000 of additional revenue needed to make budget. Optimistic that we can meet this target based on new licensees.
- Salary expenses in September are just under \$10,000. The expense budget allows for \$10,671 per month for the next nine months of the biennium, so this is on target.
- Non-salary expenses are increasing as the Board meets more frequently. In-state and out-of-state travel expenses are increasing for professional training, including the NCSB. Legal expenses are charged to us by the hour by DOJ, and as our disciplinary cases/complaints have increased, this cost has increased. Many other expenses are not discretionary; they are assessed by other state agencies for services such as accounting, and indirect costs.
- Leybold hopes and expects to end the biennium on budget.
- Metcalf asked if Board members could choose to forego their \$30 per diem stipends, lunch, or mileage reimbursements. Leybold will investigate. Board members in PERS-covered employment now *must* forego their per diems. Metcalf suggested that making the Board participation totally voluntary could save a few dollars.

Fee Increase

- A major problem going forward is that BSPA does not have enough money to fund the seven-month gap between the beginning of the next biennium and the January 2010 renewal period, when most of our revenue is realized. We need to cover administrative costs, most of which are not under our control.
- Also, our number of investigations has increased dramatically over the last few years. Our cash balance is needed to cover working capital and legal costs.
- Licensing fees are prescribed in our rules. Promulgation of new permanent rules includes time for public hearing process. New fees should be approved by the Board no later than May to be implemented in the 2010 renewal cycle.
- If we need to change our statute to allow for new types of fees, this cannot be implemented until 2011 legislative session and 2012 renewal cycle.
- Fee survey compared western states. Our one-time application fee is comparatively low. Fees need to cover staff time to review and process licenses. We also do not currently charge administrative fees for duplicate licenses and other services.
- Equity between licensees should be considered. Oregon SLPAs pay only 31% of the SLP/AUD fees. Some states charge all licensees the same fees. SLPAs make a lower salary, but their applications are more time-consuming to review.
- Murphy asked if the professional development courses could become a new source of revenue for the Board. Evans noted that Audiology On-Line courses are sometimes free, and typically \$99/course; they also offer an annual unlimited fee of \$99 per year.
- Evans mentioned the burden on Audiologists paying BSPA for licensure and HLA for

hearing aid dispensing. If these responsibilities were consolidated, it would be more convenient for audiologists and total fees paid by individuals might be reduced.

- Evans stressed that this Board needs to remain viable to protect the public. Metcalf echoed that licensing fees are a professional cost of doing business.
- For cash flow purposes, annual renewals could be better for the Board. However, it could increase staff workload and be more onerous for licensees.
- Fees were raised in 2005 and in 1995. The state office of Budget and Management suggests increasing fees every 5 years to cover inflation and any new costs of doing business. A fee increase approved in 2009 would take effect for the 2010 renewal cycle.
- The Board consensus is that we need to cover our reasonable expenses. Leybold will work with the Board's accountant to develop scenarios based on different ending balances, and circulate them before the next Board meeting.

2009-2011 AGENCY REQUEST BUDGET & APPEAL

Leybold distributed budget highlights and informed the Board regarding the three-phase state budgeting process. Our Agency Request Budget was technically "denied"; Leybold submitted an appeal asking for additional funds for legal fees, professional development, travel to Salem and other training/meetings, and the investigator contract. Response is expected in two weeks. Any approved amendments will be included in the Governor's Budget, which is submitted to the legislature for approval.

Action: Evans moved and Clupny seconded a motion to accept the report of the current financial status and budget proposal. Approved through unanimous vote (6-0) of those present.

Action: Metcalf moved and Murphy seconded a motion to approve the development of a fee increase proposal, including the potential for new professional development revenue. Approved through unanimous vote (6-0) of those present.

REQUEST FOR EXCEPTION UNDER TEMPORARY RULE ESTABLISHED AUGUST 13, 2008

The Board previously approved petitions for special exceptions to SLPA supervision requirements from Harney and Grant County Educational Service Districts (ESDs), as allowed under OAR 335-095-0050 (5). A third petition, from Wallowa County ESD, was circulated prior to the meeting. Leybold had requested additional information regarding SLPA supervision provided through St. Mary's Hospital.

Each case was reviewed on its own merits. Each petition included documentation regarding the supervisors and supervisees, and demonstrated their understanding of the requirements. The consensus of the Board was that case-by-case review is appropriate for this process, since circumstances vary by area, employer, etc. Feedback from school employees has been positive.

Action: Clupny moved, and Evans seconded, a motion to approve the petition of Harney ESD. Approved through unanimous vote (6-0) of those present.

AUDIOLOGY ISSUES

Metcalf was asked by a student about the Board's stance on cerumen management as part of the audiologist scope of practice. Both the American Academy of Audiology (AAA) and American Speech-Language & Hearing Association (ASHA) include it in their scope of practice for audiologists. Dunn provided historical perspective that the Board regularly interprets scope of practice issues based on guidelines promulgated by national associations. Dover noted that this Board includes specifics regarding scope of practice in our rules or statutes. He suggested the following criterion: if the practice would not be done unless you were treating a patient, it should be considered in our scope.

Metcalf informed the Board that audiologists intend to bring forth a legislative concept to allow audiologist licensing through BSPA to include hearing aid dispensing. Statute changes would be required if this proposal is approved by the legislature. Dover noted that the Health Licensing Agency (HLA) mediates a number of disputes between hearing aid dispenser/audiologists and consumers. Taking over this function could significantly increase BSPA's workload. Dunn believes that the hearing aid sales contract review is not that time consuming, and not many complaints involve

audiologists. She noted that the HLA advisory council has only one audiologist. BSPA would need to work with HLA to understand what increased costs and workload would be incurred if this change were approved. This would also impact BSPA's budget proposals.

