

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
RULES SUBCOMMITTEE MEETING
Friday, June 11, 2004 at 8:30 a.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

MINUTES

Meeting called to order @ 8:38 a.m.

Introduction of Guests

JD Head

Richard Davila

Ben Norris

Scott Popsil

Ray Jones

Arleene Tooley & Eddie Tooley

Discussion and possible action regarding Posted Rule Change comments from THAA and Robbins.

141.1

141.2 (26) regarding Supervisor proposed change is combining C&D – gt motion, rg seconded, no change to be made

141.6 add 2 additions add (e) & (f) motion to add was approved by GT & RG

141.6(7) continuing ed sponsor fee change from \$600 to \$500 annually – GT & rg – approved to go to \$500.

141.7 no change

141.8 issuances of permits (b)(1) take out a temporary training permit to say the holder – motion to not accept made by rg, gt seconded, passed.

141.8 (c)(2) take out the word supervisor and replace with licensee and take out supervision replace with training This will take out the confusion that a trainee cannot have more than one supervisor, rg move to accept, gt seconded, motion passed.

141.9 no change

141.10 Receptivity the proposed change is adding (b) move to not accept made by rg, seconded by gt, motion passed.

141.11 & 12 (no change)

141.13(a)(1) add biannually as determined by the committee, motion to accept by rg, seconded by gt, motion passed.

141.13(12) change wording from a new license to an apprentice permit and original license to apprentice permit and add excluding the temporary training permit. Motion to reject changes, seconded and passed.

141.14 & 15 no change

141.16(g)(2)(B) add the word and (C) add the ambient noise level of the test environment – motion to accept, seconded, passed.

141.20 Informal Disposition –change word from settlement conference to informal conference, include executive director and change the word “or” to “and” , Motion to table this change until the next meeting in October and work with legal counsel to work on wording . motion passed.

Announcements and comments not requiring board action

Public Comments

Scott Popsil Item # 3,

JD Head filed a petition with the committee, which did not make the agenda, by state law the committee must take action on this within 60 days.

Jim McCrea – opposition regarding of excluding director and inclusion of subcommittee, consider the comments and modify the rule stating to include the director

Marc Connelly advised the committee that the rules were proposed and published and approved by the committee but to late for the TEXAS DEPT OF HEALTH board agenda, so the decisions made today will be null and void.

Adjournment at 9:48 a.m.

The board/committee may go into executive session as authorized by the Government Code, Chapter 551.

Agenda items may be taken in any order at the discretion of the chair.

An individual who wishes to speak on an issue that falls under the board/committee’s jurisdiction shall be heard during the Public Comment agenda item. The Chair may establish and announce limitations on speakers, including time limits and when speakers may address the board/committee. The limitations, if any, may vary from meeting to meeting.

For additional information, contact Sharon Williams, Executive Director, (512) 834-6628, fax (512) 834-6677, e-mail <sharon.williams@tdh.state.tx.us>. For ADA assistance, please contact TDH Office of Civil Rights, (512) 458-7627, toll free (888) 388-6332, or TDD (877) 432-7232, at least four days prior to the meeting.

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
APPLICATIONS SUBCOMMITTEE MEETING**

**Friday, June 11, 2004 at 9:30 a.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

AGENDA

Meeting called to order @ 10:05 a.m.

Introduction of Guests
Richard Bovin

Discussion of Administrative and Applications Subcommittee processing of applications for reciprocity, expired licenses, and expired temporary training permits and possible action Due to legality issues and housekeeping issues

Public Comments

Announcements and comments not requiring board action

Adjournment motion to adjourn at 10:08 a.m.

The board/committee may go into executive session as authorized by the Government Code, Chapter 551.

Agenda items may be taken in any order at the discretion of the chair.

An individual who wishes to speak on an issue that falls under the board/committee's jurisdiction shall be heard during the Public Comment agenda item. The Chair may establish and announce limitations on speakers, including time limits and when speakers may address the board/committee. The limitations, if any, may vary from meeting to meeting.

For additional information, contact Sharon Williams, Executive Director, (512) 834-6628, fax (512) 834-6677, e-mail <sharon.williams@tdh.state.tx.us>. For ADA assistance, please contact TDH Office of Civil Rights, (512) 458-7627, toll free (888) 388-6332, or TDD (877) 432-7232, at least four days prior to the meeting.

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
FULL COMMITTEE MEETING
Friday, June 11, 2004 at 10:30 a.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

MINUTES

Meeting called to order @ 10.31 a.m.

Introduction of Guests
Debbie Peterson

Approval of Committee Meeting Minutes from February 20, 2004 – Move to except, passed.

Introduction of New Members and Training – Jim McCrae introduced the new committee members and they are Richard Davila, Rosemary Gercia and Gail Thomason.

