

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

Friday, July 26, 2002, 9:00 a.m.
State Capitol Extension, House Hearing Room E2.028
12th and San Jacinto Blvd.
Austin, Texas 78701
(512) 834-6627

The following members were present on Friday, July 26, 2002, for the Board meeting:

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

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
Dorothy Cawthon	Jim Zukowski, Ed.D.

CALL TO ORDER:

Ms. Sancibrian, the Board's Presiding Officer, called the meeting to order at 9:03 a.m. and welcomed guests Mary Cole, Texas Education Agency, and Peggy Kipping, Texas Speech-Language-Hearing Association.

The Board extended their condolences to the family of Harvey Komet, M.D., the physician member of the Board, who died in June 2002. Doctor Komet was appointed to the Board on June 21, 1996 and had served in the capacity of presiding officer of the Ethics Committee and as a member of the Audiology Scope of Practice and the Legislative Review Committees. His professional manner and expertise shall be missed.

MINUTES:

Ms. Sancibrian asked that members review the minutes of the Board meeting held on March 22, 2002. **Doctor Reeves moved to adopt the Board minutes as written, Ms. Chambers seconded, and the motion carried.**

The minutes of the two forums held during the Texas Speech-Language-Hearing Association (TSHA) Conference on April 5-6, 2002 were reviewed. **Doctor Carlson moved to adopt the minutes of the two forums as written, Ms. Campbell seconded, and the motion carried.**

SUNSET ADVISORY COMMISSION PRESENTATION:

The Board is subject to Sunset Review in 2005. Since the process will begin in the fall of 2003, the Board requested that a representative of the Sunset Advisory Commission attend the meeting today to explain the process. Raika Hammond, Sunset Advisory Commission, project manager for the Texas Department of Health, presented an overview of the Sunset process and provided handouts to the members.

She stated the Lieutenant Governor appoints four Senate members and one public member and the Speaker of the House of Representatives appoints four House members and one public member. Senators and Representatives serve four-year terms; and public members serve two-year terms. Current members of the Commission include Senator Jane Nelson; Senator Mike Jackson; Senator Eddie Lucio, Jr.; Senator Eliot Shapleigh; public member Doctor Tim Roth; Representative Warren Chisum; Representative Jim Dunnam; Representative Peter Gallego; Representative Burt Solomons; and public member Libby Linebarger. Mr. Joey Longley is the Director of the Sunset Advisory Commission.

Ms. Hammond stated the purpose of the Commission is to determine if there exists a need for the agency to continue its functions. The first document the Board must prepare is a Self-Evaluation Report that defines the key functions, powers, and duties of the agency. The Board may recommend changes to the law in this report.

During the review process, the Commission may consider combining functions of two or more agencies to streamline state government, amend or delete existing language or add new language to improve the agency's operation, or sunset the agency. Input from stakeholders and interest groups will be requested. Public hearings shall be held.

If the Commission determines the agency should continue in existence, statutory language is then prepared, and the bill will be filed during 2005 Legislative session. The legislation must be passed and not vetoed by the Governor in order for the Board to continue in existence.

DIVISION DIRECTOR'S REPORT:

Ms. Sancibrian reordered the agenda to allow Doctor Jim Zukowski, Director, Professional Licensing and Certification Division, to present his report since he had another appointment today.

Doctor Zukowski suggested the Board follow the example of the Sunset Occupational Licensing Model when preparing the Self Evaluation Report. He presented information on the Texas Department of Health initiative (Larry Rider) that would allow fee-funded programs to retain revenues over and above their appropriations; the request from Governor Perry concerning budget substrategies; the upcoming CLEAR conference; the Health and Human Services Administrative Services Improvement Project to establish an effective and efficient system for delivery of administrative support services to Health and Human Services agencies; the Texas Statewide Health Coordinating Council (SHCC) and the State Health Plan relating to foreign-trained professionals; the Texas Department of Health's review of the Governor's Task Force on Homeland Security and any effect it might have on state regulatory agencies; and the Texas

Department of Health, Office of General Counsel, memorandum concerning Penalties for Health Insurance Portability and Accountability Act (HIPAA) and Health and Safety Code Non-compliance.

FEES/BUDGET:

Debbie Peterson, Assistant Division Director, Professional Licensing and Certification Division, Texas Department of Health, presented budget information. She stated the Board's FY 2001 budget showed expenditures of \$359,350 and revenue of \$398,541.

She also presented the FY 2002 report of Salaries, Expenditures and Revenue thru May 2002. For the nine-month period, the total expenditures were \$264,108 and the total collected was \$307,448. The Board has over-expended its investigative cost. Ms. Peterson stated the Division purchased four new computers and a laser printer for Board staff with third-party money.

Ms. Peterson stated she believed the allocation for FY 2003 would be the same as that for FY 2002.

