

**STATE BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
BOARD MINUTES**

Friday, March 22, 2002, 9:00 a.m.
Hilton Austin Airport
9515 New Airport Drive-Live Oak Room
Austin, Texas 78719
(512) 834-6627

The following members were present on Friday, March 22, 2002, for the Board meeting:

Bertha Moore Campbell, M.A.	Matthew H. Lyon, M.A.
Deborah L. Carlson, Ph.D.	Lee Reeves, D.V.M.
Judith A. Chambers, M.Ed.	R. Eric Reynolds, Au.D.
Harvey Komet, M.D.	Cheryl L. Sancibrian, M.S.

The following member was not present:

Elsa Cardenas-Hagan, M.A.

The following Department staff was in attendance:

Lanell Brown	Debbie Peterson
Debbie Carter	David Richards

CALL TO ORDER:

Ms. Sancibrian, the Board's Presiding Officer, called the meeting to order at 9:00 a.m. and welcomed guests Tom Squeglia and Howard Kamins, representatives of Songbird Hearing Inc.

Dorothy Cawthon, the Board's executive secretary, was unable to attend the meeting because of a medical procedure.

MINUTES:

Ms. Sancibrian asked that members review the minutes of the Board meeting and the Board Presentation and Question and Answer Forum held at the Texas Academy of Audiology (TAA) Conference. Both events were held on November 2, 2001. **Doctor Carlson moved to adopt the Board minutes as corrected, Ms. Chambers seconded, and the motion carried. Doctor Carlson moved to adopt the minutes of the TAA Forum, Doctor Reeves seconded, and the motion carried.**

SONGBIRD HEARING INC PRESENTATION:

Mr. Squeglia and Mr. Kamins addressed the Board on Songbird's disposable hearing aids. Mr. Squeglia stated the company's focus is to meet consumers' need for better hearing by providing a high quality hearing device and convenience to their customers. He also stated that the mobile hearing centers, owned and operated by a national hearing testing service, will be located at a major retailer on a rotating basis. They plan to employ licensed audiologists registered to

dispense hearing aids in Texas to provide testing, fitting, and dispensing services and asked the Board to approve their business model. Mr. Richards, general counsel for the Board, stated the Board has no jurisdiction or authority to license and/or approve business plans. He stated they should follow the provisions set out in the Board Rules, 22 T.A.C., Chapter 741.

COMMITTEE REPORTS:

COMPLAINTS:

Ms. Chambers reported on the meeting held March 21, 2002. The Committee approved the report of the November 1, 2001, meeting as amended; closed five complaints; referred three complaints to other agencies; issued one notice of violation letter; recommended the Board approve an Agreed Order should the respondent agree to the terms, issued eleven written reprimands, and accepted the conditions of four Letters of Agreement; referred two complaints for further investigation; and left seven complaints pending investigative reports.

Doctor Carlson moved to approve the Notice of Violation and Agreed Order, Ms. Campbell seconded, and the motion carried.

Ms. Chambers moved to approve three written reprimands, accept the conditions of three Letters of Agreement for practicing with an invalid license, and one written reprimand to the supervisor who allowed the respondent to practice; Doctor Reeves seconded; and the motion carried.

Ms. Chambers moved to approve six written reprimands to three respondents and their supervisors for invalid supervision, Ms. Campbell seconded, and the motion carried.

Ms. Chambers moved to approve one written reprimand and accept the conditions of the Letter of Agreement for failure to obtain or maintain proof of earning the required continuing education hours for license renewal, Doctor Reeves seconded, and the motion carried.

The Complaints Committee recommended possible changes to be added to the list being maintained to amend/revise/add new sections to 22 T.A.C., Chapter 741, Board Rules; agreed that maintaining the Schedule of Sanctions Guidelines was no longer necessary; considered using an examination as an educational tool; and agreed that a chart of closed complaints would be prepared by the Board office.

Ms. Sancibrian suggested the examination be presented at the annual Texas Speech-Language-Hearing Association (TSHA) as a self-test tool. The Board agreed. Mr. Richards asked that he be allowed to review the document before presentation.

Ms. Sancibrian and Ms. Campbell will discuss scheduling for the 2003 TSHA Convention with Ms. Melanie McDonald.

Ms. Chambers moved to adopt the Complaints Committee Report, Mr. Reynolds seconded, and the motion carried.

SPEECH-LANGUAGE PATHOLOGY SCOPE OF PRACTICE:

Ms. Campbell reported on the meeting held March 21, 2002. The Committee approved the report of the meeting held November 2, 2001 as written; revised some position statements and reworded other position statements as Frequently Asked Questions (FAQ); considered the audit relating to the supervision of assistants; responded to scope of practice questions; discussed the response from the Texas Education Agency (TEA) concerning TEA-certified individuals who contract their services; and recommended possible changes to be added to the lists being maintained to amend/revise/add new sections to the Texas Occupations Code and to 22 T.A.C., Chapter 741, Board Rules.

Ms. Campbell moved to adopt the Speech-Language Pathology Scope of Practice Report, Doctor Carlson seconded, and the motion carried.

AUDIOLOGY SCOPE OF PRACTICE COMMITTEE REPORT:

Mr. Reynolds had previously asked Ms. Sancibrian to replace him as the Presiding Officer of the Committee in light of the fact that his term as a Board member will soon expire. Ms. Sancibrian appointed Mr. Lyon to the position.