Discussion and Possible Action Regarding the Following Subcommittee Reports

- I. Examinations -
 - A. Pre-Exam Checklist changes by Robbins. – the committee went over the checklist and modified it for clarity
 - B. Examination Study Guide changes by Robbins.
 - C. Pre-Exam Checklist changes by Robbins. – A& B
 - D. 5 Category Practicum Exam PT, Speech, Masking, SF, and Otoplastics – Changed the 5 category practicum exam, broke it down into different categories
 - E. Audiogram with provision for SF results by Robbins.- The examinees will be requested to bring their own to the exam. Will accommodate by providing a sound field form.
 - F. Examination no shows and loss of examination fees paid. (See SCEFDHI letter) – This was a letter being sent to the supervisor explaining the outcome of the test taken. Motion to accept report, seconded, passed.

- II. Continuing Education
 - A. 8/5/2000 Committee action regarding definition of manufacturer based on courses. motion to rescind this action.
 - B. Ad Hoc Committee report. – did not meet no report.
 - C. Specified 5 hours of course work for 2005 – discussed and reviewed the 14 topics and recommend the following hours - 2 hours of sound field, 2 of speech audiotometry revisited, 1 hour of hearing, Motion to accept report, seconded, passed.

Motion to accept amended report, seconded, passed.

- III. Rules
 - A. Discussion and possible action regarding Posted Rule Change comments from THAA – To blanket a report showing the proposed changes, we went through and discussed the changes, we denied some and approved some of the changes and at the suggestion of the attorney rewrite the section regarding the settlement conferences and table it until the October meeting.
Motion to accept report, seconded, passed.

IV. Applications

- A. Administrative and Applications Subcommittee processing of applications for reciprocity, expired licenses, and expired temporary training permit

The applications subcommittee issued a staff directive to work with the committee, motion to approve, seconded and approved. A motion was made to route applications for reciprocity to the committee for consideration, motion seconded, passed.

V. Complaints

- A. Discussion and Possible Action Regarding the Following Complaints

FD-03-030 & FD-04-039 – no signed contract – NOV of admin penalty \$250 each.,
FD-04-005 – letter of warning, FD-04-014, FD-04-017 – out of jurisdiction being referred to AG office, FD-04-023 – closed no violation, FD-04-029 – closed no violation, FD-04-033 – NOV \$500, FD-04-040 – NOV for \$250, suggest refund if not complaint will be referred to AG office, FD-04-044 – , FD-04-018, FD-04-019 – no violation
FD-04-043 - , FD-03-048, FD-04-008, FD-02-085, FD-02-86,
FD-02-038, FD-02-088 -

Except report as given, motion to accept, seconded, passed.

- B. Discussion and possible action on records required for a complaint investigation

In view in trying to eliminate, asking for information regarding the particulars of the sale, housekeeping

- C. Discussion and possible action on compliance with previously levied sanctions and course of action for non-compliance – These are followed up just FYI

Discussion and possible action to consider draft proposed rules and preamble to 22 T.A.C., Chapter 141, these proposed changes will expire, either in a subcommittee or ad-hoc meeting draw up the rules, motion made, seconded, approved.

Discussion of comments received and to final adoption by Board of Rule Proposed Amendments

Committee Chairman Report – Jim advised that the committee will work with staff and assist in anyway the committee can, we meet 3 times a year

Executive Director Report – Sharon gave a quick update

Announcements and comments not requiring board action

1, Debbie Peterson gave a report regarding the budget for the committee, total program cost 75,403, revenues 78,393, it looks stable for this year as of 5/2004.

2. Debbie Peterson handed out a fact sheet regarding the Division. This sheet was created for Sunset Review, she gave a quick overview regarding the committee and division.
3. Debbie Peterson handed out a customer survey and talked about the telephone, the hold message is not working properly and we are supposed to be getting a new truck card, other problem we are having is the wait time due to the volume of calls and we are currently hiring another employee to help out with this. When you look at the customer survey card this problem does not show, she gave a quick overview of the survey for the first 6 months of 2004.
4. Debbie Peterson have a handout showing where the division sits within the four new agencies that are being created. Even though we are losing staff, our organization will still report under the Regulatory Services, we will be growing by adding other groups to our Division and will be operational 9/1/04. Sunset Review is happening, so far, it is going well, we will be getting a report in August. In August, Sunset Review will be doing a licensing re-org for independent boards and go through Nov. of this.

5. Texas-online will be starting up in July for the F&D group, and you can either renew on-line or not, the good news you can wait till 11:59 p.m. on the end of your expiration date and pay by credit card.

Public Comments

Scott Popsil – concerns regarding the 3 courses for the 5 hours mandated and are the licensee required to take these 5 hours in 2005. Respectfully request to re-open the meeting and provide clarity on the five specified hours and directive on a course curriculum and directive to staff to provide this information to the F&D community.

