

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

**Wednesday, July 11, 10:30 a.m.
Department of State Health Services
Exchange Building, Room N-102
8407 Wall Street
Austin, Texas 78754**

MINUTES

Members Present:

Benjamin Norris, Professional Member
Amy Trost, Professional Member
Cindy Steinbart, Public Member

Member(s) Absent:

Barbara Willy, Public Member

Staff Present:

Joyce Parsons
David Richards
Nerissa Andrews
Cindy Bourland

Public Present:

Scott Pospisil
Edel Cruz
John Druley
Keith Wiggins
Maxine Gammon
Gary Hall
Randy Schoenborn
Talia Sloman-Moll
Naomi Sloman-Moll
Eduardo T. Saucerooo
Celina Oliveira Montoya
Mary A. Oliveira

Agenda item 1 was the call to order. The meeting was called to order by Mr. Norris at 11:50 a.m.

Agenda item 2 was the Introduction of members, staff, and guests

Agenda item 3 was the review and approval of subcommittee report of the meeting held January 25, 2012. Ms. Trost made a motion to approve the minutes. The motion was seconded by Ms. Steinbart and passed.

Agenda item 4 was the discussion and possible action to consider pending complaints requiring subcommittee review.

1066-12-0022 – Ms. Trost made a motion to close the complaint with no violation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0019 – Ms. Trost made a motion to refer the complaint for further investigation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0001 – Ms. Steinbart made a motion to close the complaint as non-jurisdictional. The motion was seconded by Ms. Trost and passed.

1066-12-0006 – Ms. Trost made a motion to refer the complaint for further investigation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0027 – Ms. Trost made a motion to close the complaint with no violation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0025 – Ms. Trost made a motion to close the complaint with no violation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0026 – Ms. Steinbart made a motion to close the complaint with no violation. The motion was seconded by Ms. Trost and passed.

1066-12-0010 – Ms. Steinbart made a motion to close the complaint with no violation. The motion was seconded by Ms. Trost and passed.

1066-12-0014 – Ms. Steinbart made a motion to issue an administrative penalty of \$100.00 plus the balance of a previously issued penalty of \$400.00, to be paid in full within 90 days. The motion was seconded by Ms. Trost and passed.

1066-12-0015 – Mr. Norris recused himself. Ms. Trost made a motion to refer the complaint for further investigation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0016 – Ms. Steinbart made a motion to issue an administrative penalty of \$250.00. The motion was seconded by Ms. Trost and passed.

1066-12-0024 – Ms. Trost made a motion to close the complaint with no violation. The motion was seconded by Ms. Steinbart and passed.

1066-12-0028 – Ms. Trost made a motion to refer the complaint to the Attorney General's office. The motion was seconded by Ms. Steinbart and passed.

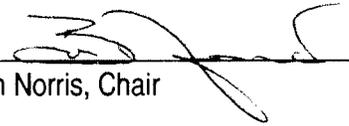
1066-12-0023 – Ms. Trost made a motion to issue a cease and desist letter in conjunction with the complaint open by the Texas Board of Examiners of Speech Language Pathologist and Audiologist. The motion was seconded by Ms. Steinbart and passed.

Agenda item 5 was the discussion and possible action concerning staff report of open complaints. Ms. Parsons gave the report.

Agenda item 6 was announcements and subcommittee member(s) comments not requiring subcommittee

action.

Agenda item 7 was the adjournment. The meeting was adjourned by Mr. Norris at 1:55 p.m.



Benjamin Norris, Chair

9-26-12
Date

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

**Wednesday, July 11, 2012, 1:30 p.m.
Department of State Health Services
Exchange Building, Room N-102
8407 Wall Street
Austin, Texas 78754**

MINUTES

Members Present:

Dr. James Leffingwell, Physician Member, Presiding Officer
Cindy Steinbart, Public Member
Ben Norris, Professional Member
William McCrae, Professional Member
Jesus Rangel, Professional Member
Carla Hoffman, Professional Member

Member(s) Absent:

Barbara Willy, Public Member
James Paul Jay, Professional Member

Staff Present:

Joyce Parsons
David Richards
Cindy Bourland
Stephen Mills
Nerissa Andrews

Public Present:

Scott Pospisil, THAA
Ray Jones

Agenda item 1 was the call to order. The meeting was called to order by Dr. Leffingwell at 2:35 p.m.

Agenda item 2 was introduction of members, staff, and guests.

Agenda item 3 was public comment. None were given.