COMMITTEE REPORTS:

- **COMPLAINTS:**

Ms. Chambers reported on the meeting held July 25, 2002. The Committee approved the report of the March 21, 2002, meeting as amended; closed six complaints; issued one cease/desist letter; referred one complaint to another agency; issued two notice of violation letters; recommended the Board issue twenty-four written reprimands, accept the conditions of nine Letters of Agreement, and require two licensees to earn an additional 20 hours of continuing education; left 14 complaints pending investigative reports; agreed to prepare a frequently asked question concerning third party reimbursement; considered the format for a Chart of Closed Complaints; and agreed to consider a Consumer Guide on Complaints. Ms. Chambers agreed to prepare an article for presentation at the Texas Speech-Language-Hearing Association Convention and the Texas Academy of Audiology Convention notifying licensees that they may not allow an individual to acquire the clinical observation and/or clinical assisting experience before the assistant license has been issued and that the CE log and proof of continuing education hours must be maintained for three years. This article should also be placed on the Board's web page and in the next issue of the newsletter.

Ms. Chambers moved to issue the Notice of Violation letter and accept the probationary terms of the Agreed Order in case 02-SA-0014, Ms. Campbell seconded, and the motion carried. Following this motion Mr. Richards, Texas Department of Health, Office of General Counsel, stated that individual motions were not necessary. At the conclusion of the report, **Ms. Chambers moved to adopt the Complaints Committee Report, Doctor Reeves seconded, and the motion carried.**

- **SPEECH-LANGUAGE PATHOLOGY SCOPE OF PRACTICE:**

Ms. Campbell reported on the meeting held July 25, 2002. The Committee approved the report of the meeting held March 21, 2002, as written; prepared Frequently Asked Questions (FAQ); responded to scope of practice questions; considered the draft of the School Health

and Related Services (SHARS); recommended other issues be added to the Board's Power Point presentation; and recommended possible changes to be added to the lists being maintained to amend/revise/add new sections 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. Lyon reported on the meeting held July 25, 2002. The Committee approved the report of the March 21, 2002 meeting as corrected; considered the position statements and frequently asked questions; agreed further discussion relating to mobile testing units and disposal hearing aids was required; recommended that universities that offer a Doctor of Audiology degree must have the program accredited by the American Speech-Language-Hearing Association; recommended possible changes to be added to the lists being maintained to amend/revise/add new sections to the Texas Occupations Code; and agreed to mail the letter Mr. Lyon prepared to Senator Jane Nelson informing her of attempts to meet with the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

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 July 25, 2002. Ms. Sancibrian appointed Doctor Reynolds to this Committee for this meeting only. The Committee approved the report of the March 21, 2002, meeting as written and agreed to add possible changes to 22 T.A.C., Chapter 741, to the list being maintained as recommended by the Speech-Language Pathology Scope of Practice Scope of Practice Committees.

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

REPORTS BY BOARD'S DESIGNEES:

- **APPLICATIONS/RENEWALS:** Ms. Sancibrian is the Board's designee for evaluating applications and renewals.

She reported that she evaluated five applications for the assistant license and three for the intern license in which the coursework had been earned more than ten years before the date of application. Refer to Board Rules, §§741.62(b), 741.82(b), 741.65(c)(2), and 741.85(c)(2). She approved all but one application for an assistant license with the stipulation that the applicants earn approved continuing education hours within three months of licensure specific to their employment setting. One application was not approved because transcripts submitted showed completion of less than the 24 semester hours required by Board Rules, §741.65(b)(2).

She also reported that she approved one application for an assistant license for an applicant with a baccalaureate degree not earned in the area of communication sciences and disorders but had completed the coursework required by Board Rules, §741.65(b)(2). Refer to Board Rules, §741.65(d) and §741.85(d).

Ms. Sancibrian moved to adopt her report, Doctor Reeves seconded, and the motion carried.

Doctor Reynolds had a question about licensees who continue to renew their licenses but are not practicing. He did not believe that earning continuing education was sufficient for the licensee who reenters the work place to be competent. Ms. Sancibrian asked Doctor Reynolds to conduct research into this issue before the next meeting and he agreed to do so.

- **CONTINUING EDUCATION:** Doctor Carlson is the Board's designee for evaluating continuing education in a related area. Refer to Board Rules, §741.162(h).

She stated she had recently received six requests to evaluate and planned to deny credit for courses concerning learning feedback and peer mentoring strategies. She planned to award partial credit for courses on autism, special education, emotional intelligence and communication impairments. She stated she would provide a written report at the next meeting. **Doctor Carlson moved to accept the report, Doctor Reeves seconded, and the motion carried.**

- **SUPERVISION OF INTERNS AND ASSISTANTS:** Ms. Cardenas-Hagan is the Board's designee for evaluating supervision of interns and assistants. Refer to Board Rules, §§741.62(g)(6), 741.62(h), 741.65(g)(5), 741.82(h)(6), 641.82(i), and 741.85(g)(5).

Since Ms. Cardenas-Hagan was absent, Lanell Brown submitted the report. Ms. Brown reported that Ms. Cardenas-Hagan approved one request relating to the required supervision because the plan submitted did provide sufficient supervision. **Ms. Chambers moved to approve the report, Ms. Campbell seconded, and the motion carried.**

CONTINUING EDUCATION:

In January 2005, the American Speech-Language-Hearing Association (ASHA) will require that all certificate holders earn continuing education in order to maintain the Certificate of Clinical Competence. One area of concern to the Board is that ASHA will accept contact hours from employer-sponsored in-service or other activities that contribute to professional development.

