

AGENDA
BOARD OF HEARING AID SPECIALISTS
GENERAL BUSINESS MEETING
The Caribe Royal Hotel
8101 World Center Drive
Orlando, Florida 32828
(800) 494-8153
Friday, July 13, 2012 1:00 p.m.

CALL TO ORDER/ROLL CALL

The meeting was called to order at 1:00 pm by Ms. Polhill, Chair. Those present for all or part of the meeting included the following:

Members present

Leanne Polhill, Chair
John Fischer
Maria Hernandez
Robert Pickard, M.D.
Douglas Moore
Thomas Hollern
Joseph Someillan
Randy Ellsworth

Staff Present

Marlene Stern, Board Counsel
Ed Tellechea, Board Counsel
Sue Foster, Executive Director
Penny Johnson, Regulatory Supervisor
Keli Kekelis, Regulatory Specialist II
Tobey Schultz, Prosecutor
Court Reporter: American Court Reporting – Heather Howard (407) 896-1813

APPROVAL OF MINUTES

January 11, 2011 General Business Meeting

The minutes of the January 11, 2011 telephone conference call were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Fischer to approve the minutes

Second: by Mr. Ellsworth

Vote: unanimous

July 8, 2011 General Business Meeting

The minutes of the July 8, 2011 meeting were reviewed and following review, the following action was taken by the Board:

Motion: by Mr. Fischer to approve the minutes

Second: by Mr. Hollern

Vote: unanimous

MOTIONS FOR FINAL ORDER BY SETTLEMENT AGREEMENT

Cecil G. Dunn Case # 2010-03023 (Lowell & Fischer)

Mr. Dunn was present and was not represented by counsel. An administrative complaint filed February 24, 2012 alleged violations of s. 484.056(1)(j), F.S. of advertising goods or services in a manner which is fraudulent, false, deceptive or misleading in form or content by advertising free amplified telephone and serving Florida since 1982 when start date for his company was April 6, 2009.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$500, probation for one year – terms to be determined by the Board and costs of \$965.23 at time of settlement agreement.

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

Motion: by Mr. Moore to accept the settlement, with a fine of \$500, costs of \$965.23 and probation for one (1) year. Terms of probation are that during the one year probation, Mr. Dunn must send copies of any form of advertisement for review.

Second: by Mr. Someillan

Vote: unanimous

Karen Lynn Cochran Case # 2011-01603 (Smith & Fischer)

Ms. Cochran was present and was not represented by counsel. An administrative complaint filed July 11, 2011, alleged violations of s. 456.072(1)(q), F.S. of violation of a lawful order of the Board or failing to comply with a lawfully issued subpoena by failure to pay an administrative fine of \$1000 and failure to pay investigative costs of \$1805.62 within 6 months following the issuance of the final order; and failure to provide a full refund to the patient. Ms. Cochran paid the fines and costs on 9/8/2011. The patient was reimbursed.

A settlement agreement was presented to the Board with the following terms: reprimand, fine of \$500 against the respondent's license, costs of \$466.94 at time of settlement agreement.

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

Motion: by Dr. Pickard to accept the settlement agreement

Second: by Mr. Someillan

Vote: unanimous

MOTION FOR FINAL ORDER BY VOLUNTARY RELINQUISHMENT

Douglas W. Rankin Case # 2010-00369 (Lowell & Fischer)

Mr. Rankin was not present nor represented by counsel. An administrative complaint filed May 27, 2011 alleged violations of s. 484.056(1)(b), F.S. of attempting to procure a license to dispense hearing aids by bribery, fraudulent misrepresentations, or through an error of the Department when he answered "no" to the question have you ever been convicted or entered a plea of nolo contendere to a crime in any jurisdiction other than a minor traffic offense. In

April, 1998 in U.S. District court in Indiana, respondent entered a plea of guilty to two counts of bank fraud and aiding and abetting.

A motion for final order based upon a voluntary relinquishment of license was presented to the Board. The voluntary relinquishment was signed on March 1, 2012 where he agreed to cease practice upon signing of the order.

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

Motion: by Mr. Ellsworth to accept the voluntary relinquishment

Second: by Mr. Hollern

Vote: unanimous

MOTION FOR FINAL ORDER FOR DETERMINATION OF WAIVER AND ENTRY OF FINAL ORDER FOLLOWING HEARING

Andrew C. Koppele Case # 2011-11298 (Lowell & Fischer)

Mr. Koppele was not present nor represented by counsel. An administrative complaint filed February 24, 2012 alleged violations of s. 484.056 (1)(w), F.S., 484.054, F.S. that it is unlawful to sell hearing aids through the mail; s. 456.072(1)(o), F.S. of practice beyond the scope and offering to sell hearing aids through the mail via his website; s. 484.056(1)(h), F.S. of violation of a lawful order of the board previously entered in a disciplinary action.

Mr. Schultz stated that he had received information earlier in the day that Mr. Koppele's attorney could not attend the meeting and a continuance was requested.

