

**AGENDA**  
**BOARD OF HEARING AID SPECIALISTS**  
**GENERAL BUSINESS MEETING**  
**Sheraton Sand Key Resort**  
**1160 Gulf Boulevard**  
**Clearwater Beach FL 33767**  
**727-595-1611**  
**Friday, July 8, 2016 10:00 a.m.**

**TAB 1            CALL TO ORDER/ROLL CALL**

The meeting was called to order at 10:04 a.m. by Ms. Polhill, Chair. Those present for all or part of the meeting included the following:

Members present:

Leanne Polhill, Chair  
Randy Ellsworth, Vice-Chair  
Pam Dechmerowski  
Douglas Moore  
Thomas Hollern  
Maria Hernandez  
Robert Pickard, M.D.  
John Fischer

Member absent:

Staff present:

Lynette Norr, Board Counsel  
Jennifer Wenhold, Executive Director  
Candace Rochester, Esq., Section Manager, Prosecution Services Unit  
Octavio Simoes-Ponce, Prosecuting Attorney  
Penny Johnson, Regulatory Supervisor

**TAB 2 APPROVAL OF MINUTES**

**September 11, 2015 General Business Meeting**

The minutes of the September 11, 2015 meeting were reviewed and the following action was taken by the Board:

Motion: by Mr. Fischer  
Second: by Ms. Dechmerowski  
Vote: Unanimous

**December 10, 2015 General Business Meeting**

The minutes of the December 10, 2015 telephone conference call meeting were reviewed and the following action was taken by the Board:

Motion: by Mr. Fischer  
Second: by Ms. Hernandez  
Vote: Unanimous

**April 12, 2016 General Business Meeting**

The minutes of the April 12, 2016 telephone conference call meeting were reviewed and the following action was taken by the Board:

Motion: by Mr. Fischer  
Second: by Ms. Dechmerowski  
Vote: Unanimous

**TAB 3 ANTI-TRUST PRESENTATION**

Lynette Norr, Esquire with the Florida Office of the Attorney General presented a PowerPoint presentation of the U.S. Supreme Court Ruling in North Carolina State Board of Dental Examiners vs. the Federal Trade Commission for the Board's review and discussion.

**TAB 4 RECOMMENDED ORDER HEARING**

**Rosalyn Runae Johnson White DOH Case No. 2012-06027 DOAH Case 15-6246PL.**

Petitioner Rosalyn Runae Johnson White was present but was represented by Richard Greenberg, Esquire. A Recommended Order dated April 14, 2016 by Administrative Law Judge, F. Scott Boyd stating the following recommendation: that the Board of Hearing Aid Specialists find Rosalyn Runae Johnson White in violation of sections 484.056(1)(g), 484.056(1)(v) and 484.056(1)(w), F.S. as charged in the Third Amended Administrative Complaint.

Motion: by Mr. Hollern to accept the unopposed motion for extension of time to file exceptions to recommended order.  
Second: by Ms. Dechmerowski  
Vote: Unanimous

The Petitioner filed exceptions to the recommended order. After review, the board took the following action:

Exception 1 is rejected.

Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 2 is rejected

Motion: by Mr. Moore  
Second: by Ms. Dechmerowski  
Vote: Unanimous

Exception 3 is rejected

Motion: by Dr. Pickard  
Second: by Ms. Dechmerowski  
Vote: Unanimous

Exception 4 is rejected

Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 5 is rejected  
Motion: by Mr. Moore  
Second: by Ms. Dechmerowski  
Vote: Unanimous

Exception 6 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Mr. Moore  
Vote: Unanimous

Exception 7 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 8 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 9 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 10 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Mr. Moore  
Vote: Unanimous

Exception 11 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 12 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 13 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 14 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Mr. Hollern  
Vote: Unanimous

Exception 15 is rejected  
Motion: by Mr. Moore  
Second: by Ms. Dechmerowski  
Vote: Unanimous

Exception 16 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 17 is rejected  
Motion: by Mr. Moore  
Second: by Ms. Dechmerowski  
Vote: Unanimous

Exception 18 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 19 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 20 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Exception 21 is rejected  
Motion: by Ms. Dechmerowski  
Second: by Mr. Hollern  
Vote: Unanimous

Exception 22 is rejected  
Motion: by Mr. Moore  
Second: by Dr. Pickard  
Vote: Unanimous

Following discussion, the following action was taken by the Board:

Motion: by Mr. Moore to adopt the Administrative Law Judge's findings of fact as set forth in the Recommended Order.

Second: by Ms. Dechmerowski

Vote: Unanimous

Motion: by Mr. Moore to accept the Administrative Law Judge's conclusions of law as set forth in the Recommended Order.

