

FLORIDA BOARD OF HEARING AID SPECIALISTS GENERAL BOARD MEETING

May 20, 2022 at 9:00 A.M. ET

DRAFT MINUTES

GoToMeeting

<https://global.gotomeeting.com/join/620640133>

By Phone

(Toll Free) (866) 899-4679 or (571) 317-3116

Access Code: 620-640-133



Leanne Polhill, Chair
Janet Hartman, Chief of General Operations
Ashleigh Irving, Acting Executive Director



Florida Board of Hearing Aid Specialists
General Board Meeting
May 20, 2022

MEETING CALLED TO ORDER @ 9:00 a.m. by Leanne Polhill, Chair.

BOARD MEMBERS PRESENT:

Leanne E. Polhill, H.A.S., Chair
Randy Ellsworth, H.A.S., Vice-Chair
Pamela Dechmerowski, H.A.S.
Dean Easterwood, H.A.S.
Thomas Hollern

BOARD MEMBERS NOT PRESENT:

Robert Pickard, MD – Unexcused Absence

BOARD STAFF PRESENT:

Janet Hartman, Chief of General Operations
Ashleigh Irving, Acting Executive Director
Eric Pottschmidt, Program Operations Administrator
Marlene Stern, Assistant Attorney General

BOARD STAFF NOT PRESENT:

Christina Shideler, Assistant General Counsel

COURT REPORTER:

For The Record

AGENDA

REVIEW AND APPROVAL OF MINUTES – February 25, 2022

Motion: by Pamela Dechmerowski to approve the meeting minutes.
Second: by Randy Ellsworth
Vote: Passed Unanimously.

APPLICATION REVIEW (TS – 02:45 Minutes)

Stephanie Peacock, Hearing Aid Specialist – PRN Evaluation Review
Stephanie Peacock was present and did not have legal representation.

Eric Pottschmidt provided summary of application.

Parvesh Khirbat, sponsor for Ms. Peacock, also joined to speak on behalf of Ms. Peacock.

Leanne Polhill read into the record the recommendation of PRN stating that “PRN is unable to support Ms. Peacock’s request for licensure at this time”.

Parvesh Khirbat provided history and discussion on Ms. Peacock in support of her application for licensure. **(TS – 07:20 Minutes)**. Parvesh Khirbat noted their support for Stephanie Peacock, but stated PRN’s process is getting expensive. Parvesh Khirbat noted that PRN has instructed Stephanie Peacock to taper off the medications her primary provider has prescribed,



Florida Board of Hearing Aid Specialists
General Board Meeting
May 20, 2022

and to get onto something different. Parvesh Khirbat stated that PRN said they would support her if she signed a 5-year contract involving weekly meetings, and periodic drug testing.

Alexis Polles, M.D., Medical Director for PRN commented on Ms. Peacock's case. **(TS – 11:50 Minutes)**. Alexis Polles noted that Parvesh Khirbat had been misinformed on some of the circumstances involving Ms. Peacock's circumstances. PRN did not ask Ms. Peacock to stop any medications as this is not part of their process. The process chosen was one that Stephanie Peacock chose, and PRN is monitoring as it goes along, in conjunction with her own practitioner provider. Alexis Polles also noted that PRN does believe they can help and support Stephanie Peacock and did not anticipate a final report of support for licensure to be very much longer. Stephanie Peacock joined the meeting.

Leanne Polhill noted that this review is still in process with no conclusion and recommended it to be tabled until the Board has more information.

Pamela Dechmerowski made a motion to table application until next meeting.

Stephanie Peacock commented on the process she experienced with PRN related to her medications, and the medical and psychological evaluations. **(TS – 18:00 Minutes)**.

Marlene Stern, Board Counsel, inquired with PRN how much longer they anticipated the review to take. Alexis Polles noted that it should take 2-4 weeks. Alexis Polles also noted that PRN asked Ms. Peacock's Provider for a statement that she would be safe to practice while taking the Provider prescribed medications as they are controlled substances and Ms. Peacock works with the public. Alexis Polles noted that Ms. Peacock's Provider would not provide this statement.

Stephanie Peacock agreed to the 90-day waiver to continue to hear her case at the next scheduled Board meeting

After discussion the Board took the following action:

Motion: by Pam Dechmerowski to table application until next meeting or sooner if the PRN evaluation becomes available sooner.

Second: by Randy Ellsworth

Vote: Passed Unanimously.

Stephanie Peacock asked a question related to PRN's 5-year contract. Discussion was referred to PRN for a response. **(TS – 36:25 Minutes)**.

Cesar Degala, Hearing Aid Specialist Trainee

Cesar Degala was present and did not have legal representation.

Eric Pottschmidt reviewed application summary with the Board.

Cesar Degala addressed the Board. **(TS – 49:20 Minutes)**.



Marlene Stern referenced section 456.0635(2)(a)(1.), F.S., and noted that Cesar Degala is barred from application for 15 years from the date of completion of his sentence or completion from any subsequent probation.

After discussion, Cesar Degala verbally withdrew his application.

PETITION FOR VARIANCE OR WAIVER (TS – 58:45 Minutes)

Ozarks Technical Community College – Rule 64B6-8.003, F.A.C.

Rebecca Krouse was present.

Marlene Stern addressed the Board and informed them that there is no standing for the Board to consider the petition as petitions for variance or waiver are granted for persons being regulated. Subsequently, as Ozarks Technical Community College and its students were not regulated by Florida laws and rules as a person, there was no standing for the Board to consider the petition for variance or waiver.

Marlene Stern recommended for the Board to dismiss the petition for variance or waiver for lack of standing.

Rebecca Krouse addressed the Board.