EXECUTIVE SESSION

Chair Northam requested to go into Executive Session before the discussion on TSPC. The Board entered Executive Session to discuss disciplinary cases, and obtain legal advice, as allowed under ORS192.660 (2) (k).

The following actions were taken after the public session resumed:

Case 08-05: Williams moved and Clupny seconded a motion to issue an emergency suspension of this licensee, based upon an audit of peer review of patient records. The Board determined that due to the violation of 335-005-015 (2) "individuals shall perform all services competently", there is imminent danger to the health and safety of the public. Evans recused himself because his personal knowledge of this individual could affect his feelings about this case. Votes cast: Aye—5; No – 0.

LICENSING ISSUES

Licenses issued by Board staff between September 5 and November 5, 2008 were ratified by unanimous voice vote.

Clupny moved and Williams seconded that the Board deny the application of Jessica Jaeger for SLPA certification as submitted. The applicant needs to complete an additional four hours of technical coursework, and the Board will give her suggestions on how to do so. Approved through unanimous vote (6-0) of those present.

COLLABORATION WITH TEACHER STANDARDS & PRACTICES COMMISSION (TSPC)

Northam reported on recent discussions with TSPC. TSPC is no longer issuing Conditional Assignment Permits (CAPs) in speech-language pathology, which is a positive move. TSPC requires Restricted Transitional Licensees to have a bachelor's in communication disorders and/or be enrolled in a master's program in SLP. These transitional licensees have three years to complete their graduate work. TSPC is also concerned about professional development for their SLP licensees. School districts are trying to "grow their own" SLPs, but this Board needs to assure best practices.

TSPC's Chair and Executive Director have expressed interest in moving away from licensing SLPs. If this occurs, this Board needs to consider transition issues, especially for individuals who are bachelor's prepared. Currently, these individuals would not meet our SLP licensure requirements, and would have to conform to our SLPA requirements. SLPAs cannot do case management or diagnostic work.

Alternatively, we could consider adding a new licensing category for individuals in a master's program that would allow them a scope of practice somewhere between an SLPA and an SLP. This could be a one-year license category, so that supervision could be closely monitored. Leybold pointed out that we would be creating another category that would need to be monitored, and that doesn't exist in another state. A new category of license might require a change in statute for people in training and under supervision. Evans suggested a new category called a "transitional educational speech-language clinician". Northam suggested that necessary supervision would include co-signing IEPs. Clupny mentioned a related staffing problem in that SLPAs enrolled in the NOVA program need to get their practicum in another setting/ school than where they normally work.

Metcalf asked how many SLPs licensed by TSPC do not meet BSPA licensing requirements. Northam said it is a small number of people—mostly those who trained before the master's degree was required. Clupny said she would be in favor of licensing the relatively small number of competent, experienced people through a grandparent-type provision. She noted that in Eastern Oregon, a group of people went through a licensing program for TSPC that included on-line courses, but not a master's program.

It is not clear what statutory changes this would require. SLPAs are defined in rule. Our statute

defines the requirements for an SLP license as a master's degree "or equivalent". If we choose to grandfather professionals into our SLP category, then we might develop Board policy on equivalency.

TSPC has about 900 SLPs licensed vs. our approximately 1100. An unknown number of TSPC SLPs are also licensed or have a Permit to Supervise SLPAs through BSPA, and therefore already pay fees to BSPA. Thus, this proposed change might not bring significant new revenue to BSPA, but would provide increased professional oversight and professional development requirements for school based SLPs.

TSPC and this Board will continue to discuss this proposed policy direction, and work out logistical details regarding professional licensure and the regulatory framework before any decisions are made. Any statutory changes would need to be considered in the 2011 legislative session.

NATIONAL BEST PRACTICES & PRIORITY SETTING

Leybold introduced goals that were presented as part of the Board's Agency Budget Request. Other issues have been added by staff following the NCSB conference:

The Board may want to re-evaluate professional development requirements, which are higher than ASHA's. Telepractice creates inter-state practice, which is being reviewed in other states as it relates to licensing requirements. This may become more prevalent in light of shortages, especially in rural areas. Foreign-trained applicants and the issue of English language proficiency has not been explicitly addressed by this Board.

Criminal background checks are more prevalent nationally, and this is relevant to the TSPC discussion, since TSPC does these. Since so many audiologists and SLPs are practicing solo or contracting, perhaps BSPA should conduct this testing rather than the employer.

Nationally, there is a question about licensing audiologists in their fourth year of training. Metcalf clarified that individuals cannot be designated as an audiologist until they have completed their fourth year of training. The CFY is now embedded in the training period. AUD graduates are eligible for full licensure. This is less of an issue in Oregon since we no longer have an audiology training program.

Our "Code of Conduct" should be reviewed in light of national standards and recent complaint/case history. Auditing of supervisory relationships is recommended. Establishing a schedule of fines for disciplinary matters is recommended.

The National Healthcare Integrity and Protection Data Bank (HIPDB) system requires us to provide data regarding disciplinary action to DHHS. Like many other states, we need to be more consistent in reporting within the expected timeframe after disciplinary action is taken.

SET NEXT MEETING DATE

The Board selected three potential dates: January 21, 28, or 23. March 13 will also be held tentatively. Leybold will confirm. The next meeting will be scheduled for 10:00 a.m. to 3:00 p.m.

ADJOURNMENT

The meeting was adjourned at 3:08 p.m.