

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

Thursday, October 3, 2002, 2:30 p.m.
Drury Inn and Suites Riverwalk
201 North Saint Mary's Street
San Antonio, Texas 78205
(512) 834-6627

The following members were present on Thursday, October 3, 2002, for the Board meeting:

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

The following Department staff was in attendance:

Lanell Brown	Debbie Peterson
Dorothy Cawthon	David Richards
Marc Connelly	

CALL TO ORDER:

Ms. Sancibrian, the Board's Presiding Officer, called the meeting to order at 2:40 p.m. and welcomed newly appointed Board members Rosario Rodriguez Brusniak, Minnette Son, and Matthew H. Lyon. Mr. Lyon was reappointed. She also welcomed the Board's new attorney Marc Connelly and thanked David Richards for providing excellent legal advice to the Board during the past three years. Ms. Sancibrian rearranged the agenda as noted below.

MINUTES:

Ms. Sancibrian asked that members review the minutes of the Board meeting held on July 26, 2002. **Doctor Reeves moved to adopt the Board minutes as written, Ms. Campbell seconded, and the motion carried.**

COMMITTEE REPORTS:

• **COMPLAINTS:**

Ms. Chambers reported on the meeting held October 3, 2002. The Committee approved the report of the July 25, 2002, meeting as written; closed four complaints with letters of warning; closed one complaint because the issue was resolved; issued two cease and desist letters; issued four notice of violation letters; recommended the Board approve 14 reprimands, accept eight letters of agreement, and approve three Agreed Orders; left 19 complaints pending investigation; continued to consider a Frequently Asked Question relating to third party reimbursement and the chart of closed complaints; and agreed that a guide on the complaint process was not feasible but instead shall incorporate the information into the examination being developed as an educational tool.

At the conclusion of the report, **Ms. Chambers moved to adopt the Complaints Committee Report, Doctor Reynolds seconded, and the motion carried.**

AGREED ORDERS:

Mr. Richards presented the following cases:

- **02-SA-0004**-relating to failure of the respondent to maintain accurate records and submission of documentation to bill for services not rendered. The respondent signed the Agreed Order accepting a one-year suspension and agreed to earn 20 hours of approved continuing education hours relating to record keeping. The respondent is currently living out-of-state and had placed the license on the inactive status. **Mr. Lyon moved to accept the order, Doctor Reeves seconded, and the motion carried.**
- **02-SA-0014**-relating to failure of the respondent to maintain accurate records of services rendered and to only bill for services rendered. The respondent signed the Agreed Order accepting a one-year probated suspension and agreed to practice under additional supervision, earn 20 hours of approved continuing education hours relating to record keeping, and submit quarterly reports to the Board office. **Doctor Reynolds moved to accept the order, Mr. Lyon seconded, and the motion carried.**
- **02-SA-0015**-relating to practicing without a license for more than four years and providing services that an assistant is prohibited from providing. In a phone conversation with Ms. Cawthon, the respondent stated she planned to sign the Agreed Order accepting a one-year probated suspension and agreed to practice under additional supervision, earn 20 hours of approved continuing education relating to record keeping and professional ethics, and submit quarterly reports to the Board office. **Ms. Chambers moved to accept the order should she sign it, Doctor Reeves seconded, and the motion carried.**

PRESENTATION ON COMPLAINT PROCESS:

Mr. Richards asked Ms. Cawthon to explain the intake of complaints. She stated that when a complaint is received a case number is assigned, the complaint is reviewed to determine if valid, the complainant and respondent are notified and mailed a schedule for conducting each phase of any complaint, and, if necessary, the complaint is forwarded to the Texas Department of Health investigative section. In addition, the respondent may be asked to provide documentation relating to the allegation.

Ms. Chambers stated that when the Complaints Committee meets, they discuss the complaint in-depth to determine whether the Act and/or Board Rules were violated and if they believe a violation occurred, they consider the penalty to be initiated. The Committee uses the Schedule of Sanctions, Board Rules §741.195, as a guide in determining disciplinary action.