Because it is anticipated licensee may be confused about the Board's and ASHA's requirements, Ms. Sancibrian agreed to prepare a side-by-side comparison chart. This document will be made available on the Board's web page and in the next issue of the Board's newsletter. Ms. Carlson will prepare a Frequently Asked Question relating to this issue.

RECESS:

The Board recessed at 11:20 a.m. and reconvened at 11:34 a.m.

POLICIES, POSITION STATEMENTS, AND FREQUENTLY ASKED QUESTIONS (FAQ'S):

The position statements and frequently asked questions were addressed by the Complaints, Speech-Language Pathology Scope of Practice, Audiology Scope of Practice Committee, and the Rules Committees and recommendations were submitted to the Board.

- **POSITION STATEMENTS:** The Board reviewed the position statement relating to continuing education and agreed to clarify it by adding the word "licensee's" before the word "knowledge" and before the word "service" as previously discussed. Individuals could argue that the current language may further the public's knowledge and service delivery of speech-language pathology or audiology when its intent is to further the licensee's knowledge and service delivery. Mr. Richards suggested page two be corrected to state "Partial credit may be assigned to:" and the Board agreed.

The Board reviewed the position statement relating to earned degrees and agreed that the degree must have been earned from a college or university accredited by the American Speech-Language-Hearing Association (ASHA). The "purpose" shall also be revised to include maintenance on the licensing tracking system for verification purposes.

Ms. Chambers moved to adopt the revised position statements as noted in the previous two paragraphs, Doctor Reynolds seconded, and the motion carried.

The audiology and the speech-language pathology position statements were reviewed. When a position statement references an ASHA or the American Academy of Audiology (AAA) position statement or guidelines, the consumer shall be advised to contact either ASHA or the AAA to obtain a copy. The Board is under no obligation to provide a copy.

Doctor Carlson moved to adopt the revised position statements as noted in the previous paragraph, Ms. Campbell seconded, and the motion carried.

- **POLICIES:** Mr. Richards will revise the document relating to conduct and public participation before the next meeting.
- **FAQ'S:** Ms. Cawthon stated she has not revised the FAQ's considered at previous meetings and will return this item to the agenda after they are prepared.

CONSUMER GUIDE OF LICENSING ISSUES:

This document would be directed toward licensees and modeled on the Louisiana board's guide. Doctor Carlson agreed to prepare a draft for the next meeting.

NEW STANDARDS DEVELOPED BY THE AMERICAN SPEECH-LANGUAGE-HEARING ASSOCIATION:

Doctor Reeves stated that because of the changes in the Standards for the Certificate of Clinical Competence in Speech-Language Pathology and the Standards for the Certificate of Clinical Competence in Audiology adopted by ASHA that will take effect in January 2005 for speech-language pathology and 2007 for audiology, he did not believe the Board should solely accept ASHA accredited program. He stated ASHA is moving toward a program of study with knowledge outcomes and consumers would have no way to judge the knowledge or skills an individual may have been exposed to in his or her academic study. He believes the Board should determine the coursework and clinical experience required for the license. Ms. Sancibrian stated this issue could be considered when the Board meets to discuss Sunset issues and asked Doctor Reeves to lead this discussion. He agreed.

EXAMINATION AS EDUCATIONAL TOOL:

Ms. Campbell stated the Complaints Committee initially considered using an examination as a disciplinary tool but Mr. Richards stated the Board did not have authority to do so. It was agreed that a self-administered examination be developed for orientation purposes or as a guide for licensees. Doctor Carlson asked if it were possible to download the specific section of the Board Rules referenced when certain items are reviewed on the examination. It was agreed that the members of the Complaints Committee would continue to develop this concept.

CENTERS FOR MEDICARE AND MEDICAID SERVICES:

The Speech-Language Pathology Scope of Practice Committee considered whether an intern may be an approved provider on the previous day and agreed to request clarification.

CONVENTION PARTICIPATION:

- **TEXAS SPEECH-LANGUAGE-HEARING ASSOCIATION (TSHA):**

The Board hosted two forums at the TSHA Convention in Houston on April 4-6, 2002. One forum focused on student issues and the other was a Power Point presentation followed by questions from the audience. Ms. Campbell, Doctor Reeves, and Ms. Sancibrian attended. Ms. Sancibrian stated the questions were similar to the questions received at previous conventions concerning the practice of assistants and continuing education requirements. She agreed to contact TSHA for comments from participants on the forums.

The Call for Papers for the 2003 convention is due in September. Ms. Sancibrian shall prepare the Call for Papers for the two forums. Doctor Reeves has submitted a Call for Papers for a Round Table Discussion to consider specific issues relating to various topics. It was suggested that the members of the Complaint Committee man a table relating to complaint issues. Mr. Richards cautioned members to be careful in responding to specific questions relating to complaints. Other issues that could be addressed are assistants' practice and continuing education. The Board office shall post the sessions in the Texas Register.

- **THE COUNCIL ON LICENSURE, ENFORCEMENT AND REGULATION (CLEAR):**

The CLEAR Conference "Regulatory Jackpot-The Odds Favor Unity" shall be held September 12-14, 2002 in Las Vegas, Nevada. The Board agreed to fund travel for two people to attend. Doctor Carlson and Ms. Campbell expressed an interest in attending.