Mr. Lyon reported on the meeting held March 21, 2002. The Committee approved the report of the November 1, 2001, meeting as written; recommended the Board adopt the Order Adopting a Rule to 22 T.A.C., §741.82; considered the position statements and frequently asked questions; agreed to wait to hear Songbird Hearing Inc. presentation before making a decision; responded to scope of practice questions concerning a licensed assistant; recommended possible changes to be added to the lists being maintained to amend/revise/add new sections to the Texas Occupations Code and to 22 T.A.C., Chapter 741, Board Rules; agreed to mail a letter to Senator Jane Nelson of attempts to meet with the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, and received comments from Rose Minette, Texas Commission for the Deaf and Hard of Hearing.

Ms. Sancibrian suggested the Committee prepare a position statement on mobile and disposable hearing aid testing and the Committee agreed to do so. Mr. Lyon will prepare the draft.

Mr. Lyon moved to adopt the Audiology Scope of Practice Report, Ms. Chambers seconded, and the motion carried.

RULES COMMITTEE REPORT:

Doctor Reeves reported on the meeting held March 21, 2002. The Committee approved the report of the November 1, 2001, meeting as written; recommended the Board adopt the Order Adopting a Rule to 22 T.A.C., §741.82, accept the position statements for continuing education and earned degrees, and accept the frequently asked questions; and agreed to add possible changes to 22 T.A.C., Chapter 741, to the list being maintained as recommended by the Complaints, Speech-Language Pathology Scope of Practice, and the Audiology Scope of Practice Committees.

Doctor Reeves moved to adopt the Rules Committee Report, Ms. Campbell seconded, and the motion carried.

ORDER ADOPTING A RULE:

Mr. Richards stated no comments were received on the proposed rule. The Rules Committee recommended a change to clarify the intent at a previous meeting and the Board accepted the recommendations. In addition the Board office submitted an editorial change. **Doctor Carlson moved to adopt the rule and preamble to the rule incorporated by reference in the Order Adopting a Rule for publication in the Texas Register, Ms. Chambers seconded, and the motion carried.**

REPORTS BY BOARD'S DESIGNEES:

Ms. Sancibrian is the Board's designee for evaluating new applications and license renewals as required by Board Rules. She stated that in the year 2001, she evaluated 31 cases relating to new applicants whose coursework was earned more than 10 years ago. In most cases, she approved the application but required the applicant to earn specific continuing education hours within three months of issuance of the license. These hours cannot be used for license renewal.

Doctor Carlson is the Board's designee for evaluating continuing education in a related area. She stated she reviews the syllabus to determine if it enhances service delivery or furthers the knowledge of speech-language pathology or audiology and awards the number of continuing education hours based upon that evaluation.

Ms. Cardenas-Hagan is the Board's designee for evaluating supervision of interns and assistants. She was absent and, therefore, no report was submitted.

Mr. Richards asked that these decisions be brought before the Board for ratification. Ms. Sancibrian asked that each designee prepare a report to be ratified at the next meeting. The reports should list the cases reviewed, define the problem, and the action taken.

CONTINUING EDUCATION:

Doctor Carlson stated she reviewed two courses for the visually impaired: Clinical Practicum Mobility Seminar and Practice Orientations and Mobility. The licensee stated the courses helped him show classmates how to read an audiogram. Initially Doctor Carlson did not award any credit but the licensee submitted another detailed letter and she agreed to award him sufficient credit to renew his licenses for this year only.

The Board considered rewording Board Rule, §741.162 (h) by adding the word "licensee's" between "the" and "knowledge"; i.e. "if the activity furthers the licensee's knowledge of speech-language pathology or audiology". Any continuing education hours should be beyond the basic educational program that qualified an applicant for the license being renewed.

Another course Doctor Carlson was asked to evaluate related to a licensee seeking a degree in special education who asked that a special education course be approved for license renewal. No credit was awarded.

Ms. Chambers moved to ratify Doctor Carlson's decision on awarding continuing education hours for these courses, Doctor Komet seconded, and the motion carried.

BOARD PRESENTATION AND QUESTION AND ANSWER FORUM:

The Board shall host two forums at the TSHA Convention in Houston on April 4-6, 2002. One forum will focus on student issues and the other will be a Power Point presentation followed by questions from the audience. Ms. Campbell, Doctor Reeves, and Ms. Sancibrian plan to attend. Doctor Carlson suggested that in the future the presentation include a brief description of what is required to obtain a license and how to access the forms on the Board's web site. In addition Doctor Carlson agreed to prepare a draft Consumer Guide before the next meeting. This guide could be made available on the Board's web site and in the newsletter.

POLICIES, POSITION STATEMENTS, AND FREQUENTLY ASKED QUESTIONS:

The position statements and frequently asked questions were addressed by the Complaints, Speech-Language Pathology Scope of Practice Committee, Audiology Scope of Practice Committee, and the Rules Committee. After the changes have been made, the information shall be made available on the Board's web site.

The Texas Occupations Code required the Board to adopt policies relating to responsibilities of the Board, Board members, Texas Department of Health, executive secretary, and Board staff; program accessibility; and public participation in Board meetings. These policies were approved at the meeting held on November 2, 2001, and will be placed on the Board's web site.

Mr. Richards is revising the document relating to conduct and public participation during Board meetings.

HEALTH PROFESSIONS COUNCIL FY 2001 ANNUAL REPORT:

Debbie Peterson, Assistant Division Director, Professional Licensing and Certification, gave a copy of the report to each member. She stated the report is provided to the Governor, Lieutenant Governor, Speaker of the House of Representatives and the Legislative Budget Board. This report covers fourteen health licensing and regulatory agencies, including the Texas Department of Health's Professional Licensing and Certification Division. Ms. Peterson suggested the Board compare the complaint information to other boards listed in the report.