Agenda item 4 was review and approval of minutes from committee meeting held January 25, 2012. Ms. Hoffman made a motion to approve the minutes as modified. The motion was seconded by Mr. McCrae and passed.

Agenda item 5 was discussion and possible action concerning the subcommittee reports of meetings held July 11, 2012.

Complaints Subcommittee – Mr. Norris made a motion to approve his report as stated. The motion was seconded by Ms. Trost and passed.

Agenda item 6 was discussion and possible action regarding final disciplinary action on complaint numbers:

1066-11-0022 - Mr. Norris made a motion to approve the order. The motion was seconded by Ms. Steinbart and

passed.

1066-12-0029 – Ms. Hoffman made a motion to approve the order. The motion was seconded by Ms. Trost and passed.

1066-10-0015 – Ms. Hoffman made a motion to approve the order. The motion was seconded by Mr. McCrae and passed.

Agenda item 7 was discussion and possible action regarding public comments concerning proposed amendments to 22 Texas Administrative Code Chapter 141, required the licensure and regulation of hearing instrument dispensers, as published in the June 8, 2012 issue of the *Texas Register* (37 *Tex Reg* 4164).

Comment: Concerning §141.29(b)(3) The commenter made a recommendation to include the language “returned to the manufacturer for repair or remake”.

Response: The committee agreed with the commenter. Mr. Norris made a motion to approve the recommendation and modify the text to include the language “returned to the manufacturer as repair or remake”. The motion was seconded by Ms. Trost and passed.

Comment: Concerning §141.15(e)(1) The commenter proposed the language “under the act” be included in the rule.

Response: The committee agreed with the commenter. Ms. Hoffman made a motion to include the language “under the act” in the rule. The motion was seconded by Ms. Steinbart and passed.

Comment: Concerning §141.2(19) The commenter proposed the language “compensated by” and “or represents and entity” be deleted.

Response: The committee disagreed with the commenter and considered the proposed language sufficient. Ms. Steinbart made a motion to deny the recommendation. The motion was seconded by Mr. Norris and passed.

Comment: Concerning §141.2(19)(A) & (B) The commenter proposed “or production” be deleted.

Response: The committee disagreed with the commenter and considers the words “or production” to be relevant. Ms. Hoffman made a motion to deny the recommendation. The motion was seconded by Ms. Trost and passed.

Comment: Concerning §141.2(19)(D) The commenter proposed §141.2(19)(D) be deleted completely.

Response: The committee agreed with the commenter. Mr. McCrae made a motion to delete §141.2(19)(D) from §141.2(19). The motion was seconded by Ms. Trost and passed.

Comment: Concerning §141.2(19)(E) The commenter proposed §141.2(19)(E) from §141.2(19) be deleted from the text.

Response: The committee disagreed with the commenter and considers the text to be relevant and necessary. Ms. Hoffman made a motion to deny the recommendation. The motion was seconded by Mr. Norris and passed.

Comment: Concerning §141.2(19)(G) The commenter proposed §141.2(19)(G) from §141.2(19) be deleted completely.

Response: The committee disagreed with the commenter and considers the text necessary. Mr. McCrae made a motion to deny the recommendation. The motion was seconded by Ms. Trost and passed.

Comment: Concerning §141.2(20) The commenter proposed §141.2(20) of §141.2 be deleted completely.

Response: The committee disagreed with the commenter and referenced statutory requirements. Mr. McCrae made a motion to deny the recommendation. The motion was seconded by Ms. Hoffman and passed.

Comment: Concerning §141.2(21) The commenter proposed the text include the term “E-Learning”.

Response: The committee disagreed with the commenter and considers the text to meet current structure and demand. Ms. Steinbart made a motion to deny the recommendation. The motion was seconded by Mr. McCrae and passed.

Comment: Concerning §141.2(22) The commenter proposed modifications be made to include language requiring that owners and chief operating officers register their ownership of a practice or transfer or ownership to the to the board.

Response: The committee disagreed with the commenter and considers the modification to be a substantive change to the original proposal. Mr. McCrae made a motion to deny the recommendation. The motion was seconded by Ms. Steinbart and passed.

Comment: Concerning §141.2(24) The commenter proposed limiting the term “manufacturers” and “distributors” to registrants of the US Food and Drug Administration.

Response: The committee disagreed with the commenter and considers the modification to be a substantive change. Mr. Norris made a motion to deny the recommendation. The motion was seconded by Mr. Rangel and passed.