- **NATIONAL COUNCIL OF STATE BOARD FOR EXAMINERS FOR SPEECH-LANGUAGE PATHOLGOY AND AUDIOLOGY (NCSB):**

The NCSB Conference "Technology in the New Millennium: Telepractice and the Healthcare Practitioner Data Base" shall be held October 17-20, 2002 in Saint Louis, Missouri. The Board agreed to fund travel for two people to attend. Doctor Reeves expressed an interest in attending.

LEGAL COUNSEL REPORT:

Mr. Richards stated he had nothing new to report.

PRESIDING OFFICER'S REPORT:

Ms. Sancibrian informed members of the "thank you" notes received from Doctor Komet's family and from the Humane Society of San Antonio.

She asked members to let Ms. Cawthon know if they did not understand any assigned task on the Action List. Ms. Cawthon asked if it would be beneficial to organize the list as separate lists for each committee and for the Board meeting. The suggestion was accepted.

Ms. Sancibrian stated she and Ms. Cawthon reviewed the brochure prepared by the Texas Speech-Language-Hearing Association entitled "The Role of the Licensed Assistants". The brochure is not available at this time.

She asked the members to review the updated web pages of two or three other licensing programs in the Professional Licensing and Certification Division and submit comments on how to make the Board's web page more user friendly. She also asked for comments on the Power Point presentation.

EXECUTIVE SECRETARY REPORT:

Ms. Cawthon stated that since December 2001, the office processed 16 Late Renewal of a License requests from licensees who had not practiced beyond the grace period. She also stated the office received a Late Renewal of a License form from a licensee who is employed by a school district and holds certification from the Texas Education Agency in speech and hearing therapy. The licensee stated she was not practicing with the license; therefore she did not violate the Texas Occupations Code or the Board Rules. Mr. Richards stated that the licensee cannot chose to practice with the license or the certification. If the individual holds a license and has practiced beyond the grace period, a violation occurred.

The number of new applications received this summer was 173 for May, 199 for June, and nearly 200 so far for July. The Texas Women's University graduated more than 90 students in the long distance learning program this month.

Ms. Brown stated the Board asked her to research how much money has been received for verification of licensure during the past fiscal year. Ms. Peterson had informed the Board that if the amount was more than \$2,500.00, it could be consider as third party money and retained by

the Board. The amount actually received was less than \$2,000.00 so it would not be beneficial to seek third party reimbursement.

Ms. Cawthon asked the Board to consider removing the grace period in the Texas Occupations Code, §401.352(a), during the Sunset Review process and to amend the Board Rules, §741.181 to charge a fee to request a continuing education extension. The Board agreed.

PUBLIC COMMENTS:

Ms. Kipping and Ms. Cole were present but did not wish to submit public comments.

NEXT MEETING DATE:

The Board shall hold a forum at the Texas Academy of Audiology Conference on November 1, 2002. It was suggested that perhaps the Complaints Committee could meet on this same day.

The members planned to hold a meeting to discuss issues relating to the Sunset Review process. Ms. Sancibrian asked members to check their calendars to see if early October would be an acceptable date and to let her know as quickly as possible. It was agreed that the meeting should take place in San Antonio.

TELEHEALTH/TELEMEDICINE:

Doctor Komet was designated to research this issue and present any information obtained to the Board but because of his death, this issue was not considered.

ELECTION OF BOARD OFFICERS:

Doctor Reeves nominated Ms. Sancibrian as presiding officer, Ms. Campbell seconded, and the motion carried.

Doctor Reeves nominated Ms. Chambers as the assistant presiding officer, Doctor Carlson seconded, and the motion carried.

Ms. Chambers nominated Doctor Reeves as the secretary/treasurer, Ms. Campbell seconded, and the motion carried.

ADJOURNMENT:

The meeting adjourned at 12:50 p.m.

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, July 25, 2002, 8:00 a.m.
State Capitol Extension, House Hearing Room E2.028
12th and San Jacinto Blvd.
Austin, Texas 78701
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 8:09 a.m. Committee members Deborah L. Carlson, and Judith A. Chambers were present. Committee member Bertha Moore Campbell was ill and was only able to attend the latter part of the meeting. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards.

REPORT:

The Committee reviewed the report of the meeting held March 21, 2002. **Doctor Carlson moved to adopt the report as written, 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-0027: The complainant alleged the respondent did not provide therapy for her child. At the meeting held March 21, 2002, the Committee requested further investigation to determine if the complainant was providing therapy as defined in the IEP and to interview the Director of Special Education. A random sampling of the records/charts for services provided by the respondent was requested. The supplemental report was received and because the complaint had been filed anonymously, the report could not substantiate the allegation. A response from the Special Education Director indicated that it may have been the relationship between the pathologists in the department that initiated the complaint and not a parent; however, a parent did file the complaint on behalf of her child. A letter of concern shall be issued to the respondent. The Special Education Director shall be informed that it was a parent who filed the complaint. The complaint was closed.

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. At the meeting held March 21, 2002, the Committee had concerns regarding whether IEP's conducted and services provided by the respondent were valid and issued a cease and desist letter. The superintendent of the school complied with the request and the children were bused four blocks to Oklahoma for the remainder of the school year. The school district agreed to employ a Texas licensed speech-language pathologist for the 2002-2003 school year. The complaint was closed and the complainant, respondent, and the school district's superintendent shall be notified of the Committee's decision.