Ms. Sancibrian stated the information in the report could be useful when preparing for Sunset Review. She asked that the Board office provide her with the number of individuals licensed and complaints filed at the end of each fiscal year.

CLEAR CONFERENCE:

Mr. Lyon and Ms. Sancibrian attended the conference held in San Antonio on January 10, 2002 to January 11, 2002. Mr. Lyon stated the board member training was extremely helpful. It was suggested that two members attend the fall conference to be held September 12-14, 2002 in Las Vegas, Nevada.

Ms. Sancibrian asked that during orientation for new Board member, she conduct a "Welcome to the Board" presentation. In addition, perhaps a small amount of time during regular Board meetings could be dedicated to orientation procedures that could serve as a refresher for existing members.

FEES/BUDGET:

Debbie Peterson, Assistant Division Director, Professional Licensing and Certification Division, Texas Department of Health, presented the Cost Allocation Report for expenditures thru August 2001. The total adjusted cost was \$359,350.98 and FY 2001 revenue was \$398,541.00; a variance of \$39,190.02.

She gave members a copy of FY 2000 report for comparison that showed a total adjusted cost of \$317,325.33 and revenue of \$398,310.00. The larger expenditure in FY 2001 was due to salary increases. The Board previously shared one staff position with another program in the Division but in FY 2001 the Board assumed the full salary for that position. In addition, the administrative staff increased by one person and the Board shares a portion of that cost.

Ms. Sancibrian stated that the Board cut expenditures by no longer contracting for an editor of the newsletter and decreasing its size from eight pages to four pages. Ms. Peterson suggested the Board consider putting the newsletter on the web site or mailing it with renewals to cut down on costs. The Board considered Ms. Peterson's suggestions relating to distribution of the newsletter and agreed that it was important to continue to mail the newsletter. The newsletter will contain only pertinent information, such as rule changes, that licensees need to be made aware of in a timely manner.

Ms. Peterson stated that another cost savings would be to use state conference rooms instead of paying to use a hotel conference room. In fact, the Comptroller requires boards to use state meeting rooms that are available without cost.

Ms. Peterson further stated if boards in the Division do not have sufficient money for operation, third party money is available. This money is primarily generated by the examinations given by various licensing programs within the Division. The fee the Board charges for written verification letters would be considered third party money. The Board office will let Ms. Peterson know the amount of this fee received during the past fiscal year.

Another item considered was the Board's web site. Ms. Peterson suggested the Board contact Yvonne Feinleib to redesign the site. Ms. Feinleib is employed by the Professional Licensing and Certification Division and the time spent working on the project would be charged to the Board. Since this a direct line cost and the Board generates revenue at 125% , this charge would not affect the amount allocated.

LEGAL COUNSEL REPORT:

Mr. Richards informed the Board of the Attorney General's Report relating to use of testimonials. Current Board rule, §741.41(d)(4)(D), prohibits advertising that contains a

testimonial. The Report suggested the Texas courts might find this unconstitutional. Mr. Richards recommended the Board allow the courts to decide before amending the rule. The Board accepted his recommendation.

DIVISION DIRECTOR'S REPORT:

In the absence of Doctor Jim Zukowski, Ms. Peterson presented the report. She updated members on the Business Practices Evaluation prepared by Mr. Elton Bomer. One item on the report recommended that the independent boards administratively attached to the Texas Department of Health (TDH) be converted into advisory committees, transferred to another agency, created as "stand alone" boards, or remain administratively attached to the TDH. The first three recommendations require a statutory change.

The Board of Health met with the Council of Independent Board Chairs and heard their opposition to being converted into an advisory committee. The cost to become "stand alone" boards will be discussed at the next meeting of the Council scheduled for April 26, 2002.

Another item Ms. Peterson discussed was the January 14, 2002 letter from Governor Rick Perry and the memorandum from Mike Morrissey, Director of Budget, Planning, and Policy, Office of the Governor, and John Keel, Director, Legislative Budget Board, concerning the need for all state agencies to scrutinize their spending to ensure Texas' fiscal integrity due to the uncertainty of future economic conditions. Areas that should be considered include eliminating unnecessary travel, deferring capital purchases or reducing the size and scope of capital projects, and leaving non-essential employee positions vacant.

The TDH has frozen all vacant positions and will not award merit raises for staff. A vacant position exists in the Board office and a justification was submitted to TDH Bureau of Human Resources requesting approval to fill the position. The request was granted.

The last item discussed was the Health Professions Council study on complaint procedures as requested by the Texas Legislature. All of the programs within the Professional Licensing and Certification Division participated. The report should be ready about January 2003; boards may review the draft information before June 25th, 2002. Ms. Sancibrian asked that she and the Complaints Committee be allowed to review this report.

PRESIDING OFFICER'S REPORT:

Ms. Sancibrian asked if someone could substitute for her at the next Council of Independent Board Chairs meeting. Mr. Lyon agreed to do so.

Another item considered was the need to prepare for Sunset Review. Ms. Sancibrian asked that each Committee list any relevant issues during the July meetings. The issues will then be discussed in meetings scheduled for November or December.

Ms. Sancibrian asked if a statement such as "please don't contact Board members individually" could be the Board's motto. The Board office will inform callers that Board members are serving voluntarily and to put their question in writing. The Board's designee shall respond to the

question and report the nature of the calls to the Board at the next scheduled meeting. Mr. Richards also asked that members not contact other members with questions.