Debbie Peterson, Assistant Division Director, Professional Licensing and Certification Division, Texas Department of Health, stated the Legislature required the Health Professions Council (HPC) to provide a summary of the complaint process during the upcoming Legislative Session that convenes in January 2003. She explained that she and the Division Director Doctor Jim Zukowski, have represented the Board at the HPC meetings. She presented the Summary of Review of Complaint Process Survey Responses/Tentative Recommendations, dated August 19,

2002, prepared by the HPC. Ms. Peterson explained the main concern to the Division programs related to disclosure of complaints. She stated the final vote by the HPC is scheduled for December 2002.

RECESSED/RECONVENED:

Doctor Reeves moved to recess at 4:00 p.m. and reconvene at 4:10 p.m., Mr. Lyon seconded, and the motion carried.

COMMITTEE REPORTS CONTINUED:

- **SPEECH-LANGUAGE PATHOLOGY SCOPE OF PRACTICE AND THE AUDIOLOGY SCOPE OF PRACTICE COMMITTEES:**

The Committees were not scheduled to meet because the Board agreed this meeting should concentrate on the upcoming Sunset Review process and preparation of the Self-Evaluation Report.

- **RULES COMMITTEE REPORT:**

Doctor Reeves reported on the meeting held October 3, 2002. The Committee approved the report of the July 25, 2002, meeting as written and recommended the Board deny the Petition for a Rule Change to 22 T.A.C., §741.102(4).

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

PETITION FOR RULE CHANGE:

The Board discussed the petition received from the Texas Hearing Aid Association, Inc. concerning amending §741.102(4) relating to the 30-day trial period by replacing the Board's language with the language adopted by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments as 22 T.A.C., §141.16(b)(3). The Board adopted its existing language following an Ad Hoc meeting held in 1999 at which consensus was reached by representatives from the Board, the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, several manufacturers, Texas Commission for the Deaf and Hearing Impaired, and the Texas Department of Health. **Doctor Reeves moved to deny the petition because the proposed amendment was not in the consumer's best interest, Ms. Chambers seconded, and the motion carried.**

BOARD POLICY:

The Board reviewed the policies on Policy and Management Responsibilities, Program Accessibility, and Public Participation in Board Meetings adopted November 02, 2001 and agreed no changes were needed. Ms. Sancibrian shall prepare a "Guidelines for Public Attendance" to be made available at all meetings. Ms. Brown shall prepare a sign advising guests to "please sign in" to be posted during each meeting. When the guest signs in, he or she will receive a copy of guidelines.

FEES/BUDGET:

Debbie Peterson, Assistant Division Director, Professional Licensing and Certification Division, Texas Department of Health, presented budget information. She stated she has not received the

fourth quarter expenditures. The estimated FY 2003 budget is basically the same as that of FY 2002. The projected total program cost is \$352,857.00; total estimated revenue is \$401,540.00.

PRESIDING OFFICER ASSIGNMENTS:

Ms. Sancibrian made the following assignments to standing committees:

- **Complaints Committee** - Judith A. Chambers shall remain as presiding officer with Bertha Moore Campbell and Deborah L. Carlson as members.
- **Speech-Language Pathology Scope of Practice Committee** - Bertha Moore Campbell shall remain as presiding officer with Rosario Rodriguez Brusniak, Lee Reeves, and Cheryl L. Sancibrian as members.
- **Audiology Scope of Practice Committee** - Matthew H. Lyon shall remain as presiding officer with Deborah L. Carlson, R. Eric Reynolds, and Minnette Son as members.
- **Rules** - Lee Reeves shall remain as presiding officer with Matthew H. Lyon and Minnette Son as members.

It was agreed that no appointments were necessary for the Ethics and Legislative Review Committees at this time.