02-SA-0008: The complainant alleged the respondent failed to provide a refund upon the return of a hearing instrument. He also stated that he did not sign a medical waiver. The investigative report provided evidence to show the complainant had signed the medical waiver and that the respondent failed to return the instrument within the 30-day trial period. He returned it nine months after purchase. It appeared the respondent was confused about the difference between the 30-day trial period and the warranty period. In addition, the respondent moved to Arizona and is no longer under the purview of this Board. The Committee agreed to close this complaint and forward a copy to the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. Both the complainant and respondent shall be notified of the Committee's decision.

02-SA-0013 and 02-SA-0017: Complaint 02-SA-0013 was filed by the assistant against her supervisor. Complaint 02-SA-0017 was filed by the supervisor against the assistant she was supervising.

The complainant in complaint 02-SA-0013 alleged her supervisor asked her to complete evaluations and re-evaluations and failed to provide sufficient supervision. The respondent provided a statement to the investigator that she did not ask the assistant to do evaluations but requested progress information on the clients. The investigative report did not provide any evidence to indicate any falsified reports or documentation. There appeared to be a personality conflict between the assistant and supervisor, especially concerning required supervision.

The complainant in complaint 02-SA-0017 alleged the assistant she was supervising attended an ARD meeting without the presence of the supervisor, prepared progress reports, and failed to abide by the decisions of the supervisor. The respondent provided a statement to the investigator that she did attend an ARD without her supervisor but not in the capacity of an assistant. There was no documentation received regarding altering any IEP's. It appears the assistant failed to abide by some of the decisions of the supervisor.

Both the assistant and the supervisor shall be advised to seek mediation in the future if a personality conflict occurs. In addition they shall be informed to maintain accurate records and 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 and the assistant, the supervisor, and the Special Education Director shall be notified of the Committee's decision.

02-SA-0014: The complainant alleged the respondent failed to provide services to students but documented that services were rendered. The investigative report substantiated the allegation that resulted in a repayment to Medicaid. The respondent informed the investigator that her documentation of services was an honest mistake. The respondent is practicing as an assistant under an improvement plan and strict supervision.

The Committee agreed to issue a Notice of Violation letter to the respondent offering a one-year supervised probation. 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 face-to-face supervision of an extra two hours per week to review record keeping and billings. In addition the respondent shall earn an additional 20 hours of approved continuing education relating to record keeping during the probationary period.

02-SA-0015: The complainant alleged the respondent practiced without a license for more than four years and performed services that an assistant may not provide. After the complainant became the lead speech-language pathologist for the school district and verified that the respondent did not hold a valid license, the respondent applied for and received the assistant license. The respondent performed duties such as writing and presenting reports, interpreting results of tests, and determining progress.

The Committee agreed to issue a Notice of Violation letter to the respondent offering a one-year supervised probation. 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 face-to-face supervision of an extra two hours per week to review record keeping and determine the respondent's competency. In addition the respondent shall earn an additional 20 hours of approved continuing education relating to record keeping and professional ethics during the probationary period.

The supervisor of the assistant shall be issued a reprimand for allowing the respondent to practice without a license and allowing her to perform services an assistant may not provide.

02-SA-0027: The complainant alleged the respondent failed to provide a refund upon the return of the hearing instruments. The respondent provided information that the refund was issued by the respondent's employer. Since the issue was resolved, the complaint was closed. The complainant and respondent shall be notified of the Committee's decision.

02-SA-0030, 02-SA-0038, and 02-SA-0045: The respondents in the first two cases responded on previous Renewal Forms that the required continuing education hours had been earned. When they 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.

For the first two cases, the Committee will recommend the Board issue written reprimands and accept the conditions of the Letters of Agreement. Since one of the respondents is self-employed and the other is currently retired, no employers will be notified of the disciplinary action.

The respondent in case 02-SA-0045 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 but two months later she called and said she had not earned the hours. The Board office asked that she submit a signed statement to that effect but the statement was never received. The Committee agreed that if she does not submit her signed response within one month, her licensing record would be set to require the continuing education audit upon her next renewal. The complaint was closed and the respondent shall be notified of the Committee's decision.

02-SA-0028, 02-SA-0032, 02-SA-0033 and 02-SA-0046: The violations in these cases related to invalid supervision.

In the first case, the intern practiced from November 30, 2001 until March 29, 2002 under supervision but the Intern Plan and Agreement of Supervision Form was not submitted to and approval received from the Board office. Failure to obtain approval is a violation of the Board Rules, §§741.41(i), 741.62(f), and 741.62(j).

In the second case, the intern practiced for four days in April 2002 under supervision but the Intern Plan and Agreement of Supervision Form was not submitted to and approval received from the Board office. Failure to obtain approval is a violation of the Board Rules, §§741.41(i), 741.62(f), and 741.62(j).

In the third case, the supervisor failed to obtain Board approval to supervise an assistant in speech-language pathology who lacked the clinical observation hours required by Board Rules, §741.65(e). In addition the violation occurred before the assistant license was issued. Failure to obtain approval is a violation of Board Rules, §741.41(i) and §741.65(f).