Second: by Dr. Pickard

Vote: Unanimous

Motion: by Mr. Ellsworth to accept the Administrative Law Judge's recommendations and

Second: by Mr. Moore

Vote: Unanimous

Motion: by Mr. Ellsworth to accept the bifurcation of costs.

Second: by Mr. Moore

Vote: Unanimous

## **TAB 5 DISCIPLINARY PROCEEDINGS**

### **INFORMAL HEARING**

#### **Mariaelena Torres, H.A.S. Case No. 2013-13758**

Ms. Torres was present and was not represented by counsel. A two count administrative complaint filed November 12, 2014 alleged violations of s. 456.072(1)(a) F.S. (2012) guilty of violating any provision of s. 456.072(1), s. 484.0512, or s. 484.053; s. 484.056(1)(g), s. 484.056(1)(g), F.S. (2012) guilty of fraud, deceit or of negligence, incompetency or misconduct in the practice of dispensing hearing aids.

Following discussion, the following action was taken by the Board:

Motion: by Mr. Holler that respondent was properly served

Second: by Mr. Moore

Vote: Unanimous

Motion: by Mr. Hollern to adopt the allegations of fact as set for the in the administrative complaint as the Board's findings of fact

Second: by Ms. Hernandez

Vote: Unanimous

Motion: by Mr. Hollern to accept the investigative file into evidence

Second: by Dr. Pickard

Vote: Unanimous

Motion: by Hollern to adopt the conclusions of law in the administrative complaint as Board's conclusions of law and find the respondent in violation of Florida Statutes as charged in the administrative complaint

Second: by Dr. Pickard

Vote: Unanimous

Department's recommendation: reprimand, patient refund, fine, reimbursement of costs, and complete the two (2) hour Board approved continuing education course in laws and rules. After discussion by the board, the following action was taken:

Motion: by Mr. Ellsworth to reject the Department's recommendation.

Second: by Mr. Moore

Vote: Unanimous

Motion: by Mr. Ellsworth to recommend a Letter of Concern for count I and a \$300 fine for count II.

Second: by Mr. Hollern

Vote: Unanimous

## **VOLUNTARY RELINQUISHMENT**

### **Douglas R. Wagner, HAS Case No. 2016-12009; 2016-12011; and 2013-13348**

Mr. Wagner was not present nor represented by counsel. Mr. Wagner waived a Probable Cause Panel review for three complaints filed March, April and May 2016 alleging violations of s. 484, F.S. and s. 456, F.S.

A Voluntary Relinquishment of License was presented to the Board in which respondent agrees to never reapply for licensure as a hearing aid specialist in the State of Florida.

Following discussion, the following action was taken by the Board:

Motion: by Ms. Hernandez to accept the voluntary relinquishment

Second: by Mr. Fischer

Vote: Unanimous

## **Assistant General Counsel Report**

Candace Rochester, Esq., Section Manager, Prosecution Services Unit reported that there were 16 cases in the Legal section which one case was pre-probable cause; 3 in which probable cause had been found; and 7 cases that were in legal review.

## **TAB 6 LEGISLATION**

### **HB 183 - Relating to Administrative Procedures**

This bill amends sections in Chapter 120, F.S., relating to administrative procedures and rulemaking. It requires each agency to review their minor violation rules. This Board's minor violation rules will be on the next meeting agenda for discussion.

### **HB 221 - Relating to Health Care Services**

This bill was regarding balanced billing.

### **HB 981 - Relating to Administrative Procedures**

This bill is relating to administrative procedures and adding additional requirements for the calculation of estimated adverse impacts and regulatory costs. It will change the SERC (statement of estimated regulatory costs) questions.

### **HB 7087 - Relating to Telehealth**

This bill creates the Telehealth Advisory Council, requiring the council to review certain findings and make recommendations to the Governor and Legislature. It requires the Department of Health to gather information and the department will be surveying those professions that renew this year.

### **HB 941 - Relating to Department of Health**

House Bill 941 was the Department of Health package, which had clean-up language and made changes to programs within the Department of Health. It removes the requirement for completion of a two hour medical errors course for initial licensure. The medical errors course is still required for renewal. The bill expands the military license program to include spouses. It allows the department to contract with a third party to provide services regarding medical records in the death of a practitioner or abandonment of medical records. The bill removed a section in 456.0635, F.S., which stated it did not apply to applicants enrolled in an educational/training program on or before July 1, 2009. These changes will require the Board to amend their applications to remove the requirement for completion of a medical errors course for initial licensure and one of the history questions.