Ms. Sancibrian also appointed members to serve as the Board's designee relating to the following issues:

- **Fees/Budget** - Cheryl L. Sancibrian
- **Application/Renewals** - Cheryl L. Sancibrian
- **Continuing Education** - Deborah L. Carlson
- **Supervision of Intems and Assistants** - Rosario Rodriguez Brusniak
- **Health Professions Council** - Cheryl L. Sancibrian
- **Fitting and Dispensing of Hearing Instruments** - Matthew H. Lyon

The designees shall report any decisions made to the full Board at the next scheduled meeting for ratification. It was agreed that no appointments were necessary to address Exemptions to the Act and Public Relations issues.

PUBLIC COMMENTS:

Ms. Sancibrian presented information to all members relating to the following:

- general expectations of Board members including: focus on protection of the public, prepare for and attend meetings, show public support of Board decisions and policies, and handle potential conflict of interest issues
- comparison and contrast of roles of Board members, officers, designees, and Texas Department of Health staff
- Board meeting tips concerning dress, seating, meeting rules and procedures, reimbursement, and distractions such as cell phones and sidebar conversations
- a caution to avoid quorum outside public meeting and communicating directly with licensees
- strategies for becoming an effective Board member such as learning the Board's history and background on issues, maintaining confidentiality, maintaining good relationships

with the public, licensees, related organizations, and the legislature, understanding and committing to the role of a Board member, and speaking freely and frankly on personal views during a meeting.

Ms. Campbell and Doctor Carlson thanked members for allowing them to attend the Council on Licensure, Enforcement and Regulation (CLEAR) conference. Ms. Campbell especially liked the mentoring program of pairing current Board members with newly appointed members. Doctor Reynolds stated that he would be willing to become a mentor.

The Board will host a presentation and question and answer session at the annual Texas Academy of Audiology Convention to be held November 1, 2002 in San Antonio, Texas. Doctor Carlson and Mr. Lyon plan to attend.

The next meeting of the Council of Independent Board Chairs will be held November 15, 2002 in Austin. Ms. Sancibrian stated she was unable to attend and asked for volunteers. Doctor Carlson and Ms. Chambers stated they might be available and would let Ms. Sancibrian know.

Ms. Sancibrian presented Mr. Richards with a framed photo of the Board members and staff and expressed gratitude for his services to the Board. She stated his manner has always been pleasant but professional and his knowledge of administrative law is exemplary. He shall be missed.

NEXT MEETING DATE:

The next Committee meetings are scheduled for February 20, 2003 and the Board meeting is scheduled for February 21, 2003, to be held in Austin. If the Complaints Committee needs to meet earlier than this date, they may do so.

ADJOURNMENT:

Mr. Lyon moved to adjourn the meeting at 5:31 p.m., Doctor Reeves 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
BOARD MINUTES**

Thursday, October 3, 2002, 3:30 p.m.

Friday, October 4, 2002, 9:00 a.m.

Drury Inn and Suites Riverwalk

201 North Saint Mary's Street

San Antonio, Texas 78205

(512) 834-6627

The following members were present on Thursday, October 3, 2002, and Friday, October 4, 2002, for the Board meeting:

Rosario Rodriguez Brusniak, M.A.

Bertha Moore Campbell, M.A.

Deborah L. Carlson, Ph.D.

Judith A. Chambers, M.Ed.

Matthew H. Lyon, M.A.

Lee Reeves, D.V.M.

R. Eric Reynolds, Au.D.

Cheryl L. Sancibrian, M.S.

Minnette Son, M.D.

The following Department staff was in attendance:

Lanell Brown

Dorothy Cawthon

Debbie Peterson

Marc Connelly and David Richards were only present for Thursday's meeting.

CALL TO ORDER:

Ms. Sancibrian, the Board's Presiding Officer, called the meeting to order at 5:32 p.m. on October 3, 2002. She made assignments for the following day's meeting to consider amendments, new and deleted language to the Texas Occupations, Code, Chapter 401, and to prepare for review by the Sunset Advisory Commission.