EXECUTIVE SECRETARY REPORT:

In the absence of Ms. Cawthon, Lanell Brown presented a chart showing the number of new applications received and licenses issued annually since 1997. The number of licenses issued in 1997 was 8,441 and in 2001 it was 9,914. The number of new applications received has remained relatively the same for each year since 1997.

TELEHEALTH/TELEMEDICINE:

Ms. Sancibrian stated the Board should consider this issue before being subjected to Sunset Review. Doctor Komet provided information he acquired during the past summer while working closely with the Texas Education Agency relating to distance learning. He also stated the Board of Medical Examiners has already written rules relating to this issue. Ms. Sancibrian asked Doctor Komet to research this issue further and present information at the next scheduled meeting.

PUBLIC COMMENTS:

There were no public comments.

NEXT MEETING DATE:

The next Committee meetings are scheduled for July 25, 2002, and the Board meeting is scheduled for July 26, 2002, to be held in Austin at a state meeting place.

ADJOURNMENT:

Doctor Reeves moved to adjourn at 12:55 p.m., Ms. Campbell seconded, and the motion carried.

Cheryl L. Sancibrian, Presiding Officer

Lee Reeves, Secretary-Treasurer

Dorothy Cawthon, Executive Secretary

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

Thursday, March 21, 2002, 8:00 a.m.
Hilton Austin Airport
9515 New Airport Drive- Live Oak Room
Austin, Texas 78719
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 8:05 a.m. Committee members Bertha Moore Campbell, Deborah L. Carlson, and Judith A. Chambers were present. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards.

REPORT:

The Committee reviewed the report of the meeting held November 1, 2001. **Ms. Campbell moved to adopt the report as amended, Doctor Carlson 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.

01-SA-0023: The complainant alleged the respondent failed to provide sufficient supervision of her internship, that the respondent claimed she held the American Speech-Language-Hearing Association (ASHA) Certificate of Clinical Competence (CCC) even though it had lapsed, and that she may have engaged in billing irregularities. The investigative report showed the respondent's supervision of the intern met minimum Board requirements. The respondent did misrepresent herself by stating she held the ASHA CCC when it had actually lapsed in 1995. The respondent reinstated the ASHA CCC on June 1, 2000. The investigative report did not produce conclusive evidence of fraudulent billing; however, federal law relating to Medicaid billing requires that services be provided by or under the direction of a speech-language pathologist who holds the ASHA CCC. The respondent shall contact the Centers for Medicare and Medicaid Services concerning the lapsed certification and the effect it may have on the billings she submitted. The Committee concluded that no actionable violation had occurred. The complaint was closed.

01-SA-0026 and 01-SA-0028: Complaint 01-SA-0026 was filed by the supervisor against the assistant she supervised. Complaint 01-SA-0028 was filed by the assistant against her supervisor. The complainant in complaint 01-SA-0026 alleged the assistant she was supervising failed to provide services according to the IEP, failed to maintain records, and failed to comply with company policies. The complainant in complaint 01-SA-0028 alleged her supervisor asked her to complete evaluations and re-evaluations. The respondent stated she did not ask the assistant to do evaluations but requested progress information on the clients. During the

investigation, documentation was not available because approval from the Head Start Director was required to release the information. The director did not return phone calls from the investigator; therefore the investigative reports did not produce any evidence that violations occurred. The respondents will be advised to carefully study the Act and Board Rules, specifically §741.41 relating to the Code of Ethics, and §741.65 relating to Requirements for an Assistant in Speech-Language Pathology License, to avoid a possible violation. Both complaints were closed.

01-SA-0027: The complainant alleged the respondent did not provide therapy for her child. The name the complainant used was not the name under which the respondent was licensed. An investigation was conducted, and it was determined that she was licensed by this Board. The Complaints Committee asked that further investigation be conducted to determine if the complainant was providing therapy as defined in the IEP. The Director of Special Education should be interviewed and a random sampling of the records/charts for services provided by the respondent should be made available to the Board. This complaint will remain pending.

01-SA-0033: The complainant alleged the respondent was practicing without a Texas license. The school superintendent stated that in 1975 the legislatures of the states of Texas and Oklahoma passed statutes to allow schools to combine students and create cooperative agreements as necessary to provide quality education for all students residing in or attending schools in both districts. Information received from the Texas Education Agency (TEA) confirmed that TEC §25.040 allowed a Texas resident to attend a school in a neighboring state but does not allow an individual to practice in Texas with an Oklahoma certification unless there is a local permit or a waiver to allow Oklahoma certified personnel to practice in Texas. The TEA representative also stated that Texas Commissioner of Education Rules, TAC §89.0096 requires that services be provided by an individual licensed by this Board or certified by the Texas Education Agency if that person is providing therapy in Texas. The Committee had concerns regarding whether IEP's conducted and services provided by the respondent were valid. It was agreed that a cease and desist letter be mailed to the respondent with a copy to the school superintendent and special education director. A copy of the agreement and permit or waiver should be provided to this Board by April 26, 2002. The complaint will remain pending.

01-SA-0035: The complainant alleged the respondent billed for services not rendered and for a longer time than services were actually provided. It was also alleged that the respondent asked others, not licensed as speech-language pathologists, to provide services when the respondent was running late. This is the second complaint filed against the respondent. Previously the respondent had been placed on probated suspension for failure to maintain accurate records. Review of the complaint and investigative report showed some discrepancies in her billing/record keeping, a violation of the Board's Code of Ethics, §741.41. In lieu of recommending the imposition of a more severe disciplinary action, the Committee determined that the respondent should complete either a college/university course or an approved continuing education event on record keeping and/or billing within six months. Failure to submit proof of completion could result in other action by the Board. The complaint was closed.