After discussion the Board took the following action:

- Motion:** by Randy Ellsworth to dismiss the petition based on standing.
Second: by Dean Easterwood
Vote: Passed Unanimously.

PROSECUTOR'S REPORT

<u>Case Status</u>	<u>Report</u> Date 11/16/21	<u>Report</u> Date 2/16/22	<u>Report</u> Date 5/10/22
Total cases open/active in Prosecution Services:	3	3	4
Cases in Emergency Action Unit:	0	0	0
Cases under legal review:	1	0	0
Cases awaiting supplemental investigation/expert opinion:	0	1	0
Cases with PCP recommendation:	0	1	3
Cases where probable cause has been found:	1	1	0
Cases where DOAH has been requested:	0	0	0
Cases pending before DOAH:	0	0	0
Cases on Board meeting agendas:	1	0	1
Cases on appeal:	0	0	0
Cases older than one year: *	2	1	0



The Department requested that the Board authorize the continued prosecution of the year and older cases.

Motion: by Randy Ellsworth to allow PSU to continue to prosecute 1 year and older cases.
Second: by Pamela Dechmerowski
Vote: Passed Unanimously

REPORTS

Chair's Report - Leanne E. Polhill – Nothing to report.

Vice Chair's Report - Randy Ellsworth – Noted he receives consistent questions about continuing education hours required for the current biennium. Leanne Polhill responded and noted the current rule in place that permits 100% of continuing education hours to be obtained via a virtual platform until the end of the biennium.

Executive Director's Report

Janet Hartman announced the resignation of Kimberly Marshall, former Executive Director, and introduced Ashleigh Irving as the Interim Executive Director.

Refund Policy - Collaboration with Board of Speech-Language Pathology and Audiology (TS – 1:11:10 Minutes)

Sergio Guerreiro, Au.D. was present, and opened the discussion. Dr. Guerreiro commented that this topic made its start because of 3rd party reimbursement where some of the insurances are requesting manufacturers invoices. Discussion has been arising why is a hearing aid costing \$5,000-\$6,000 when they don't, which has led to idea of charging fee for service.

Dr. Guerreiro commented that Florida Statute is 30 years old. When looking at the statute and then the rule, Dr. Guerreiro commented that there's conflicting information. Dr. Guerreiro commented that his thought process was to try to bring the statute into the rule by eliminating some of the verbiage that's in the rule that's not in the statute.

Dr. Guerreiro commented that his intent is to allow a Provider to properly charge for things that are not only refundable or returnable to the manufacturer, but also charge for a fee for service.

Dr. Guerreiro commented that he is requesting both Boards look at the service component. Dr. Guerreiro commented that during prior discussion, Mrs. Polhill felt that a limit on the service component would be best, but Dr. Guerreiro commented that he felt there shouldn't be a limit to the service component due to the length of contracts lasting so long, that current limits on service components are easily absorbed. Dr. Guerreiro commented that you can't regulate a service component.

Dr. Guerreiro commented that expenses have increased over the years due to processes and technology now involved in fitting a device and would therefore not be in the best interest of either professions to limit the fee for service components.



Florida Board of Hearing Aid Specialists
General Board Meeting
May 20, 2022

Janet Hartman joined the conversation and had some inquiries based on some concerns and asked if Dr. Guerreiro's vision was to add an additional fee, beyond the \$150 and \$200, that is allowed to be retained as part of the refund process.

Dr. Guerreiro commented that his proposal is to eliminate the \$150 and \$200, and the charges of ear molds and services that are provided to fit the hearing aid be retained by the licensee.

Leanne Polhill asked Dr. Guerreiro to confirm that his proposal was to retain the 5% cancellation fee and leave the fees completely open for ear molds and services that are provided to fit the hearing aid.

Dr. Guerreiro commented that if the patient returned the hearing aid device, the 5% cancellation fee by statute allows the licensee to keep 5% of the charge of the hearing device, and subsequently was never brought into the rule.

Marlene Stern clarified that there is authority for the rule. **(TS – 1:25:25 Minutes)**

Janet Hartman clarified the point that if the Board does not have a rule, then there's a fallback in statute that provides for the 5% fee. Thus, statute and rule do not have to be the same.

Janet Hartman asked for clarifying points of the following:

1. Is there going to be an increased cost to the consumer?
2. Will the licensee be able to retain more of the original cost based on the rule being recommending?
3. Does this mean the consumer will not be able to collect as much in a refund?

Dr. Guerreiro commented that the chances are yes to these questions.

Janet Hartman explained the mechanics of a rule being approved, specifically describing the financial impact analysis process involved. Janet Hartman noted that there is a danger of a significant cost associated with this change, which would thus cause a Statement of Estimated Regulatory Cost (SERC) to be initiated.

The discussion ended envisioning more discussion between both Boards.

Financials – as noted.

Board Counsel's Report – Marlene Stern (TS – 1:35:25 Minutes)

Rule 64B6-8.003, F.A.C. Trainee Stages, Minimum Training Requirements, and Training

After discussion, the Board is tabling the conversation to the next scheduled board meeting.

Rules Report – as reported.



Florida Board of Hearing Aid Specialists
General Board Meeting
May 20, 2022

RATIFICATIONS

Licenses Issued

Motion: by Dean Easterwood to accept the ratification list for 3601 and 3603

Second: by Randy Ellsworth

Vote: Passed Unanimously

OLD BUSINESS/NEW BUSINESS – No old or new business

NEXT MEETING DATE – July 15, 2022 – Sheraton Sand Key Resort, 9:00 A.M.

PUBLIC COMMENTS – No public comments

ADJOURNMENT @ 10:54 a.m.