

**STATE BOARD OF EXAMINERS FOR  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
COMPLAINTS COMMITTEE REPORT**

Friday, January 31, 2003, 11:00 a.m.  
North Pointe Elementary School  
3200 Almond Creek Drive  
Houston, Texas 77059  
(512) 834-6627

**CALL TO ORDER:**

The meeting was called to order at 11:10 a.m. Committee members Bertha Moore Campbell, Deborah L. Carlson, and Judith A. Chambers were present. Department staff included Dorothy Cawthon and Marc Connelly.

**REPORT:**

The Committee reviewed the report of the meeting held October 3, 2002. **Ms. Campbell moved to adopt the report as written, Doctor Carlson seconded, and the motion carried.**

**BOARD ORDERS:**

Ms. Chambers reordered the agenda to consider item 5. Ms. Cawthon reported that the respondents of cases 02-SA-0034, 02-SA-0006, and 03-SA-0007 signed the Agreed Orders. **Doctor Carlson moved to recommend the Board accept the orders, Ms. Campbell seconded, and the motion carried.**

**OPEN COMPLAINTS:**

The Committee discussed the following complaints with action taken as stated. Complaints with the same type of violation are grouped together.

**CASES 02-SA-0024, 02-SA-0039, 03-SA-0010, 03-SA-0024, 03-SA-0028, 03-SA-0029, 03-SA-0031, AND 03-SA-0033:**

The allegations relate to practicing without a valid license. The Texas Occupations Code, §401.301 requires a license to practice speech-language pathology or audiology and §401.352 requires that a license be renewed annually, defines the 60-day grace period, and provides for renewal of a license after expiration of the grace period upon payment of a penalty set by Board Rules.

In case 02-SA-0024, the Committee closed the complaint because there was no evidence that the respondent practiced speech-language pathology. She was providing carryover as a caregiver.

In case 02-SA-0039, the respondent shall be notified that she is not licensed and may not practice in Texas. A letter will also be mailed to the superintendent and the special education director informing them of the licensing requirements and to advise them that

any Admission, Review, and Dismissal (ARD) meetings conducted by the respondent may include inappropriate evaluations. The Committee recommends that another ARD be conducted for each client to determine eligibility. This complaint was closed.

The respondents of cases 03-SA-0010, 03-SA-0024, 03-SA-0028, 03-SA-0029, 03-SA-0031, and 03-SA-0033 practiced after expiration of the grace period.

The respondent in case 03-SA-0024 did not return the signed Letter of Agreement, therefore the license has not been renewed. The respondent shall be issued a cease and desist letter. The Committee closed the complaint but if the respondent returns the signed Letter of Agreement, the case will be reopened.

The respondent in case 03-SA-0031 returned the signed Letter of Agreement but did not have sufficient continuing education hours to renew the license. This complaint shall remain open, pending further documentation from the respondent.

The respondents in the other cases signed the Letters of Agreement to earn an additional 20 hours of approved continuing education upon expiration and to submit the CE log and proof of attendance for the next three renewal periods. The licenses were renewed. The Committee shall recommend the Board issue the reprimands and accept the conditions of the Letters of Agreements. The employers shall be notified.

**CASES 03-SA-0008, 03-SA-0012, 03-SA-0018, 03-SA-0019, 03-SA-0020, 03-SA-0021, AND 03-SA-0025:**

On previous Renewal Forms, the respondents acknowledged that they had earned the required continuing education hours. However, when the respondents were selected for the continuing education (CE) audit, they were unable to provide the required documentation. Board Rules, §741.162(l), (m), and (o) requires maintenance of continuing education hours for a period of at least three years, identifies appropriate proof of continuing education events, and defines the audit process.

The respondents in cases 03-SA-0008, 03-SA-0012, 03-SA-0020, and 03-SA-0021 signed Letters of Agreement to earn an additional 20 hours of approved continuing education upon expiration and submit the CE log and proof of attendance for the next three renewal periods. The Committee shall recommend the Board issue reprimands to each respondent and accept the conditions of the Letters of Agreement. The employer in case 03-SA-0008 shall be notified; the other respondents are not employed in Texas.

The respondent in case 03-SA-0018 informed staff that she located proof of the continuing education hours she was lacking and will forward it to the Board office. The Committee agreed to close the complaint if appropriate documentation is received. If not, the Committee recommends that the Board issue a reprimand and accept the conditions of the Letter of Agreement.