02-SA-0004: The complainant alleged the respondent failed to maintain accurate records and further questioned billing practices. Based on supporting documentation provided by the employer and the findings of the internal investigation, it was agreed that the respondent be mailed a Notice of Violation Letter. The respondent shall be offered probation for one year and required to earn 10 hours of approved continuing education on record keeping. The Committee will request the Board approve an Agreed Order if the respondent accepts the condition imposed.

Complaint 02-SA-0007: The respondent responded on previous Renewal Forms that the required continuing education hours had been earned. When the respondent was selected for the continuing education (CE) audit, the respondent was 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 licensee signed a Letter 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 will recommend the Board issue a written reprimand and accept the conditions of the Letter of Agreement. The employer will be notified of the disciplinary action.

Complaint 02-SA-0022: The respondent was not selected for the continuing education audit, however, she did state on the Renewal Form that she had earned the required hours necessary for license renewal when she had not. Because the respondent notified the Board within one month of mailing the Renewal Form, a warning letter will be mailed. The complaint was closed.

Complaints 02-SA-0006, 02-SA-0010, and 02-SA-0016: The violations in these cases related to supervision. In the first case, the supervisor failed to receive Board approval to supervise an intern in audiology as defined in Board rules, §§741.41(i), 741.82(f), and 741.82(j). The intern will not receive credit for the internship from August 1, 2001 to October 1, 2001.

In the second case, the supervisor failed to receive Board approval to supervise an intern in speech-language pathology as defined in Board rules §§741.41(i), 741.62(f) and 741.62(j). The intern will not receive credit for the internship from September 18, 2001 to October 9, 2001.

In the third case, the supervisor failed to receive Board approval to supervise an assistant in speech-language pathology as defined in Board rules, §741.41(i) and §741.65(f). The assistant practiced from August 2001 to December 5, 2001 without approval from the Board office.

The Committee will recommend the Board issue written reprimands to the supervisors and the individuals being supervised. The employers will be notified of the disciplinary actions.

Complaints 02-SA-0012, 02-SA-0018, and 02-SA-0023: The respondents in all of these cases practiced beyond the grace period with invalid licenses. The Texas Occupations Code, §401.301 requires a valid 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. The Committee will recommend that the Board issue written reprimands and accept the

conditions of the Letters of Agreement, requiring the respondents to earn an additional 20 hours of continuing education in order to renew the licenses upon expiration. In addition, because the respondent's supervisor in Complaint 02-SA-0023 had knowledge that the intern practiced without a valid license, the Committee will also recommend that the Board issue a written reprimand to the supervisor.

The Committee requested that in the future the form be revised to state the name of the employer the respondent will be expected to contact to verify the dates of the respondent's practice.

Complaints 02-SA-0011, 02-SA-0019, and 02-SA-0021 were referred to other agencies because the respondents were not licensed by this Board. Complaints 02-SA-0011 and 02-SA-0019 were referred to the State Committee of Examiners for Fitting and Dispensing of Hearing Instruments. Complaint 02-SA-0021 was referred to the State Board of Educator Certification. Doctor Carlson asked that the Attorney General's Opinion concerning use of the term "Certified Hearing Aid Audiologist" be provided to the respondent of Complaint 02-SA-0019 with a copy to the hearing aid's dealers home office.

Complaints 02-SA-0005, 02-SA-0008, 02-SA-0013, 02-SA-0014, 02-SA-0015, 02-SA-0017, and 02-SA-0020: These complaints are **pending**, awaiting the receipt of the investigative reports.

POSSIBLE AMENDMENTS TO ACT/RULES:

The Board is maintaining a list of possible additions, amendments, and repeals to the Texas Occupations Code to be considered during the Sunset Review process. A list of possible changes to the Board Rules is also being maintained for a year or more before submission to the Texas Register.

It was agreed that no additional amendments, new language, or repeals to the Texas Occupations Code were necessary.

The Committee shall recommend that Board Rule, §741.195(c) be amended as follows:

(1) severity level I - violations that have, have had, or have the potential to have an adverse impact on the health or safety of a client to include serious harm, permanent injury, or death to a client and may result in revocation of the license;

(2) severity level II - violations that have, have had, or have the potential to have an adverse impact on the health and safety of a client but less serious than level I and may result in suspension of the license;

(3) severity level III - violations that have, have had, or have the potential to have a minor health or safety significance or flagrant or repeated violations of the Act and/or Board Rules and may result in probated suspension of the license;

(4) severity level IV - violations that have, have had, or have the potential to have more than minor significance, but if left uncorrected, could lead to more serious circumstances and may result in a Board issued reprimand; and

(5) severity level V - violations that are minor infractions and may result in a warning or information letter.

POSITION STATEMENT:

Doctor Carlson was given the assignment to prepare a statement relating to third party reimbursement. The Committee agreed that this item should not be a position statement but rather a document focusing on the protection of the public by educating licensees that licensees are personally responsible for third party reimbursement. It was also agreed that this item, once approved, be added to the Board's Internet site, included in the Board's newsletter, and be considered as a topic for discussion at state associations' conventions. Doctor Carlson shall prepare a draft for the Committee's review at its next scheduled meeting.