In the fourth case, the intern practiced from August 17, 2001 to May 10, 2002 under supervision but the Intern Plan and Agreement of Supervision Form was not submitted to and approval received from the Board office. Failure to obtain approval is a violation of the Board Rules, §§741.41(i), 741.62(f), and 741.62(j).

The Committee will recommend the Board issue written reprimands to the supervisors and the individuals being supervised with one exception. The assistant in the third case shall be issued a letter of concern instead of a reprimand because he only observed the supervisor's practice. In addition, both the intern and supervisor in the fourth case shall be required to earn an additional 20 hours of approved continuing education before the next renewal. The employers will be notified of the Board's decisions in all but case 02-SA-0033 since the respondent is self-employed.

02-SA-0025, 02-SA-0029, 02-SA-0031, 02-SA-0036, 02-SA-0037, 02-SA-0043, 02-SA-0048, 02-SA-0051, and 02-SA-0052: The respondents in all of these cases practiced speech-language

pathology or audiology but did not hold valid 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.

In case 02-SA-0025, two supervisors failed to obtain Board approval to supervise an assistant in speech-language pathology who lacked the clinical observation hours required by Board Rules, §741.65(e). In addition the violation occurred before the assistant license was issued. Failure to obtain approval is a violation of Board Rules, §741.41(i) and §741.65(f). The Committee shall recommend that written reprimands be issued to the two supervisors and the assistant. The Special Education Director and the superintendent shall be notified of the Board's decision.

In case 02-SA-0052, the respondent posted an electronic mail on the National Stuttering Associations' list serve stating she was a speech-language pathologist when she does not hold a license. The Committee agreed to issue a cease/desist letter and closed the case.

In all of the other cases, all seven respondents practiced after expiration of the grace period. 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 respondents' supervisors in cases 02-SA-0031, 02-SA-0048, and 02-SA-0051 allowed the respondents to practice with invalid licenses which is a violation of the Board's Code of Ethics, §741.41(h), the Committee will also recommend that the Board issue written reprimands to the supervisors. The respondent in case 02-SA-0031 had two supervisors. The seven employers will be notified of the Board's decisions.

02-SA-0005, 02-SA-0020, 02-SA-0024, 02-SA-0026, 02-SA-0034, 02-SA-0035, 02-SA-0039, 02-SA-0040, 02-SA-0041, 02-SA-0042, 02-SA-0044, 02-SA-0047, 02-SA-0049, and 02-SA-0050: These complaints are **pending**, awaiting the receipt of the investigative reports.

POSITION STATEMENT AND/OR FREQUENTLY ASKED QUESTIONS:

The Committee agreed that it was more appropriate to prepare a frequently asked question relating to third party reimbursement instead of a position statement. It shall focus on the protection of the public by informing licensees that they are personally responsible for third party reimbursement. It was also agreed that this document, once approved, should 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 before the next scheduled meeting.

CHART OF CLOSED COMPLAINTS:

The Committee reviewed the draft "Record of Closed Complaints" chart prepared by office staff. The purpose of this chart will allow the Committee to evaluate complaints 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. Doctor Carlson will revise the chart before the next scheduled meeting. Ms. Cawthon shall mail her a list of the types of complaints referenced on the Complaint Tracking System.

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.

CONSUMER GUIDE ON COMPLAINTS:

The Committee recessed at 11:23 a.m. and reconvened at 4:40 p.m. to consider preparation of a document on the complaint process. After discussion, it was agreed that further study on the format and issues to be addressed were needed. Doctor Carlson agreed to develop the document for review at the next scheduled meeting.

ITEMS FOR NEXT MEETING:

Doctor Carlson agreed to prepare a frequently asked question relating to third party reimbursement, to revise the "Record of Closed Complaints" chart, and to develop the format for the Consumer Guide on Complaints.

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

ADJOURNMENT:

Doctor Carlson moved to adjourn at 5:20 p.m., and the motion carried. This report will be presented to the full Board at the meeting scheduled for July 26, 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, July 25, 2002, 11:00 a.m.

State Capitol Extension, House Hearing Room E2.028
12th and San Jacinto Blvd.
Austin, Texas 78701
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 11:35 a.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. Board members Judith A. Chambers and Deborah L. Carlson attended the meeting as guests.

REPORT:

The Committee reviewed the report of the meeting held March 21, 2002. **Doctor Reeves moved to adopt the report as written, Ms. Sancibrian seconded, and the motion carried.**

FREQUENTLY ASKED QUESTIONS (FAQ):

The Committee reviewed concerns of licensees, employers, and consumers and agreed to prepare FAQ's for the Board's web page relating to the following:

- Communication therapist, communication specialist, language and learning specialist, and academic language therapist – A licensee who attended an Admission, Review and Dismissal (ARD) meeting where a non-district attendee introduced herself as a “communication therapist” requested the Board to clarify use of this title. Committee members expressed concern because there has been an increased number of individuals using such titles as “communication therapists, communication specialists, language therapists”, etc. Use of these titles to parents and other consumers appears to be misleading and confusing and it could be assumed that these individuals are licensed speech-language pathologists when they are not. The Committee views this as a consumer protection issue and shall prepare a FAQ stating the Texas Occupations Code, Chapter 401, is a title protection and practice Act and anyone not licensed by this Board who uses any of these terms is in violation of the Act. Ms. Campbell will send Ms. Cawthon her document via electronic mail.
- Supervision audit of assistants – Ms. Campbell will develop a FAQ which lists the information required and data to be submitted to the Board office when selected for the random audit of the supervisory records.

