COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

FINAL MINUTES

MEETING OF:

STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY

TIME: 9:39 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
BOARD ROOM C
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

March 9, 2018
State Board of Examiners in Speech-Language Pathology and Audiology
March 9, 2018

BOARD MEMBERS:

Jonette B. Owen, Aud.D., Chairperson
Molly B. Smith, Commissioner Liaison, Designee of the Commissioner of Professional and Occupational Affairs
Louis R. Sieminski, Ph.D., Vice Chairman - Absent
Ann C. Roman, MS, CCC-SLP, Secretary
Amy S. Goldman, MS, CCC
Karen A. Rizzo, M.D. - Absent
Trudy Van Kirk Mosey, Public Member

BUREAU PERSONNEL:

Judith Pachter Schulder, Esquire, Board Counsel
Adam L. Morris, Esquire, Board Prosecutor
Sandra E. Matter, Board Administrator
Kimberly Adams, Chief of Division of Fiscal Management, Bureau of Finance and Operations
Julie Snader, Finance and Operations Manager, Division of Fiscal Management, Bureau of Finance and Operations

ALSO PRESENT:

Ted Mowatt, Senior Associate, Wanner Associates, representing the Pennsylvania Academy of Audiology (PAA)

Sargent's Court Reporting Service, Inc.
(814) 536-8908
State Board of Examiners in Speech-Language Pathology and Audiology

March 9, 2018

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The regularly scheduled meeting of the State Board of Examiners in Speech-Language Pathology and Audiology was held on Friday, March 9, 2018. Jonette B. Owen, Aud.D., Chairperson, called the meeting to order at 9:39 a.m. Roll call was taken.

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Appointment - Budget

[Julie Snader, Finance and Operations Manager, Division of Fiscal Management, Bureau of Finance and Operations, introduced herself and Kimberly Adams, Chief of Division of Fiscal Management.

Ms. Snader provided information on the Board’s licensee population, which was at 8,839 for Fiscal Year 2017-2018.

Ms. Snader attributed 93 percent of the Board’s revenue to renewals and applications. She referred to the biennial totals for Fiscal Years 2015-2016 and 2016-2017. Ms. Snader noted that the last fee increase was approved in November of 2015 and will become effective in July 2018.

Ms. Goldman questioned whether geographical
studies were available regarding new applicants and the cause of the increase. Ms. Matter stated PALS had scripted standard questions and suggested the Commissioner's office add questions to the renewal applications to obtain additional information.

Ms. Snader reviewed cost categories and expenses for Fiscal Year 2015-2016 and Fiscal Year 2016-2017, and the budgeted amount for Fiscal Year 2017-2018. She explained expenses are incurred from direct charges, timekeeping charges, and licensee-based charges.

Ms. Snader discussed the anticipated balance at the end of Fiscal Year 2017-2018. She concluded that the Board will stay within budget as in previous years.]

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Report of Prosecutorial Division

[Adam L. Morris, Esquire, Board Prosecutor, addressed the Board at 9:54 a.m. for the purpose of presenting the Consent Agreement for File No. 17-68-12231.

Ms. Roman recused herself from the matter.]

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FYI - Case Status Report

[Judith Pachter Schuldner, Esquire, Board Counsel, noted the December 2017 Case Status Report is provided...}
by the Office of Prosecution. She also noted a Motion
to Enter Default and Deem Facts Admitted filed in
Kristi Lee Pennypacker, File Nos. 12-68-11109 and 14-
68-06865, for deliberation in Executive Session.]
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Approval of Minutes of the December 8, 2017 meeting
CHAIRPERSON OWEN:
  If we can look at the December 8 minutes
  and if anyone has any correction to
  them?
[The Board discussed corrections to the minutes and
tabled approval of the minutes.]
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Report of Board Counsel
Regulations
[Judith Pachter Schulder, Esquire, Board Counsel,
referenced the request from James Shafer, AuD, on
behalf of the Pennsylvania Academy of Audiology
(PAA) to add delegation language to the Board’s
regulation similar to the State Board of Medicine
regulation. She provided Section 17 of the Medical
Practice Act (MPA) regarding the delegation of duties
section for discussion.
  Ms. Pachter Schulder explained the Board relies
upon Section 5(8) of the Speech-Language Pathologists
and Audiologists Licensure Act as authority to write regulations governing persons functioning under the direction of audiologists or speech-language pathologists. She stated the language in Section 5(8) of the Act is not as inclusive as the MPA delegation section.

Ms. Pachter Schulder discussed the differences between indirect supervision and direct supervision and its impact on whether the Act must be amended. She explained indirect supervision would also require additional delegation provisions in the law.