Ray Jones – adhoc committee.

Adjournment @ move to adjourn, seconded @ 11:45.

James McCrae, Chair

Date

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
COMPLAINTS SUBCOMMITTEE MEETING**

**Thursday, June 10, 2004 at 9:00 a.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

MINUTES

Committee Members Present: Gordon Bisel; Gail Thomason; Rosemary Geraci

Committee Members Absent: Jerome Kosoy, M.D.

Staff Present: Sharon Williams, Karen Noack, Marc Connelly, General Counsel

Others Present: Paul Jay; Kelly Kelly; Kara Kelley; Karlene Toohey; Eddie Toohey; David Brown; Ray Jones; Joe Geraci; Rickard Davila; Karl Kluther; Mary Braswell; Keith Wiggins; Carol Duke

Mr. Bisel called the meeting to order at 9:12 a.m. Committee members and guests introduced themselves.

Discussion and possible action on records required for a complaint investigation – Mr. Bisel asked Ms. Williams and Mr. Connelly if it would be possible to modify the complaint notification letter requesting the respondent/complainant to send audiograms, speech tests, contracts, delivery date, receipts. Marc advised that sometimes the duplication is necessary because of differences in contracts. Staff will make an effort to limit duplication in records as much as possible.

Discussion and possible action on compliance with previously levied sanctions and course of action for non-compliance – Ms. Williams advised committee members that the staff sends duplicate request letters to those who do not comply, and Mr. Connelly advised that the file will go the State Office of Administrative Hearings if no response is received.

Discussion and possible action regarding Complaints FD-03-030 and FD-04-039 – Mr. Davila presented information on both complaints to committee members.

Complaint FD-03-030 involved an alleged code of ethics violation by an apprentice licensee, providing no service to the customer, and not having the contract signed by the supervisor. Mr. Bisel moved that a \$250 administrative penalty be assessed for the violation of not having the contract signed by the supervisor. Ms. Thomas seconded the motion, and the motion unanimously passed.

Complaint FD-04-039 involved a licensee who did not sign a contract as supervisor. A \$250 administrative penalty was moved. The motion was seconded, and the motion passed unanimously.

Discussion and possible action regarding Complaint FD-04-005 – Complaint FD-04-005 involved a complainant who requested money back after the 30 day period. The customer returned the hearing aids days after purchase. Mr. Bisel moved that the licensee be requested to refer to §402.501, which refers to professional conduct, and that a letter of warning be issued, asking for a refund to the customer. Ms. Geraci

seconded the motion, and the motion passed unanimously.

Discussion and possible action regarding Complaint FD-04-014 and FD-04-017 – Because the respondent is no longer licensed, the Committee has no jurisdiction. Mr. Bisel moved that the complaint be referred to the Consumer Protection Division of the Office of the Attorney General and that staff be requested to a note in the committee's database that no license renewal will be processed by staff for this individual. Ms. Thomason seconded the motion, and the motion passed unanimously.

Discussion and possible action regarding Complaint FD-04-023 - Complaint FD-04-023 was closed with no violation.

Discussion and possible action regarding Complaint FD-04-029 – Mr. Bisel moved to close the complaint with no violation. Ms. Geraci seconded the motion, and the motion unanimously passed.

Discussion and possible action regarding Complaint FD-04-033 – Committee members discussed Complaint FD-04-033, noting the lack of speech test and a bone test, noted that more hearing tests should have been done, and that the aids were replaced without a new contract which should have shown the new serial number of the hearing aids. Mr. Bisel moved that the licensee should be cited for two violations and assessed an administrative penalty of \$250 for each violation, for a total of \$500. Ms. Thomason seconded the motion, and the motion carried unanimously.

Discussion and possible action regarding Complaint FD-04-040 – Complaint FD-04-040 involved a complainant who had written a check for hearing aids for her father, who died within 30 days of delivery. The complainant returned the aids within 30 days and requested a refund. Mr. Bisel moved that the licensee be reprimanded for failure to refund the money, an administrative penalty for \$250 be assessed, and the licensee instructed to return the money; if money is not refunded within 30 days, the complaint should be sent by staff to the Office of the Attorney General Consumer Protection Division. Ms. Thomason seconded the motion, and the motion carried unanimously.

Discussion and possible action regarding Complaint FD-04-044 – Complaint FE-04-044 involved a licensee whose license is due for renewal in June 2004 and has multiple complaints filed with the Committee. Mr. Bisel moved that this complaint be combined with other complaints and the license not be renewed; this complaint should be kept open and staff should verify that the aids were delivered and/or the complainant is happy before action is taken. Ms. Thomason seconded the motion, and the motion carried unanimously.