SCHEDULE OF SANCTIONS GUIDELINES:

The Committee reviewed the guidelines and agreed that Board Rules, §741.195 be amended to include the language in the guidelines. The Board shall no longer maintain the guidelines.

COMPLIANCE EXAMINATION:

Mr. Richards, general counsel for the Board, stated that the Texas Occupations Code does not allow use of an examination as a disciplinary tool. However, an examination may be used as an educational tool, i.e. self assessment-program learning tool. The examination will not be graded. The Committee will ask the Board's opinion on whether this is an item that could be made available on the Board's web page.

COMPLAINTS OVERVIEW:

The Committee reviewed the Closed Complaints Summary and Administrative Summary maintained by the Complaints Tracking System. Doctor Carlson requested that the Board office prepare a chart listing the date filed, date closed, type of complaint, severity level and resolution. Once the data has been collected, the Board office will print out each fiscal year report for the past several years. The Committee will then evaluate the charts to determine measurable goals and to look for trends. The results will be made available on the Board's web page and in the newsletter.

RISK ASSESSMENT TOOL:

The Committee reviewed the Risk Assessment Tool prepared by the Professional Licensing and Certification Division (PLC) at the request of the Richard Bays, Associate Commissioner, Consumer Health Protection. Mr. Bays asked that the boards within PLC "refine" the risk assessment tool submitted to standardize the tool with the same risk criteria. In addition he asked that severity levels be tied to each type of violation. Mr. Richards stated that different licensing boards have different issues and he believed no further information was needed.

ITEMS FOR NEXT MEETING:

Doctor Carlson will prepare a document relating to third party reimbursement.

The Board staff will prepare a chart of closed complaints.

ADJOURNMENT:

Ms. Campbell moved to adjourn at 11:12 a.m., Doctor Carlson seconded, and the motion carried. This report will be presented to the full Board at the meeting scheduled for March 22, 2002.

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

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

Thursday, March 21, 2002, 12:30 p.m.
Hilton Austin Airport
9515 New Airport Drive - Live Oak Room
Austin, Texas 78719
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 12:30 p. m. with Committee members Bertha Moore Campbell, Lee Reeves, and Cheryl L. Sancibrian present. Committee member Elsa Cardenas-Hagan was not present. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards.

REPORT:

The Committee reviewed the report of the meeting held November 2, 2001. **Ms. Sancibrian moved to adopt the report as written, Doctor Reeves seconded, and the motion carried.**

POSITION STATEMENTS/FREQUENTLY ASKED QUESTIONS:

The Committee reviewed the position statements and frequently asked questions (FAQ) relating to the practice of speech-language pathology. It was agreed that some of the position statements should be reworded as a FAQ instead of a position statement.

Ms. Sancibrian will revise the document comparing the Board's requirements for an assistant license to the requirements of the American Speech-Language-Hearing Association requirements as a FAQ instead of a position statement.

Ms. Campbell and Ms. Sancibrian will develop a position statement concerning Medicaid's School Health and Related Services (SHARS) and will contact Tommy Cowan, Texas Education Agency, to verify that the FAQ language is current.

The Board office will make other requested changes and add the position statements and FAQ's to the Board's web page.

SCOPE OF PRACTICE ISSUES:

The Committee discussed the audit relating to the supervision of assistants and requested that the questions shown on the forms mailed to assistants and supervisors selected for the audit be placed on the Board's web page. In addition, the letters mailed to the supervisor and assistant when a supervisor is approved will include a list of the documentation that must be maintained, how to obtain a sample log, and the Position Statement on Supervising Licensed Assistants in Speech-Language Pathology.

The Committee discussed terms such as communication therapist, communication specialist, language and learning specialist, and academic language therapist. The Texas Occupations Code, §401.301 requires a license in order to practice speech-language pathology or represent oneself as a speech-language pathologist. Ms. Sancibrian asked Mr. Richards to investigate use of titles that connote the position of a speech-language pathologist. Since this is a safety issue, it was agreed to recommend the Texas Occupations Code be amended to include language to prohibit use of these terms by unlicensed individuals. Ms. Campbell and Ms. Sancibrian will prepare a question and answer for the Board's FAQ's regarding this issue.

A parent who has a child with a feeding disorder questioned the competency of a speech-language pathologist providing services to his child. He wanted to know what qualified a speech-language pathologist to provide this specialized service. Ms. Campbell will inform the parent that the Board's Code of Ethics expects licensees to adhere to a national standard of practice developed by the American Speech-Language-Hearing Association (ASHA). A copy of the ASHA document will be provided.

A licensee questioned whether a licensed speech-language pathologist could make a determination/recommendation at an individual education plan (IEP) meeting that a student who qualifies only as speech impaired receive resource services for academic areas such as language arts, math, and reading and be exempt from the Texas Assessment of Academic Skills (TAAS) because they would not be getting instruction in grade level Texas Essential Knowledge and Skills (TEKS). Ms. Campbell will inform the licensee that a speech-language pathologist could make a recommendation if services were dictated by an assessment of need. The licensee will be instructed to contact the Texas Education Agency for clarification.

A licensee questioned an assistant's role in administration, scoring, interpreting, and writing reports. Ms. Campbell will inform the licensee that an assistant cannot evaluate nor write reports but may administer and score a test if the supervisor determines the assistant is qualified to do so. In addition, the licensee will be mailed a copy of the Position Statement for Supervising Licensed Assistants in Speech-Language Pathology.

Ms. Campbell prepared an article for the Board's newsletter concerning intelligence tests. This article will also be added as a FAQ to the Board's web page.