The respondent in case 03-SA-0019 has not returned the Letter of Agreement but did submit a statement that she is not currently practicing speech-language pathology. The Committee shall issue a cease and desist letter and closed the complaint.

The respondent in case 03-SA-0025 submitted verification of continuing education that appeared to be altered. The Board contacted the approved sponsor who could not verify the respondent's attendance. The respondent did not provide documentation requested concerning how she obtained the verification form. The Committee shall recommend the Board issue a reprimand and require she earn an additional 20 hours of approved continuing education before the next renewal.

The Committee asked Ms. Cawthon to revise the "STOP" form to include a statement that presenting false information is a felony. A licensee is presenting false information when the licensee:

- responds "yes" to the question on the renewal form that asks if he/she has the hours required for license renewal and either did not earn the hours or cannot provide proof of having earned the hours,
- alters a verification form, or
- provides a verification form when the licensee did not attend the event.

Doctor Carlson asked that the next newsletter include an article on this issue. Ms. Chambers agreed to prepare the article.

**CASES 03-SA-0013 AND 03-SA-0022:**

The alleged violation for these two cases involved failure to provide appropriate standard of care.

In case 03-SA-0013, Ms. Campbell provided additional questions that were forwarded to investigations on January 10, 2003. This complaint will remain pending the investigation.

Case 03-SA-0022 was filed anonymously; there is insufficient documentation to proceed. The case will be closed. The Committee will recommend that Board Rule, 741.192(b)(1) be amended to state the Board will not investigate anonymous complaints.

The Committee recessed for lunch at 12:50 p.m. and reconvened at 2:45 p.m.

**CASES 02-SA-0035, 02-SA-0041, AND 02-SA-0047:**

The alleged violation for these cases relate to the Code of Ethics.

In case 02-SA-0035, the complainant alleged the respondent did not release his records to a new audiologist because he owed an outstanding balance on his account for a repair on a hearing aid. The Board's Code of Ethics does not address this issue; therefore no violation was substantiated. The Committee closed the complaint. The Committee shall recommend the Board amend §741.41 to require that records be released to the client.

Cases 02-SA-0041 and 02-SA-0047 were filed against the same respondent for failure to maintain objectivity in all matters concerning the welfare of the client. The Committee reviewed the investigative report that failed to produce conclusive evidence of a violation. The Committee closed the complaints.

**CASES 02-SA-0040, 02-SA-0044, 02-SA-0049, 02-SA-0050, 03-SA-0009, AND 03-SA-0023:**

These cases allege violations relating to fitting and dispensing of hearing instruments.

Case 02-SA-0040 the complainant alleged the respondent did not honor the extended trial period given by her staff. The respondent denied her staff had issued an extension because other audiologists were available to assist the complainant during her absence. When the complainant attempted to return the aids after the date shown on the contract, the respondent refused to accept them. The investigation was unable to produce sufficient evidence to substantiate the allegations. The complaint was closed.

In case 02-SA-0044, the complainant alleged failure to refund the cost of the hearing instruments. The respondent refused to refund the money because it was returned after the 30 days trial period. The respondent arranged for the customer to work with the manufacturer to have new hearing instruments manufactured. The investigator was unable to obtain a copy of a written referral from a doctor stating the client's hearing had been medically evaluated during the preceding six-month period and that the client may be a candidate for a hearing instrument nor did the client sign a waiver that she did not wish a medical evaluation. This is a violation of Board Rule, §741.102(3) and the Committee shall recommend the Board issue a reprimand.

The Committee asked that all reprimands include a statement that future violations may result in suspension or revocation of a license.

In case 02-SA-0049, the complainant alleged failure to fully refund the cost specified on the contract within 30 days upon the return of the hearing instruments. The respondent failed to refund the full amount within the 30 days. During the investigation it was learned that the respondent was waiting for payment for an office visit and two tests before refunding the balance. When it was brought to his attention that he could not wait for this payment before refunding the balance, a check was mailed. The complainant understood he would receive a statement for the office visit and two tests and agreed to pay it. The Committee shall recommend the Board issue a reprimand to the respondent for failure to refund the full amount as stated on the contract within the 30 days which is a violation of Board Rule §741.102(4)(B). He shall also be asked to modify the contract to include an exact date for when the trial period ends and to maintain either a written statement from a physician that the client's hearing has been medically evaluated and is a candidate for a hearing instrument or a signed waiver that the client does not wish a medical evaluation as required by Board Rule §741.102(3).