- Comparison of the American Speech-Language-Hearing Association (ASHA) and Board rules for assistants in speech-language pathology – Ms. Sancibrian prepared a comparison that was reviewed by the Committee and she agreed to revise the comparison as an FAQ in a “side-by-side” format.
- Modified barium swallow – It was determined that this procedure is a technique that may be used by licensed speech-language pathologists if they have been appropriately trained. Ms. Sancibrian shall prepare the FAQ.
- May an assistant create goals and objectives – An assistant may not create goals and objectives because writing goals and objectives requires interpretation of an evaluation report. This task is also part of an ARD process. According to Board Rules, §741.65(g)(7)(B), “An assistant may not conduct an evaluation which includes diagnostic testing, test and observation interpretation, diagnosis, decision making, statement of severity or implication, case selection or case load decisions.” A licensed assistant in speech-language pathology may write lesson plans that are approved by the supervising licensed speech-language pathologist.
- Contracted services to the Texas Education Agency (TEA) – The question was whether an individual who holds certification in speech therapy, speech-language pathology, or speech and hearing therapy issued by the TEA may contract his or her services to a school district as a private practitioner. Mary Cole, TEA, responded that TEA certified only individuals must be employees of the school district and cannot contract their services to a school district. An individual licensed by this Board may contract his or her services to a school district.

SCOPE OF PRACTICE ISSUES:

The Committee reviewed concerns presented by licensees, consumers, employers, and other interested individuals relating to the following scope of practice issues:

- Massage, therapeutic exercise, and electrical stimulation to the facial muscles –The director of a rehabilitation facility asked if massage, therapeutic exercise, and electrical stimulation to the facial muscles were within the scope of practice of a speech-language pathologist. Ms. Campbell responded that licensed speech-language pathologists are required to adhere to a national standard of practice developed by ASHA. In addition, the Board’s Code of Ethics, §741.41 states that a licensee may not provide services if the services cannot be provided with reasonable skill or safety to the client. Ms. Campbell recommended two ASHA position statements, “Role of Speech-Language Pathologists in Swallowing and Feeding Disorders” and “Roles of the Speech-Language Pathologist and Otolaryngologist in the Performance and Interpretation of Endoscopic Examinations and Swallowing”. The latter was developed by the joint committee of the American Academy of Otolaryngology-Head and Neck Surgery Committee on Speech, Voice and Swallowing Disorders and ASHA.

- Telephone orders – The same individual who presented the previous question asked if a speech-language pathology may take telephone orders from physicians and then write those orders in the medical record, in the physician’s orders section, and sign it as a telephone order with the doctor’s name. The Committee agreed that with proper documentation the speech-language pathologist could take the orders, either verbally or by telephone; however, the licensee should first consult with his/her particular employment site’s policy on this procedure.
- Third party billing – An Early Childhood Intervention director stated Medicaid had denied reimbursement for services provided by speech-language pathology interns because they are not independent practitioners. Clarification from the Centers for Medicare and Medicaid Services will be requested.

All of the questions and answers will be placed on the Board’s web site as a FAQ.

SCHOOL HEALTH AND RELATED SERVICES (SHARS):

Ms. Campbell presented a draft position statement based on the draft of the SHARS section of the 2003 Medicaid Provider Manual. The Committee decided to submit questions, concerns and comments to Linda Crawford, Interagency Coordination, Texas Education Agency, during the comment phase and before the 2003 Medicaid Provider Manual is completed rather than prepare a position statement at this time. Members expressed concern about the section on billing for group therapy. Comments should be submitted to Ms. Cawthon who will prepare the letter for Mr. Richards’ review before mailing. Ms. Campbell agreed to prepare a FAQ on group billing.

Licensees who have questions concerning SHARS will be referred to the SHARS’ link on the Board’s web page.

POWER POINT PRESENTATIONS:

The Committee discussed the Power Point presentation Ms. Sancibrian prepared for the Texas Speech-Language-Hearing Association’s convention and agreed that other topics could be added. Possible additions are concerning how to avoid disciplinary action; the process to apply for or renew a license; how to maintain the continuing education log; and supervision of interns and assistants. The presentation may be used as an educational or staff development tool in various job settings and orientation presentation. The revised Power Point presentation will be placed on the Board’s web page.

In addition, the Board office will prepare a notice to be mailed to interns and supervisors stating the intern license is issued for one full year in order to allow the intern to complete the 36-week supervised internship and apply for full licensure or the temporary certificate of registration. An intern may only practice under supervision of the individual approved by the Board office. The intern and supervisor will be advised that failure to follow the requirements established in Board Rules, §741.62 and §741.82, will result in disciplinary action against both the intern and the supervisor. This notice will be printed on bright-colored paper and mailed with the initial license, changes in supervision, and the renewal notice.

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 addressed by the Committee.