The last item discussed was speech-language screening by non-licensed speech-language pathologists in day care centers. Ms. Sancibrian will respond suggesting they avoid use of the term "speech-language screening"; instead they could use a term such as "developmental screening".

TEXAS EDUCATION AGENCY:

The Committee briefly discussed the response received from Ms. Mary Cole, Texas Education Agency (TEA), concerning a retired individual certified by TEA who wished to contract her services to the school. Ms. Cole stated that the law permits individuals certified by TEA to continue providing speech therapy services in the public schools but limits them to practice only as public school employees. That means the district must provide a W-2 form, not a 1099. A

contracted speech-language pathologist must hold a valid license issued by this Board. Ms. Cole was present and responded to related questions.

POSSIBLE AMENDMENTS TO ACT/RULES:

The Board is maintaining a list of possible additions, amendments, and repeals to the Texas Occupations Code to be considered during the Sunset Review process. A list of possible changes to the Board Rules is also being maintained for a year or more before submission to the Texas Register.

The Committee will recommend the Texas Occupations Code be amended as follows:

§401.001(6) - to amend the speech-language pathology scope of practice to reflect current practices.

§401.053 - to amend this section to clarify who may perform speech-language screening and to prohibit use of terms such as communication therapist, communication specialist, language and learning specialists, and academic language therapists by individuals unlicensed as speech-language pathologists.

The Committee will recommend the Board Rules list include the following:

§741.62(1) - to amend this subsection to state it is the supervisor's decision whether the intern's practice is acceptable.

§741.65(h)(5)(F) - to amend this subsection to state an assistant may not alter an IEP.

§741.62(f)(4) and §741.65(f)(4) - to amend these subsections to state the supervisor shall be responsible for the practice of the intern or assistant until he/she notifies the board, in writing, of a change in supervision.

§741.62 - to amend this section by adding a new (e) to include language similar to §741.82(e) to allow students enrolled in a Ph.D. program to be licensed as interns and renumber accordingly.

ITEMS FOR NEXT MEETING:

The Committee will discuss use of titles such as communication specialists, communication/language therapists and other titles by non-licensed speech-language pathologists.

The Committee will prepare specific language to amend or delete current language and add new language to the Texas Occupations Code to be considered during the Sunset Review Process.

The Committee will discuss the draft consumer brochure and prepare responses to the questions.

ADJOURNMENT:

Ms. Sancibrian moved to adjourn at 2:40 p.m., Doctor Reeves seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for March 22, 2002.

Bertha Moore Campbell, M.A.
Committee Presiding Officer

STATE BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AUDIOLOGY SCOPE OF PRACTICE
COMMITTEE REPORT

Thursday, March 21, 2002, 3:30 p.m.
Hilton Austin Airport
9515 New Airport Drive-Live Oak Room
Austin, Texas 78719
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 3:30 p.m. with Committee members Deborah L. Carlson, Harvey Komet, Matthew H. Lyon, and R. Eric Reynolds present. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards. Board members Bertha Moore Campbell, Lee Reeves, and Cheryl L. Sancibrian attended the meeting as guests.

REPORT:

The Committee reviewed the report of the meeting held November 1, 2001. **Doctor Carlson moved to adopt the report as written, Doctor Komet seconded, and the motion carried.**

RULE AMENDMENTS:

The amendment to 22 T.A.C., §741.82 concerning issuance of an intern license to a student in an accredited college or university Au.D. program published in the Texas Register on October 5, 2001 was discussed. No comments were received on the proposal during the 30-day comment period. However, at a previous meeting, the Rules Committee recommended that one change be made to clarify the intent of the rule. In addition, the Board office stated one editorial change was needed. **Doctor Komet moved to recommend adoption of the Order Adopting a Rule, including the preamble and rule; Doctor Carlson seconded; and the motion carried.**

POSITION STATEMENTS/FREQUENTLY ASKED QUESTIONS:

The Committee reviewed the position statements and frequently asked questions (FAQ) relating to the practice of audiology and fitting and dispensing of hearing instruments. Mr. Reynolds agreed to develop additional questions for the Board's Internet site for the Committee's review.

Doctor Carlson shall prepare the "purpose" for the Position Statement Relating to Newborn Hearing Screening before the next meeting for the Committee's review.

Doctor Komet moved to recommend the Board accept the Position Statement Relating to Vestibular and Balance Rehabilitation, Mr. Reynolds seconded, and the motion carried.

SONGBIRD HEARING INC.

Tom Squeglia, Vice President, Sales and Marketing, Songbird Hearing Inc., contacted David Richards, general counsel for the Board, and the Board's Presiding Officer regarding sales of the disposable hearing aids in Texas. Howard Kamins, Vice President and General Counsel,

Songbird Hearing Inc. submitted an email describing their proposed methodology. Mr. Squeglia shall make a presentation to the full Board on the following day; therefore, Mr. Richards stated that the Committee should listen to his presentation before making any decisions. He also stated that as long as Songbird Hearing Inc. meets the requirements of Chapter 401, Texas Occupation Code, and Board Rules, Chapter 741, 22 TAC, there should be no problem with selling the aids in Texas.

SCOPE OF PRACTICE ISSUES:

In a letter to the Board, Toni Mann, a licensed audiologist, had questions concerning the qualifications and practice of an assistant in audiology. One of her suggestions to allow an assistant to participate in the fitting/dispensing of a hearing instrument would require a legislative amendment. Mr. Reynolds shall prepare a draft response stating the purpose of the licensing Board is to protect consumers and that the Committee would consider her other suggestions.