Comment: Concerning §141.2(25) The commenter proposed modifications to the rule preventing the sale and distribution of fitting and dispensing hearing instruments by mail.

Response: The committee disagreed with the commenter; considering the recommendation to be a substantive change. Mr. Norris made a motion to deny the recommendation. The motion was seconded by Ms. Steinbart and passed.

Comment: Concerning §141.14(d) The commenter proposed to include one specific continuing education provider by name.

Response: The committee disagreed with the commenter and considers the text to be sufficient as written. Mr. McCrae made a motion to deny the recommendation. The motion was seconded by Mr. Norris and passed.

Comment: Concerning §141.14(e) The commenter proposed that (e) of 141.14 be deleted completely.

Response: The committee disagreed with the commenter and considers the text important to provide clarity of a renewal period. Ms. Hoffman made a motion to deny the recommendation and amend the current rule to include the language “per renewal period”. The motion was seconded by Mr. Norris and passed.

Comment: Concerning §141.14(g) The commenter proposed to insert the word “writer” in the first sentence of the rule.

Response: The committee disagreed with the commenter and considers the rule to be sufficient as written. Mr. McCrae made a motion to deny the recommendation. The motion was seconded by Ms. Steinbart and passed.

Comment: Concerning §141.14(k) and (n) The commenter proposed to change the continuing education sponsor fee from \$500.00 to \$50.00 biennial fee.

Response: The committee made a motion to deny the recommendation Mr. Norris made a motion to deny the recommendation. The motion was seconded by Mr. McCrae and passed.

Comment: Concerning §141.14(o) The commenter made a recommendation to delete (o) of 141.14 completely.

Response: The committee disagreed with the commenter and referenced that the rule was placed to protect providers who have previously been approved. Mr. Norris made a motion to deny the recommendation. The motion was seconded by Ms. Hoffman and passed.

Comment: Concerning §141.14(s) The commenter made a recommendation to delete (s) of 141.14 completely.

Response: The committee disagreed with the commenter and considers the submission and approval of course content to be an integral part of the process. Mr. Norris made a motion to deny the recommendation. The motion was seconded by Ms. Hoffman and passed.

Agenda item 8 was discussion and possible action regarding final adoption to the proposed amendments to 22 Texas Administrative Code Chapter 141, concerning the licensure and regulation of hearing instrument dispensers, as published in the June 8, 2012 issue of the *Texas Register* (37 *Tex Reg* 416). Mr. McCrae made a motion to approve the rules for final adoption with modifications. The motion was seconded by Ms. Trost and passed.

Agenda item 9 was discussion and possible action regarding petition for continuing education credit from Melissa Rodriguez. Ms. Hoffman made a motion to approve the petition and grant 5 hours of continuing education credit to Melissa Rodriguez for composition of her book. The motion was seconded by Ms. Trost and passed.

Agenda item 10 was discussion and possible action regarding proctor training. Ms. Steinbart made a motion to establish an exam task force to review and revise the proctor training process. The motion was seconded by Mr. McCrae and passed.

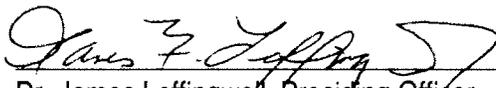
Agenda item 11 was discussion and possible action regarding AG's opinion #RQ-0984-GA regarding whether a member of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments may sell hearing instruments at retail as part of his practice of otolaryngology. Mr. McCrae made a motion to table the item. The motion was seconded by Ms. Trost and passed.

Agenda item 12 was Committee Chair Report and Update concerning current challenges and accomplishments; interaction with stakeholders, state officials, and staff; subcommittee appointments and functions; workload of committee members; and general information regarding the routine functioning of the committee. Dr. Leffingwell gave the report.

Agenda item 13 was Executive Director's Report and Update concerning program operations; current and/or historical licensee statistics; media, legislative, and stakeholder contacts and concerns; and general information regarding the routine functioning of the licensure program. Ms. Parsons gave the report.

Agenda item 14 was Management Report and Update from the Professional Licensing and Certification Unit, Department of State Health Services, including program costs and revenue; status of rulemaking within the unit; legislative and media contacts and tracking; and general information regarding the routine functioning of the unit. Ms. Bourland gave the report.

Agenda item 15 was adjournment. The meeting was adjourned by Dr. Leffingwell at 5:32 p.m.



Dr. James Leffingwell, Presiding Officer



Joyce Parsons, Executive Director

09-26-2012
Date

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Date