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

- §741.62(g) - to define the part-time supervision required when the intern has a full-time position and a part-time position or if the intern is practicing less than 15 hours per week.
- §741.62(l) – to define the length of time, perhaps 60 days, in which the intern must apply for either full licensure or the temporary certificate of registration after completion of the internship.
- §741.62(m) – to define the amount of supervision required for the intern who completed the internship and is applying for either full licensure or the temporary certificate of registration.

PUBLIC COMMENTS:

April Smith, Texas Speech-Language-Hearing Association's chair of the committee that will consider issues during the Sunset Review Process, was present and asked the Board to keep her informed of any decisions relating to this topic.

ITEMS FOR NEXT MEETING:

The Committee considered holding a retreat to 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 shall continue to add or amend the FAQ's, position statements, and the Power Point presentation.

ADJOURNMENT:

Ms. Sancibrian moved to adjourn at 1:38 p.m., Doctor Reeves seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for July 26, 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, July 25, 2002, 2:00 p.m.
State Capitol Extension, House Hearing Room E2.28
12th and San Jacinto Blvd.
Austin, Texas 78701
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 2:15 p.m. with Committee members Deborah L. Carlson, 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, Judith A. Chambers, and Cheryl L. Sancibrian attended the meeting as guests.

The Committee extended their condolences to the family of Harvey Komet, M.D., the physician member of the Committee, who died in June 2002. He was instrumental in the Agency Rule Review and in developing position statements relating to vestibular rehabilitation, hearing instrument fittings and comprehensive hearing assessments, and stroboscoped laryngoscopy.

REPORT:

The Committee reviewed the report of the meeting held March 21, 2002. **Doctor Carlson moved to adopt the report as corrected, Doctor Reynolds seconded, and the motion carried.**

POSITION STATEMENTS:

The Committee reviewed the position statements relating to the practice of audiology and fitting and dispensing of hearing instruments as follows:

- Intern in audiology – The Committee reviewed the draft Position Statement for Supervising Licensed Interns in Audiology prepared by Mr. Lyon. **Doctor Reynolds moved to recommend the Board accept the position statement with recommended changes, Doctor Carlson seconded, and the motion carried.** Mr. Lyon will make the changes and forward the document to the Board office.
- Mobile testing units and disposal hearing aids – The Committee agreed that further study was required and asked that this item be returned to the agenda for the next scheduled meeting. It was also agreed to recommend that this item and nursing home extended care services be considered during the Sunset Review process.
- Newborn hearing screening position statement – The Board previously adopted the position statement but the "purpose" for the position statement was needed; Doctor Carlson prepared it. **Doctor Carlson moved to recommend the Board adopt the**

"purpose" for the position statement on newborn hearing screening, Doctor Reynolds seconded, and the motion carried.

COLLEGES/UNIVERSITIES OFFERING "AU.D." DEGREE PROGRAMS:

The Committee considered the criteria for determining which colleges or universities that offer a Doctor of Audiology degree are acceptable. It was agreed that the college or university must hold accreditation from the American Speech-Language-Hearing Association for a doctoral program in audiology.

FREQUENTLY ASKED QUESTIONS (FAQ):

The Committee considered the FAQ's Doctor Reynolds prepared on the 30-day trial period. He shall revise the FAQ's, include a reference to the Board Rules, and then forward the FAQ's to the Board office for the Board's Internet site.

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.

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

- Add language that includes criteria for mobile testing units, disposable hearing aids, and nursing home extended care services.

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

FITTING/DISPENSING OF HEARING INSTRUMENTS:

Mr. Lyon briefly discussed the letter he prepared to Senator Jane Nelson concerning two invitations he issued to Michael Shobe, President of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. President Shobe declined to meet with the Board to discuss relevant issues. It was agreed that Mr. Lyon should mail the letter.

PUBLIC COMMENTS:

There were no public comments.

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 possible rule changes to 22 T.A.C., Chapter 741.

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

ADJOURNMENT:

Doctor Reynolds moved to adjourn at 4:15 p.m., Doctor Carlson seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for July 26, 2002.

Matthew H. Lyon, M.A.
Committee Presiding Officer

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

Thursday, July 25, 2002, 4:00 p.m.
State Capitol Extension, House Hearing Room E2.028
12th and San Jacinto Blvd.
Austin, Texas 78701
(512) 834-6627

CALL TO ORDER:

The meeting was called to order at 4:25 p.m. with Committee members Matthew H. Lyon and Lee Reeves present. Because Committee member Elsa Cardenas-Hagan was absent, Ms. Sancibrian appointed R. Eric Reynolds to this Committee for this meeting only. Department staff included Lanell Brown, Debbie Carter, Dorothy Cawthon, and David Richards. Board members Bertha Moore Campbell, Deborah L. Carlson, Judith A. Chambers, and Cheryl L. Sancibrian attended the meeting as guests.

REPORT:

The Committee reviewed the report of the meeting held March 21, 2002. **Mr. Lyon moved that the report be adopted as written, Doctor Reynolds seconded, 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 future submission to the Texas Register. The amendments recommended by the Speech-Language Pathology Scope of Practice will be added to the list.

PUBLIC COMMENTS:

There were no public comments.

ADJOURNMENT:

Doctor Reynolds moved to adjourn at 4:34 p.m., Mr. Lyon seconded, and the motion carried. The report will be presented to the full Board at the meeting scheduled for July 26, 2002.

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