POSSIBLE AMENDMENTS TO ACT/RULES:

The Board is maintaining a list of possible additions, amendments, and repeals to the Texas Occupations Code to be considered during the Sunset Review process. A list of possible changes to the Board Rules is also being maintained for a year or more before submission to the Texas Register.

The Committee will recommend the Texas Occupations Code be amended as follows:

§401.403 - to amend the audiology scope of practice to reflect current practices and to add "intraoperative monitoring".

§401.403(b)(1)-(2) - to delete the requirement that an audiologist or intern in audiology must register in order to fit and dispense hearing instruments.

§401.310 - to allow a holder of the temporary certificate of registration to fit and dispense hearing instruments.

§401.312 - to consider whether to allow an assistant to fit and dispense hearing instruments.

§401 - to add a new subchapter to address telehealth/telemedicine.

The Committee will recommend the Board Rules list include the following:

§741.1 - to add a definition for "under the direction of" relating to supervision of interns and assistants.

§741.85 - consider the scope of practice of assistants.

FITTING/DISPENSING OF HEARING INSTRUMENTS:

During the hearings conducted by the Senate Committee on Nominations, Senator Leticia Van De Putte, voiced concerns about differences in rules between this Board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments that may be confusing to consumers. Mr. Lyon invited Michael Shobe, President, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, to a meeting to discuss relevant issues but he declined. Mr. Lyon issued a second invitation dated October 19, 2001, and received no response. The Board previously agreed that the Committee may inform Senator Jane Nelson of attempts to meet with the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. Mr. Lyon shall attach copies of the letters he mailed to the Fitting and Dispensing Committee and their response with his correspondence to Senator Nelson.

PUBLIC COMMENTS:

Mr. Lyon, the newly appointed Presiding Officer of the Committee, recognized Mr. Reynolds for his dedicated service as presiding officer since January 2000.

Rose Aird Minette, Hard of Hearing Program Specialist, Texas Commission for the Deaf and Hard of Hearing, provided a consumer brochure and an Application for Specialized Telecommunications Assistance Program. She asked that this information be made available to clients.

ITEMS FOR NEXT MEETING:

The Committee will prepare specific language to amend or delete current language and add new language to the Texas Occupations Code to be considered during the Sunset Review Process.

The Committee will consider the additional frequently asked questions as prepared by Mr. Reynolds.

The Committee will consider the "purpose" for the Position Statement Relating to Newborn Hearing Screening as prepared by Doctor Carlson.

The Committee will consider the draft position statement on mobile testing units and disposal hearing aids as prepared by Mr. Lyon.

ADJOURNMENT:

Doctor Carlson moved to adjourn at 5:20 p.m., Doctor Komet seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for March 22, 2002.

Matthew H. Lyon, M.A.

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

Thursday, March 21, 2002, 5:00 p.m.
Hilton Austin Airport
9515 New Airport Drive - Live Oak Room
Austin, Texas, Texas 78719
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 5:20 p.m. with Committee members Matthew H. Lyon and Lee Reeves present. Committee member Elsa Cardenas-Hagan was absent. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards. Board members Bertha Moore Campbell, Deborah L. Carlson, Judith A. Chambers, and R. Eric Reynolds attended the meeting as guests.

REPORT:

The Committee reviewed the report of the meeting held November 1, 2001. **Mr. Lyon moved that the report be adopted as written and the motion carried.**

ORDER ADOPTING A RULE:

The Audiology Scope of Practice Committee recommended the Rules Committee accept the revised preamble and rules to 22 T.A.C., §741.82 published as a proposed rule in the October 5, 2001 issue of the Texas Register. The final rule and preamble includes a change to clarify the intent of the rule and one editorial change. **Mr. Lyon moved to recommend the Board adopt the rule and the preamble to the rule incorporated by reference in the order as if set forth at length verbatim in the order and the motion carried.**

POSITION STATEMENTS/FREQUENTLY ASKED QUESTIONS:

The Committee reviewed the position statements and frequently asked questions (FAQ).

Mr. Lyon moved to recommend the Board accept the FAQ's as written and the motion carried.

Mr. Lyon moved to recommend the Board accept the Position Statement for Continuing Education Credit for Coursework and the American Medical Association (AMA) and the motion carried.

Mr. Lyon moved to recommend the Board accept the Position Statement Relating to Earned Degrees Appearing on Official Licenses for Speech-Language Pathology and Audiology and the motion carried.

POSSIBLE AMENDMENTS TO RULES:

The Board is maintaining a list of possible additions, amendments, and repeals to the Board Rules for a year or more before submission to the Texas Register. The amendments recommended by the Complaints, the Speech-Language Pathology Scope of Practice, and the Audiology Scope of Practice Committees will be added to the list.

PUBLIC COMMENTS:

The Committee considered the Attorney General's Opinion on use of testimonials. David Richard, general counsel to the Board, stated he did not believe a rule revision was necessary at the present time. He anticipates this issue will be resolved in the courts.

Dorothy Cawthon, executive secretary to the Board, presented a chart showing the dates the Board rules became effective and when the rules must be reconsidered for adoption. The date the next review should be completed is December 24, 2004.

ADJOURNMENT:

Mr. Lyon moved to adjourn at 5:38 p.m. and the motion carried. The report will be presented to the full Board at the meeting scheduled for March 22, 2002.

Lee Reeves, D.V.M.
Committee Presiding Officer