Chairperson Owen referred to the American Academy of Audiology (AAA), the American Speech-Language-Hearing Association (ASHA), and the Academy of Doctors of Audiology’s (ADA) positions on the training of audiology assistants. She specifically referred to a state-by-state reference table from ASHA.

Ms. Pachter Schulder compared Section 45.307, limitations, where an assistant may not engage in activities reserved by the act to the licensees of the Board, with Section 45.305, the functions and duties of assistants for discussion. There was further discussion regarding the language in the regulations referencing limitations and the activities of licensees, particularly fittings and assessments.
Ted Mowatt, Senior Associate, Wanner Associates, representing PAA, noted PAA’s recognition of the authority of assistants within the limits of the regulations and the law. He discussed amending the regulations to provide an amplification of the authority and duties of assistants due to insurance reimbursement issues and coding. Ms. Pachter Schulder explained the regulatory process and the various legal reviews by the Independent Regulatory Review Commission, the Office of Attorney General, and the Office of General Counsel. She further discussed the authority to delegate duties to unlicensed persons under the regulations.

Ms. Pachter Schulder referred to Section 45.305, relating to the practice of audiology or speech-language pathology, in comparison to the definitions of practice of audiology and practice of speech-language pathology in the law.

The Board discussed Section 45.401, noting that assistants deliver audiology services under the guidance of an audiologist. Mr. Mowatt noted that the supervision and liability remain with the licensee. He also suggested considering the optometry model, rather than the medical. Ms. Pachter Schulder noted that Section 45.102(c)(1) of the Code of Ethics
Concerning the insurance reimbursement and coding issues, Ms. Pachter Schulder noted that the Board does not have a role. The Board suggested that PAA speak with insurance companies about the proper coding for audiologists as limited by the nonmedical diagnosis language in the regulations. There was discussion referencing similar language for nurses, occupational therapists, and physical therapists.

Ms. Pachter Schulder explained the steps involved in a legislative initiative.

Ms. Pachter Schulder referred to Section 45.301 regarding assistants’ minimum education. She noted that Dr. Shafer had previously indicated that the original intent of the provision was to ensure that all properly trained assistants could participate in patient care under the guidance of a licensed audiologist; however, this provision only allows assistants to participate in tasks outlined in the listed duties.

The Board agreed to discuss continuing education, both in ethics and supervision, at a future meeting.

Chairperson Owen referred to a statement from ASHA that prior to the use of an assistant, the
licensee must obtain evidence of one of the following, referring to Section 45.304, completion of 30 semester hours or the equivalent of an accredited institution of higher education in the area of speech-language and hearing before receiving a certificate from the Council for Clinical Certification of ASHA.

Ms. Pachter Schulder stated that the regulation is similar, stating an accredited institution of higher education in the area of speech-language and hearing as outlined in the requirements as specified for a Certificate of Clinical Competence from the Council on Professional Standards in Speech-Language Pathology and Audiology of the American Speech-Language-Hearing Association. The Board discussed prior amendments to the regulations.

Mr. Mowatt suggested sending a letter to Dr. Shafer summarizing Board's discussion of his letter and thanking him for his comments.

Ms. Pachter Schulder commented on the differences between the requirements of each profession and what the professional associations and federations believe to be appropriate versus the extent of statutory authority. She explained the Board is bound by the "no medical diagnosis and treatment" unless the statute change.
Ms. Pachter Schulder referred to the Speech-Language Pathologists and Audiologists Licensure Act Section 6(a) License, except as provided in Subsection (b), no person may practice as an audiologist or speech-language pathologist unless he holds a current unsuspended, unrevoked license issued by the Board. She also noted exemptions.

Ms. Pachter Schulder also referred to Section 3 and Section 5(8) regarding the Board delegation. She noted Section 45.305 together with Section 45.307.

The model bill for state licensure of audiologists, speech-language pathologists, and audiology and speech-language pathology assistants from ASHA was also discussed.

Mr. Mowatt suggested a substantial change can be made to Section 45.304 and Section 45.305 to reflect the current use of assistants. Ms. Pachter Schulder explained that while the Act recognizes ASHA and AAA, the Board is still bound by the scope of practice in the Act and other relevant licensure laws and cannot ignore those laws by incorporating the scope of practices of the organizations.

The Board agreed that no further amendment to the Assistant provisions was necessary.]

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Report of Commissioner - No Report

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Report of Board Administrator

[Sandra Matter, Board Administrator, stated the only application currently available in the Pennsylvania Licensing System (PALS) is for provisional licenses. She stated the remaining applications are scheduled for the next deployment.

Ms. Matter suggested registering on PALS before renewals start.]

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CHAIRPERSON OWEN:

We need to ratify Ms. Goldman attending the PSHA Conference on March 22. I need a motion.

MS. MOSEY:

I so move.