In case 02-SA-0050, the complainant alleged the respondent failed to provide a refund within 30 days upon the return of hearing instruments. In addition, she believed the audiologist was charging her more than the amount he initially quoted. The contract included a competitor's discount and a statement that she had 90 days after delivery to upgrade for an additional charge. The complainant thought she would receive both the advertised discount and the competitor's discount. She was not satisfied with the hearing instruments or the audiologist. She returned the hearing instruments but did not believe the fee retained was appropriate; however, this amount was on the contract that she signed. The investigative report substantiated the allegation that the refund was not provided within the 30 days required by Board Rule §741.102(4)(B). The Committee shall recommend the Board issue a reprimand to the respondent for failure to provide a refund within 30 days and request that the contract be revised to include an exact date for when the trial period ends and include the Board's name and address for consumers wishing to file a complaint.

In case 03-SA-0009, the complainant alleged the respondent failed to fully refund the purchase price of the hearing instruments he returned. The complainant returned the aids and received a partial refund. Board Rule §741.102(4)(B) states the refund should be paid within 30 days of the request less the agreed upon amount for charges and fees specified on the contract. The Committee shall recommend the Board issue a reprimand to the respondent for failure to provide a full refund within 30 days. The respondent shall be asked to refund the balance of \$150.00 and provide proof of the refund within 30 days from the date of the reprimand.

In case 03-SA-0023 the complainant alleged the respondent failed to honor the warranty on her daughter's hearing aids purchased by the Texas Rehabilitation Commission (TRC). The respondent stated when clients are referred by TRC, she assesses the client's hearing and makes a recommendation to TRC, and if aids are purchased by TRC, she dispenses them to the client. The TRC issued the aids with a three-year warranty from the manufacturer for repairs only. The TRC stated it is their policy to prohibit the purchase of any additional warranty or insurance on hearing devices purchased on the client's behalf. In a letter to the client dated June 5, 2002 the TRC recommended the client purchase an extended warranty and insurance to cover the cost of repairing or replacing a hearing aid. The client contacted the respondent to report that she lost her aid and the respondent instructed her to contact TRC. The complainant agreed to contract TRC and the manufacturer for replacement of the lost hearing aids. This complaint was closed.

**CASES 03-SA-0011, 03-SA-0014, 03-SA-0016, 03-SA-0017, 03-SA-0026, 03-SA-0027, 03-SA-0030, 03-SA-0032, AND 03-SA-0034:**

These cases allege violations relating to invalid supervision.

In cases 03-SA-0011 and 03-SA-0030 the respondents allowed the intern they had been supervising to practice after expiration of the grace period. In case 03-SA-0014 the respondent was an intern who practiced from September 12, 2002 until October 4, 2002 without supervision. The Committee shall recommend the Board issue reprimands to respondents. The employers shall be notified.

In case 03-SA-0016 the respondent received the American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence while licensed as an assistant. The respondent submitted an application to apply for the speech-language pathology license by ASHA waiver. The respondent violated Board Rule §741.62 since she had not obtained an intern license in order to complete an internship. The respondent was offered the opportunity to withdraw her application for the speech-language pathology license and apply for the intern license and she accepted. The Committee shall recommend the Board issue a reprimand and require that she complete the 36 weeks full-time internship before applying for the speech-language pathology license. In case 03-SA-0017 the respondent is the supervisor who allowed the assistant to practice as an intern. This complaint will remain pending further review by the Committee.

In cases 03-SA-0026 and 03-SA-0027 the respondents are an intern and a secondary supervisor. They failed to obtain Board approval for this supervisory arrangement. Both respondents shall be informed that they should review the Board Rules to avoid future violations. The respondents shall be issued letters of warning as future violations may result in disciplinary action. The complaints were closed.

In case 03-SA-0032, the respondent allowed an individual to observe her practice in order to fulfill requirements necessary for a course at the University of Texas at Austin. This complaint was closed because no violation occurred.

In case 03-SA-0034, the respondent allowed an individual to observe his practice in order to qualify for the assistant license. Board Rule §741.65(e) requires that an individual obtain an assistant license before acquiring the clinical observation and clinical assisting experience. The respondent shall be issued a letter of warning as future violations may result in disciplinary action and closed the case.