Ms. Brusniak, Ms. Campbell, Doctor Reeves, and Ms. Sancibrian will consider issues relating to speech-language pathology.

Doctor Carlson, Mr. Lyon, Doctor Reynolds, and Doctor Son will consider issues relating to audiology.

Doctor Reeves, Mr. Lyon, and Doctor Son will consider issues relating to all other concerns.

The groups shall identify problems, prepare specific language explaining why it is a problem, and make suggested changes. The groups shall seek stakeholders' input.

ADJOURNMENT:

Doctor Reeves moved to adjourn the meeting at 5:40 p.m., Mr. Lyon seconded, and the motion carried.

CALL TO ORDER:

Ms. Sancibrian, the Board's Presiding Officer, called the meeting to order at 9:05 a.m. on October 4, 2002. Each group considered the current language of the Texas Occupations Code, Chapter 401, and prepared amendments to be considered. Ms. Cawthon shall incorporate all the comments into one document for the members' review before the next scheduled meeting.

ADJOURNMENT:

Ms. Chambers moved to adjourn the meeting at 4:10 p.m., Mr. Lyon 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, October 3, 2002, 8:00 a.m.

Drury Inn and Suites - Riverwalk

201 North Saint Mary's Street

San Antonio, Texas 78205

(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 8:06 a.m. Committee members Bertha Moore Campbell, Deborah L. Carlson, and Judith A. Chambers were present. Department staff included Lanell Brown, Dorothy Cawthon, Marc Connelly, and David Richards.

The Texas Department of Health Office of General Counsel assigns an attorney to represent the Board. Mr. Richards had been assigned to represent the Board but because of his recent promotion as Deputy General Counsel, he will no longer be able to fulfill that role. Mr. Richards introduced Marc Connelly as his replacement. Mr. Connelly was previously employed as a hearing examiner with the Texas Department of Health. Ms. Chambers welcomed Mr. Connelly and expressed gratitude to Mr. Richards for his exemplary service to the Board during the past three years.

REPORT:

The Committee reviewed the report of the meeting held July 25, 2002. **Ms. Campbell moved to adopt the report as written, 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.

02-SA-0005: The complainant alleged inappropriate billing because the respondent charged for both a re-evaluation and a therapy session during her child's regularly scheduled therapy. The complainant contacted the business and did receive a partial refund. The respondent is a partner in the business and shall be informed the Committee has concerns about the coding and billing practices of the business. **Doctor Carlson moved to recommend the business be audited by a firm that specializes in coding and billing practices and to notify the respondent that she is personally responsible for decisions made by the business and that future complaints of this nature may place her license in jeopardy, Ms. Campbell seconded, and the motion carried.**

The complaint was closed.

02-SA-0020: The complainant alleged the respondent documented and billed for a therapy session when the patient was in the hospital. The respondent informed the investigator that she just wrote down the wrong date. Because the respondent has not renewed the speech-language

pathology license that expired in May 31, 2002, the Board has no jurisdiction to pursue the issue. **Ms. Campbell moved to issue a cease and desist letter, Doctor Carlson seconded, and the motion carried.** Should the respondent renew the license, the Committee will reopen the case to determine if disciplinary action should be initiated. The complaint was closed.

02-SA-0034: The complainant alleged the respondent failed to maintain accurate records of services rendered and fraudulent billing. The respondent completed a Speech Therapy Daily Note for a date that therapy was not provided.

Doctor Carlson moved to issue a Notice of Violation letter offering a one-year probated suspension, Ms. Campbell seconded, and the motion carried. An Agreed Order shall be forwarded to the respondent with the Notice of Violation letter. The Agreed Order shall state the terms of probation and shall include weekly sessions to review the respondent's documentation and one monthly session to view the respondent providing therapy. In addition the respondent shall be required to earn an additional 20 hours of approved continuing education relating to record keeping.