MS. ROMAN:

I second.

CHAIRPERSON OWEN:

All in favor? Any opposed? Anybody abstain?

[The motion carried unanimously.]

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CHAIRPERSON OWEN:
I need a motion for the authorization of members to attend the PAA Conference in October.

MS. ROMAN:
I so move.

MS. MOSEY:
I’ll second the motion.

CHAIRPERSON OWEN:
Anybody opposed? Abstentions?

[The motion carried unanimously.]

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CHAIRPERSON OWEN:
I need a motion that the Board authorizes travel to the National Council of State Boards Conference October 4-6 in suburban Washington, DC/Tysons Corner, VA.

MS. GOLDMAN:
I so move.

MS. ROMAN:
I second the motion.

CHAIRPERSON OWEN:
All in favor?

[The motion carried unanimously.]

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[It was suggested two newer Board members attend conferences.]

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Board Meeting Dates
[The Board's 2019 meeting dates are March 15, June 7, September 6 and December 6.]

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Election of Officers

MS. VAN KIRK MOSEY:

I move that we nominate Ann Roman to be the Chairman of the Board, that we move to have Dr. Sieminski as the Vice Chair, and Amy Goldman as the Secretary.

MS. OWEN:

I second.

MS. VAN KIRK MOSEY:

All in favor? Any opposed?

[The motion carried unanimously.]

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FYI

[The Elder Financial Abuse information was noted for the Board’s review.]

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 11:29 a.m. the Board entered into Executive Session]
with Judith Pachter Schulder, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive legal advice. The Board entered into public session at 11:42 a.m.]

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[Molly B. Smith, Commissioner Liaison, Designee of the Commissioner of Professional and Occupational Affairs, entered the meeting during Executive Session.]

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MOTIONS

MS. PACHTER SCHULDER:

During Executive Session, the Board engaged in quasi-judicial deliberations on the matters of the Consent Agreement and also the Motion to Enter Default and Deem Facts Admitted for Kristi Lee Pennypacker. Members will note their recusals at the time of the Motion.

Is there a motion to adopt the Consent Agreement for File No. 17-68-12231?

MS. GOLDMAN:

I so move.

MS. VAN KIRK MOSEY:

I’ll second.
CHAIRPERSON OWEN:

All in favor? Opposed? Abstentions?

[Molly Smith abstained from voting on the motion. Ann C. Roman recused herself from deliberations and voting on the motion. The motion carried. The Respondent’s name is Rachel M. Foose.]

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MS. PACTER SCHULDER:

On the Motion to Enter Default and Deem Facts Admitted and issue an Adjudication and Order for Kristi Lee Pennypacker, File No. 12-68-11109 and File No. 14-68-06865, is there a motion to authorize Counsel to prepare an Adjudication and Order?

MS. GOLDMAN:

I so move.

MS. ROMAN:

I second.

CHAIRPERSON OWEN:

All in favor? Any opposed? Anyone abstain?

[The motion carried. Molly Smith abstained from voting on the motion.]

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[Molly B. Smith, Commissioner Liaison, Designee of the Commissioner of Professional and Occupational Affairs, presented Trudy Van Kirk Mosey and Jonette B. Owen with a proclamation from the Commissioner's office and gratitude from the Department of State Bureau of Professional and Occupational Affairs, State Board Examiners in Speech-Language Pathology and Audiology, and the Commonwealth of Pennsylvania for their contributions to the State Board Examiners in Speech-Language Pathology and Audiology and the citizens of the Commonwealth and to publically recognize them to the highest standards of ethics, the betterment of the speech-language pathology and audiology professions, and responsible act as a public servant.]

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CHAIRPERSON OWEN:

Do I have a motion to adjourn?

MS. GOLDMAN:

I so move that we adjourn the meeting.

MS. VAN KIRK MOSEY:

Second.

CHAIRPERSON OWEN:

All in favor?  All opposed?  Anyone abstain?
[The motion carried unanimously.]

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[There being no further business, the State Board of Examiners in Speech-Language Pathology and Audiology Meeting adjourned at 11:49 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Examiners in Speech-Language Pathology and Audiology Meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Examiners in Speech-Language Pathology and Audiology Meeting.

Seth R. Baier,
Minute Clerk
Sargent’s Court Reporting Service, Inc.
STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
REFERENCE INDEX
March 9, 2018

TIME

AGENDA

9:39  Official Call to Order/Roll Call

9:40  Appointment – Budget Review Presentation

9:54  Report of Prosecutorial Division

10:02 Approval of Minutes

10:09 Report of Board Counsel

11:17 Report of Board Administrator

11:28 For Your Information

11:29 Executive Session

11:42 Return to Open Session

11:42 Motions

11:49 Adjournment