**Ms. Polhill** discussed the IHS Webinar presentation listed in the agenda providing information on reports and recommendations from PCAST (President's Council of Advisors on Science and Technology), NAS (National Academies of Science, Engineering and Medicine, and FDA (Food and Drug Administration).

### **TAB 7 RULE DISCUSSION**

#### **Rule 64B6-7.002(5) Guidelines for Disposition of Disciplinary Cases**

There was no action on this agenda item.

#### **Rule 64B6-7.006 Minor Violations; Notice of Noncompliance**

The board reviewed the proposed changes to Rule 64B6-7.006 and the new Notices of Noncompliance Violations listed in the agenda. The board agreed to the recommendations listed in the agenda with the following changes:

64B6-7.006(6)(g) - keep as a minor violation

64B6-7.006(6)(j) - change to "failing to display an active license in a conspicuous place at the license's regular place of business as required by Section 484.058, F.S., and Rule 64B6-6.008, F.A.C.

64B6-7.006(6)(m) – remove this language from minor violations.

#### **Rule 64B6-3.002 Licensure Renewal - Spouses of Members of Armed Forces**

This rule was tabled for the next meeting.

**Rule 64B6-8.003 Trainee Stages, Minimum Training Requirements, and Training Programs.** There was no action taken on this rule.

**Chapter 484.056**

There was no action with this agenda item.

**Rule 64B6-8.003 Trainee Stages, Minimum Training Requirements, and Training Programs**

The board discussed the stages of the training program and steps for trainees to take the examination to become licensed. Following discussion, the following recommendations were made for rule drafts at a future meeting.

Change Rule 64B6-8.003(5) to read: Upon completion of the training program, the trainee shall take the ~~first available~~ licensure examination within 30 days from receiving notice of eligibility from the examination vendor. A trainee may continue to function as a trainee until she or he has received the results of the licensure examination, provided that failure of the sponsor to file the complete report required herein will preclude the trainee from engaging in acts which constitute hearing aid dispensing until such time as the complete report is filed. Until the complete report is filed, the trainee is not eligible to complete the first available licensure examination. Upon receipt of the examination results a trainee that passes the examination may continue in Stage IV under the direct supervision of his or her sponsor until they have applied and received their license or up to ninety (90) days whichever comes first, pursuant to subsection 64B6-3.001(2), F.A.C. Payment of the fee and all other licensing requirements required by this rule shall be met within ninety (90) days of notification of licensure eligibility, or the eligibility certification becomes null and void and the person must reapply for licensure.

**64B6-2.003 Licensure by Examination**

There were no actions on this agenda item.

**TAB 8 TOPIC DISCUSSION**

**Conviction Record Guidelines for Applicants**

The Board reviewed the Conviction Guideline Matrix presented in the agenda for guidance with processing affirmative results from background screenings.

Following discussion, the following action was taken by the Board:

Motion: by Mr. Ellsworth to approve the Conviction Record Guideline Matrix used by the Medical Quality Assurance.

Second: by Ms. Dechmerowski

Vote: Unanimous

**U.S. Department of Labor Apprenticeship Guidelines and Work Process Schedule**

The International Hearing Society has asked the board to review and discuss the U.S. Department of Labor Apprenticeship Guidelines and a Work Process Schedule as presented in the agenda.

## **TAB 9 BOARD RATIFICATION**

### **Trainee/Sponsor and Transfer List**

Following review, the following action was taken by the Board:

Motion: by Mr. Ellsworth to approve the list

Second: by Mr. Fischer

Vote: Unanimous

## **TAB 10 REPORTS**

### **Assistant Attorney General**

Ms. Norr reported on the status of rules listed on the June 2016 report.

### **Board Executive Director**

Budget reports were provided for information.

### **Board Members**

No action taken on this agenda item.

## **TAB 11 OTHER BUSINESS**

### **Election of Officers**

Motion: by Mr. Moore to nominate Ms. Polhill as Chair

Second: by Mr. Ellsworth

Vote: Unanimous

Motion: by Mr. Moore to nominate Mr. Ellsworth as Vice-Chair

Second: by Mr. Fischer

Vote: Unanimous

### **Delegation of Authority**

The board reviewed the annual delegation of authority and following discussion, the following action was taken by the Board:

Motion: by Mr. Ellsworth to approve the delegation memo.

Second: by Mr. Fischer

Vote: Unanimous

### **Meeting Date and Location for 2017**

No action taken on this agenda item.

## **TAB 12 FOR YOUR INFORMATION**

- Letter from Sue Foster
- 2016 MQA Legislative Summary
- MQA Enforcement Process
- National Medicare Fraud Takedown
- New Health Care Complaint Portal

## **TAB 13 ADJOURNMENT**

The meeting adjourned at 2:08