02-SA-0042: The complainant alleged the respondent used testimonials on her Internet site and did not maintain objectivity when providing services. During the course of investigation, the respondent removed the use of testimonials from her web site. Concerning her excessive use of electronic mail, the respondent stated that she was new to the State of Texas and did not realize her persistence could be viewed as an annoyance. **Ms. Campbell moved to issue a letter of concern, Doctor Carlson seconded, and the motion carried.** The respondent shall be notified that she should study the Texas Occupations Code and Board Rules to avoid possible violations. The complaint was closed.

02-SA-0055: The complainant alleged the respondent advertised in the Yellow Pages as an audiologist but is not licensed as an audiologist. The respondent stated she was not aware her name was listed under "audiology". She stated her name was inserted by a computer free of charge. **Doctor Carlson moved to notify the respondent that she is personally responsible for her advertising and it is a violation of the Texas Occupations Code, §401.301 to practice or represent oneself as an audiologist when she is not licensed as an audiologist, Ms. Campbell seconded, and the motion carried.** The respondent shall also be notified to review the Board Rules, §741.41(d) relating to the Code of Ethics. The complaint was closed.

02-SA-0060: When renewing the license in July 2002, the respondent stated she received deferred adjudication. She provided a copy of the Order of Deferred Adjudication: Placement on Community Supervision, No. 19,721, filed in the District Court of Walker County, Texas, 12th Judicial District, on February 1, 2002. The respondent plead guilty to theft and received five years deferred adjudication, paid a fine, and made restitution. The violation related to fraudulent billing practices during portions of 1995 and 1996. Upon receipt of this documentation, the Board filed a complaint.

Ms. Campbell moved to issue a Notice of Violation letter offering a two-year probated suspension, Doctor Carlson seconded, and the motion carried. An Agreed Order shall be forwarded to the respondent with the Notice of Violation letter. The Agreed Order shall state the

terms of probation and shall include weekly supervision with one monthly session to view the respondent's record keeping. In addition the respondent shall be required to earn an additional 20 hours of continuing education relating to record keeping and business ethics.

02-SA-0053, 02-SA-0056, 02-SA-0058, 02-SA-0086, 02-SA-0087, and 02-SA-0088: 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 licensees 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.

In addition, in case 02-SA-0053, the respondent also acknowledged that she practiced after expiration of the grace period that is a violation of the Texas Occupations Code, §401.301.

Ms. Campbell moved to recommend the Board issue the reprimands and accept the conditions of the Letters of Agreement, Doctor Carlson seconded, and the motion carried.

With one exception, the respondents' employers will be notified of the disciplinary action. The exception is case 02-SA-0088, because that respondent is not employed.

02-SA-0057 and 02-SA-0084: The respondents in these cases practiced speech-language pathology or audiology after expiration of 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 licensees 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.

Doctor Carlson moved to recommend that the Board issue written reprimands and accept the conditions of the Letters of Agreement, Ms. Campbell seconded, and the motion carried.

The respondent's employer in case 02-SA-0057 will be notified of the Board's decisions. The respondent in case 02-SA-0084 is self-employed.

02-SA-0054, 02-SA-0076, 03-SA-0001, 03-SA-0002, 03-SA-0003, 03-SA-0004, 03-SA-0006, and 03-SA-0007: The violations in these cases related to invalid supervision.

In cases 02-SA-0054, 03-SA-0002, and 03-SA-0004, the respondents lacked the required clinical assisting experience earned at a college or university. Board Rules, §741.65(e) sets out the requirement that the assistant license must first be issued before the individual may acquire the hours defined in the Clinical Deficiency Plan.

In cases 02-SA-0076, 03-SA-0001, and 03-SA-0003, the supervisors allowed unlicensed persons to acquire the clinical assisting experience. This is a violation of Board Rules, §741.41(h)(2) that states a licensee may not aid or abet the practice of an unlicensed person and §741.41(i) which requires that a supervisor verify an assistant holds a valid license and the supervisor has been approved to supervise before allowing the individual to practice.