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

Motion: by Mr. Moore to grant continuance

Second: by Mr. Someillan

Vote: unanimous

HEARING AID SPECIALISTS LICENSE APPLICATION REVIEW

Dean M. Knoblach

Mr. Knoblach was present and was represented by Chris Lyons, Esq. Mr. Knoblach's license was last renewed his license on January 23, 2007. He did not renew prior to February 28, 2009 expiration and became null and void on March 1, 2011. In September, 2011, the Department received a check for \$605 in an attempt to renew a null and void license. He has completed a new application and is before the Board due to his practice on a null and void license and failure to disclose information regarding his Iowa and Wisconsin licenses. Several letters of accommodation from patients are included with his file.

A Cease and Desist order was issued by the investigative office in St. Petersburg on June 29, 2012 for practice on a delinquent/null and void license.

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

Motion: by Mr. Ellsworth to approve the application for licensure and to place the license on probation until February 28, 2013. Also, Mr. Knoblach must pay a \$2000 fine within 90 days.

Second: by Mr. Fischer

Vote: motion passed with one opposed

RULE DISCUSSION

64B6-2.003 Licensure by Examination

The board staff requested approval of the new history questions on the exam required by recent legislation.

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

Motion: by Mr. Ellsworth to approve changes to Rule 64B6-2.003, F.A.C.

Second: by Mr. Someillan

Vote: unanimous

Motion: by Mr. Fischer that the changes to Rule 64B6-2.003, F.A.C., will have no impact on small business and no SERC is required.

Second: by Mr. Someillan

Vote: unanimous

64B6-5.002 Continuing Education Programs

Board staff requested that IIHIS be changed to new name - IHS - International Hearing Society.

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

Motion: by Mr. Ellsworth to approve the change in Rule 64B6-5.002, F.A.C.

Second: by Mr. Someillan

Vote: unanimous

Motion: by Mr. Moore that the changes to Rule 64B6-5.002, F.A.C., will have no impact on small business and no SERC is required.

Second: by Mr. Fischer

Vote: unanimous

64B6-8.002 Qualifications for Trainees, Sponsors and Designated Hearing Aid Specialists

The board staff requested approval of the new history questions on the exam required by recent legislation.

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

Motion: by Mr. Fischer to approve changes to Rule 64B6-8.002, F.A.C.

Second: by Ms. Ellsworth

Vote: unanimous

Motion: by Mr. Someillan that the changes to Rule 64B6-8.002, F.A.C., will have no impact on small business and no SERC is required.

Second: by Mr. Fischer

Vote: unanimous

BOARD OF HEARING AID SPECIALISTS STATISTICS

Fiscal Year 2010-2011 Statistics

Ms. Foster reviewed the statistics with the Board – there are currently 770 active licensees down from 803 licensees in F/Y 09/10. Currently we have 159 trainees (80 active).

There were 97 complaints received last year, 23 were legally sufficient for investigation.

BOARD RATIFICATION

Trainee/Sponsor and Transfer List

Motion: by Mr. Moore to approve

Second: by Mr. Someillan

Vote: unanimous

REPORTS

Assistant Attorney General

Rules Report 64B6-7.002:

Mr. Tellechea explained that Chapter 456.072(2)(d), F.S., states if the violation is for fraud or making a false or fraudulent representation, the board must impose a fine of \$10,000 per count or offense.

Motion: by Mr. Ellsworth to change Rule 64B6-7.002(2)(gg), F.A.C., to impose a minimum fine of \$10,000.

Second: by Mr. Fischer

Vote: unanimous

Assistant General Counsel, Prosecution Services Unit

Mr. Schultz gave a status update to the Board on the number of cases currently in the Prosecution Services Unit. The current inventory is 20 cases.

Board Executive Director

Budget Information

Ms. Foster discussed the budget information with highest cost being enforcement which is about 31% of the budget. Costs are remaining low due to mediation. In the past 5 years 128 complaints have been mediated (41 cases in F/Y 10-11 and 12 cases in F/Y 11-12.)

Mediation is for first time violations – no physical harm to patient in which the HAS is given 10 days to resolve the issue with the complainant. If it is resolved – department does not pursue further – cannot go through the mediation process more than 3 times and mediations remain confidential. Board has designated the types of violations that can be mediated by rule 64B6-7.008.

Page 546 of agenda shows the projected cash balance for the next 5 years. The Board will be coming out of a deficit in 2014.

OTHER BUSINESS

Election of Officers

Motion: by Mr. Fischer to nominate Ms. Pohill as Chair

Second: by Mr. Ellsworth

Vote: unanimous

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

Second: by Mr. Fischer

Vote: unanimous

Delegation of Authority

Motion: Mr. Fischer to approve the delegations of authority to Executive Director, CE Committee, Board Chair, board staff

Second: Mr. Someillan

Vote: unanimous

FYI

- A. Letter from Abraham Shakfeh, Assistant General Counsel**
- B. Letter from International Hearing Society (Computer-based ILE)**
- C. Uniform Non-Disciplinary Citation.**
- D. MQA Strategic Plan**
- E. Long-Range Planning Survey Results**
- F. Board Chair Report 2010/2011**
(Board Chair/Vice-Chair meeting will be Wed., September 12, 2012 in TLH)
- G. MQA Trust Fund Information Sheet**
- H. Prescription Drug Monitoring Program**

ADJOURNMENT

The meeting was adjourned at 3:15 p.m.