The Committee agreed that when the Board receives evidence that a licensee allowed an unlicensed person to observe his or her practice, a letter of warning will be issued. No complaint will be filed if this is the first offense.

**CASE 02-SA-0026:**

This case alleges unprofessional conduct. The respondent shall be notified that in the future he should fit the ear mold on the client, not just send it to the school. The dispute between the complainant and the respondent is civil in nature. The complaint was closed.

**CASES 02-SA-0061, 02-SA-0064, 02-SA-0078, 02-SA-0079, 02-SA-0080, 02-SA-0081, 02-SA-0082, 02-SA-0083, and 02-SA-0085:**

These complaints are **pending**, awaiting the receipt of the investigative reports.

**CLOSED COMPLAINTS:**

**03-SA-0015:** The respondent is licensed by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. Ms. Cawthon forwarded the complaint to

that committee on October 22, 2002 and closed the complaint. **Ms. Campbell moved to ratify this decision, Doctor Carlson seconded, and the motion carried.**

### **INFORMAL SETTLEMENT CONFERENCE:**

On November 13, 2002 the respondent in case 02-SA-0060 was notified that the Board proposed to suspend her license for two years. Upon advice of her attorney, the respondent pleaded guilty to theft and accepted deferred adjudication. The offense was committed on January 31, 1996; the respondent made restitution and was placed on community supervision for five years. The respondent requested an informal settlement conference and it was held earlier today with Ms. Chambers, Ms. Cawthon, and Mr. Connelly present.

After review of her testimony and documentation presented, it was agreed to recommend that the Complaints Committee consider issuing a written reprimand and require her to obtain 10 contact hours of continuing education relating to record keeping and billing that must include a computerized class or training on billing and record keeping. Proof must be submitted within six months. She will also be notified that future violations could result in suspension or revocation of the license.

**Ms. Campbell moved to recommend the Board issue the written reprimand requiring the respondent to earn continuing education related to billing and record keeping, Doctor Carlson seconded, and the motion carried.**

### **AU.D. DEGREE:**

The Committee briefly considered this item and asked that it be returned to the agenda for the February 2003 meeting.

### **FREQUENTLY ASKED QUESTIONS:**

Doctor Carlson presented a draft relating to third party reimbursement that focuses on the protection of the public by informing licensees that they are personally responsible for third party reimbursement and asked members to suggest comments before the next Complaints Committee meeting. This item shall be returned to the agenda for the February 2003 meeting.

### **ITEMS TABLED:**

Due to the lateness of the hour, **Ms. Campbell moved to table further discussion, Doctor Carlson seconded, and the motion carried.** The other items on the agenda shall be returned to the agenda for the February 2003 meeting.

### **ITEMS FOR NEXT MEETING:**

- Frequently asked question relating to third party reimbursement
- Chart with FY 2002 data of closed complaints
- Au.D. degree
- Possible changes to Board Rules, Chapter 741

- Possible amendments, new and deleted language to the Texas Occupations Code, Chapter 401

**ADJOURNMENT:**

**Doctor Carlson moved to adjourn at 6:03 p.m., Ms. Campbell seconded, and the motion carried.** This report will be presented to the full Board at the meeting scheduled for February 21, 2003.

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Judith A. Chambers, M.Ed.  
Committee Presiding Officer

STATE BOARD OF EXAMINERS FOR  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
**AD HOC MEETING ON EXAMINATION**

Friday, January 31, 2003, 3:00 p.m. or  
Upon Adjournment of Complaints Committee Meeting  
North Pointe Elementary School  
3200 Almond Creek Drive  
Houston, Texas 77059  
(512) 834-6627

The following members were present on Friday, January 31, 2003, for the Ad Hoc Meeting on Examination:

Bertha Moore Campbell, M.A.  
Deborah L. Carlson, Ph.D.  
Judith A. Chambers, M.Ed.

The following Department staff was in attendance:

Dorothy Cawthon  
Marc Connelly

The meeting was called to order at 6:04 p.m. Due to the lateness of the hours, **Doctor Carlson moved to table the discussion, Ms. Campbell seconded, and the motion carried.**

**Ms. Campbell moved to adjourn at 6:06 p.m., Doctor Carlson seconded, and the motion carried.** The Committee planned to meet on February 19, 2003.

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Judith A. Chambers, M.Ed.