Ms. Campbell moved to recommend the Board issue reprimands to the respondents in all six cases, Doctor Carlson seconded, and the motion carried. The employers shall be notified of the disciplinary action.

In case 03-SA-0006, the respondent allowed an intern to practice from August 9, 2000 until August 23, 2000 without a valid license and from August 20, 2001 until August 23, 2002 without receiving approval from the Board office for an extension as required by Board Rules, §741.62(h).

In Case 03-SA-0007 the respondent is the intern. Since the internship has been completed, the intern license cannot be renewed. The respondent has not passed the examination required by Board Rules, §741.121 relating to Examination Administration. Instead of applying for the temporary certificate of registration, she chose to apply for the assistant in speech-language pathology license. The application for the assistant license is deficient; the Supervisory Responsibility Statement form is required.

Doctor Carlson moved to issue a Notice of Violation Letter in case 03-SA-0006, Ms. Campbell seconded, and the motion carried. The supervisor shall be placed on probated suspension for one year in which she shall not be allowed to supervise an intern or assistant and must complete 10 hours of approved continuing education related to areas of supervision. The employer, special education director, and superintendent shall be notified.

Ms. Campbell moved to issue a cease/desist letter in case 03-SA-0007 and should the respondent complete the requirements for the assistant license, a Notice of Violation Letter shall be issued, Doctor Carlson seconded, and the motion carried. If the request for the assistant license is granted, the respondent shall be offered probated suspension for one year with four hours of supervision per week, with at least three hours of face-to-face observation of the respondent conducting therapy. The respondent shall be encouraged to seek further assistance in passing the examination. The employer, special education director, and the superintendent shall be notified.

02-SA-0024, 02-SA-0026, 02-SA-0035, 02-SA-0039, 02-SA-0040, 02-SA-0041, 02-SA-0044, 02-SA-0047, 02-SA-0049, 02-SA-0050, 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:

Ms. Cawthon informed the Committee that during FY 2002 only one case number was assigned to complaints when the complaint also involved another licensee, such as when a supervisor was

aware of or allowed a violation to occur. This created a problem when compiling the year-end reports because disciplinary action was also initiated against the other licensee. To rectify this, case numbers were assigned to each licensee and the cases were closed. Case numbers assigned included 02-SA-0062, 02-SA-0063, 02-SA-0065, 02-SA-0066, 02-SA-0067, 02-SA-0068, 02-SA-0069, 02-SA-0070, 02-SA-0071, 02-SA-0072, 02-SA-0073, 02-SA-0074, 02-SA-0075, and 02-SA-0077.

02-SA-0059: The respondent submitted information to the Board office that she allowed an unlicensed person to acquire clinical assisting experience under her supervision. It was later learned that the unlicensed person was actually a student at West Texas A & M University and the respondent's employer had a contract with the university to provide practicum experience to their students. The Texas Occupations Code, §401.056, provides an exemption for students enrolled in a college or university program. Ms. Cawthon closed the complaint on August 7, 2002, and notified the respondent that in the future she should not complete a Board form when it specifically states the form should be completed by the college or university program director or designee. **Ms. Campbell moved to ratify this decision, Doctor Carlson seconded, and the motion carried.**

03-SA-0005: The complainant's attorney alleged the respondent failed to provide a refund upon the return of the hearing instruments and requested additional funds to cover the cost of an attorney, travel expenses, and for mental anguish. The complaint, dated July 3, 2002, had been sent to the wrong address and was not received by the Board office until September 11, 2002. The attorney notified the Board office on September 18, 2002 that the dispute had been resolved and Ms. Cawthon closed the complaint on that date. **Ms. Campbell moved to ratify this decision, Doctor Carlson seconded, and the motion carried.** The complainant and respondent shall be notified of the Committee's decision.