Discussion and possible action regarding Complaint FD-04-018 – Complaint FD-04-018 involved an allegation from a temporary training permit holder that her supervisor had falsified training records. Mr. Bisel moved that, since there was no evidence that the records were falsified, the complaint be closed with no violation. Ms. Geraci seconded the motion, and the motion passed unanimously.

Discussion and possible action regarding Complaint FD-04-019 – Mr. Bisel moved that the complaint be closed with no violation. Ms. Thomason seconded the motion, and the motion unanimously carried.

Discussion and possible action regarding Complaint FD-04-043 – Complaint FD-04-0443 involved the allegation that an advertisement was misleading. Mr. Bisel moved that the complaint be closed with no violation. Ms. Geraci seconded the motion, and the motion carried unanimously.

Discussion and possible action regarding Complaints FD-03-048, FD-04-008

Complaint FD-03-048 involved a respondent who has already paid the administrative penalty assessment the Committee.

Complaint FD-04-008 involved an issued Notice of Violation to which no response has been received. Mr. Bisel moved that a default order be sent. Ms. Thomason seconded the motion, and the motion carried unanimously.

Action regarding Complaints FD-02-085, FD-02-86, FD-02-038, FD-02-088 – All three complaints involve signed agreed orders which will be presented to the Committee Presiding Officer for signature.

Announcements and comments not requiring board action: The floor was opened to announcements and public comment. Mr. Jones said he would like committee members to consider whether it would be possible to enforce the use of the Texas business codes and federal laws.

Adjournment

The Complaints Subcommittee was adjourned at 11:34 a.m.

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
CONTINUING EDUCATION SUBCOMMITTEE MEETING**

**Thursday, June 10, 2004 at 1:00 p.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

MINUTES

Meeting called to order @ 1:40 p.m.

Introduction of Guests

Scott Pospel – item #3, not to adopt any defined definition, also would like to present a question to the committee regarding the 5 mandated hours, what does the committee plan to do if we do not meet the 5 mandated hours? Format the agenda with a little more detail

Ray Jones – for one of the course's have the fitters go through CPR the 5 hours have been in the Act since 1993.

8/5/2000 Committee action regarding definition of manufacturer based on courses – based on course content that would be presented to licensee.

Motion made by G.R. to recind the action taken 8/5/00 , second by GT

Ad Hoc Committee report. – the meeting did not take place and no report was given

Specified 5 hours of course work for 2005 – Guidelines

CPR

Temponometry

Optometry with a machine that handles that compared to an audiometer , when you use an audio you have to turn it upside down, temponometry the machines are there

If are going to mandate 5 hours, create a procedure to CE providers, how are you going to develop these topics and who is going to provide that, how many times that it can be offered, what is the criteria for that program, have qualified people teach it. You can send the outline to the staff who will forward to committee chair, to review and give approval or not.

Motion made by RG that item #5 hours to be tabled until the October meeting, GT seconded, motion did not carry.

Go to the committee and ask for approval that the 5 mandatory hours for 2005 be choosen from the list under the contents of examination 402.204 – GT., seconded by RG, motion carried.

Announcements and comments not requiring board action

Public Comments

Adjournment motion made by RG, seconded by GT, adjourned at 2:26

**STATE COMMITTEE OF EXAMINERS IN THE
FITTING AND DISPENSING OF HEARING INSTRUMENTS
EXAMINATION SUBCOMMITTEE MEETING**

**Thursday, June 10, 2004 at 3:00 p.m.
Texas Department of Health, Room S-402
8407 Wall Street
Austin, Texas 78724**

AGENDA

Meeting called to order @ 3:00 p.m.

Introduction of Guests

Pre-Exam Checklist changes. – Jim advised the committee about recommendations from Cherri Robbins about some changes on the pre-exam checklist. Motion was made to accept the 3 changes, 2nd by RG, motion carried.

Examination Study Guide changes – change the word warning to notice, #6 you must provide your own equip. and audiogram for use during the exam.- Motion to accept, motion carried.

Pre-Exam Checklist changes. Under you will be required to do – change #1 D – denied. 1G – approved., 1H – --???, 1i --- ???, #6 add verify and record, add #10 , #11 & #12 , #13, #14, #15, #16 and #17 – move to accept, seconded by ken. Passed.

Test sequence to follow: (listen to tape)

To instruction to verification that the apprentice completed 18 hours of classroom training. – move for staff to verify the apprentice has 18 hours of classroom training before issuance of license. Motion seconded, motion approved.

5 Category Practicum Exam PT, Speech, Masking, SF, and Otoplastics – Executive session.

Audiogram with provision for SF results.- Jim showed an example audiogram and needed materials, and sound field audiometrics sound field test as specified in the pre-exam checklist.

Examination no shows and loss of examination fees paid. (See SCEFDHI letter): add previous fee is non-refundable.

Announcements and comments not requiring board action

Public Comments

Adjournment