BOARD ORDERS:

02-SA-0004 and 02-SA-0014: The respondents in both of these cases signed the agreed orders.

02-SA-0015: The Board office has not received the signed order in this case but the respondent had until September 27, 2002 to return the form. If the respondent does not sign the form, the case shall be returned to the agenda for further deliberation.

Doctor Carlson moved to recommend the Board approve the signed Agreed Orders in cases 02-SA-0004 and 02-SA-0014 and in case 02-SA-0015 if the respondent signs the Agreed Order, Ms. Campbell seconded, and the motion carried.

REQUENTLY 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. Doctor Carlson will revise the draft to include language defining what is considered fraudulent billing. The draft shall be submitted to the Committee members and to Mr. Connelly for review before the next meeting. This item shall be returned to the agenda for the next scheduled meeting.

RECESS/RECONVENE:

Doctor Carlson moved to recess at 10:45 a.m., Ms. Campbell seconded, and the motion carried.

Doctor Carlson moved to reconvene at 1:00 p.m. to consider Agenda Items 5, 6, 7, and 8, Ms. Campbell seconded, and the motion carried.

CHART OF CLOSED COMPLAINTS:

Doctor Carlson presented a chart that includes the complaint number, the date filed, the date closed, the number of days for closure, the type of violation, the severity level, and the resolution of the complaint. The Board office shall record the FY 2002 data of closed complaints. This item shall be returned to the agenda for further review.

GUIDE ON COMPLAINT PROCESS:

After discussion, the Committee agreed to not develop the guide since it would be too difficult to address so many issues in a brochure. Instead the information shall be incorporated into the examination being developed as an educational tool.

PRESENTATION TO BOARD:

Ms. Sancibrian asked the Complaints Committee to provide an overview of the process they use to determine if an investigation should be conducted, the validity of complaints, and the disciplinary action to be initiated. Mr. Richards stated he would present this information.

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 future submission to the Texas Register.

There were no additional amendments, new language, or repeals to the Texas Occupations Code or the Board Rules addressed by the Committee.

ITEMS FOR NEXT MEETING:

Doctor Carlson agreed to revise the frequently asked question relating to third party reimbursement.

The Committee will review the chart with FY 2002 data of closed complaints.

The Committee will consider other revisions to the Texas Occupations Code in anticipation of Sunset Review.

ADJOURNMENT:

Ms. Campbell moved to adjourn at 1:42 p.m., Doctor Carlson seconded, and the motion carried. This report will be presented to the full Board at the meeting scheduled for October 3, 2002.

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

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

Thursday, October 3, 2002, 1:30 p.m.

Drury Inn & Suites Riverwalk
201 North Saint Mary's Street
San Antonio, Texas 78205
(210) 212-5200

CALL TO ORDER:

The meeting was called to order at 1:45 p.m. with Committee members Matthew H. Lyon and Lee Reeves present. Ms. Sancibrian appointed R. Eric Reynolds to serve on this Committee until she made permanent appointments. Department staff included Lanell Brown, Dorothy Cawthon, Marc Connelly, and David Richards. Board members Rosario Brusniak, Bertha Moore Campbell, Deborah L. Carlson, Judith A. Chambers, Cheryl L. Sancibrian, and Minnette Son attended the meeting as guests. Scott Pospisil, Executive Director, Texas Hearing Aid Association, Inc. was also present.

REPORT:

The Committee reviewed the report of the meeting held July 25, 2002. **Mr. Lyon moved that the report be adopted as written, Doctor Reynolds seconded, and the motion carried.**

PETITION FOR RULE CHANGE:

Mr. Pospisil, Texas Hearing Aid Association, Inc. (THAA), submitted a petition for a rule change to 22 T.A.C., §741.102(4) concerning the 30-day trial period. Board Rules, §741.102(4) states: "inform the consumer of a hearing instrument by written contract of a trial period of 30 consecutive days".

The petition proposes to replace this language with the language adopted by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (Committee), at 22 T.A.C., §141.16(b)(3), which states: "Should the hearing instrument(s) have to be repaired, remade or adjusted during the 30-day trial period, the 30 day trial period is suspended for one day for each 24 hour period that the hearing instrument(s) is not in the client's possession. The 30-day trial period resumes on the day the client reclaims the repaired, remade, or adjusted hearing instrument. If the hearing instrument is not picked up within five working days following client notification, the 30-day trial period resumes."

The THAA petition stated Donise Pearson, President, Texas Speech-Language-Hearing Association, and Kerry Ormson, President, Texas Academy of Audiology, submitted separate petitions to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments requesting that the Committee adopt the same language as that adopted by this Board in order for licensed audiologists and licensed dispensers to follow identical rules relating to the 30-day trial period. The THAA petition stated that both Ms. Pearson and Mr. Ormson

expressed no objection to the Committee's rule; they merely stated the Committee's rule is inconsistent or not identical with the Board's rule.

The THAA petition stated that different 30-day trial period rules are not an issue with nearly all licensed dispensers and their clients. The petition stated that if audiologists have a problem with the different rules, the Board should adopt the Committee's 30-day trial period rule.

The THAA petition also stated that the Committee has yet to receive one complaint from clients served by licensed dispensers about the content of §141.16(b)(3).

Doctor Reynolds stated he chaired an Ad Hoc meeting in April 1999 to develop the Board's rule. Those present included representatives from the Board, the Committee, several manufactures, Texas Commission for the Deaf and Hearing Impaired, and the Texas Department of Health. He also stated that the current president of the Committee Michael Shobe was present at this meeting. Doctor Reynolds stated there was consensus at the time to adopt the Board's current language.

Mr. Lyon made a motion to deny the petition at this stage because it was not in the consumer's best interest, Doctor Reynolds seconded, and the motion carried.

Mr. Lyon asked Mr. Pospisil if he were aware of the request to the newly appointed Board and Committee members during the Senate Nominations Hearing held in 2001. Senator Leticia Van de Putte requested that the Board and Committee work together to resolve the differences in their rules or, she stated, the legislature would do it for them. Mr. Pospisil stated he was not aware of the request. Mr. Lyon also stated he invited the Committee to meet with the Board on two separate dates but they declined.

The Audiology Scope of Practice Committee shall continue to consider the issue. Doctor Reynolds questioned the statements in the petition relating to the difference of the 30-day trial periods not being an issue with clients and that the Committee had not received any complaints filed by clients relating to the 30-day trial period. Mr. Pospisil could not provide additional information. Doctor Reynolds shall prepare a letter to the Committee requesting documentation concerning these issues.

The Texas Speech-Language-Hearing Association, the Texas Academy of Audiology, and the Texas Hearing Aid Association are planning to meet to discuss this issue.

PUBLIC COMMENTS:

Mr. Pospisil addressed the Committee after the motion to deny the petition and reiterated his request that the Board consider the petition. Further comments are noted under Petition for Rule Change.

Doctor Carlson asked whether the Board could obtain information and data from other state licensing boards on the 30-day trial period issue.

ADJOURNMENT:

Mr. Lyon moved to adjourn at 2:29 p.m., Doctor Reynolds seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for October 3, 2002.

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

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

Friday, October 4, 2002, 1:00 p.m.

Drury Inn & Suites Riverwalk
201 North Saint Mary's Street
San Antonio, Texas 78205
(512) 834-6627

The following members were present on Friday, October 4, 2002, 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:

Lanell Brown

The meeting was called to order at 1:20 p.m. The members began the preliminary discussion concerning development of an examination as an educational tool. They considered the format, introduction, purpose, availability, self-scoring, length of examination, and Board Rules more frequently violated.

Doctor Carlson moved to adjourn at 3:09 p.m., Ms. Campbell seconded, and the motion carried. The Committee planned to meet again early next year.

Judith A. Chambers, M.Ed.