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22 September 6, 2023

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State Board of Examiners in Speech-Language Pathology and Audiology September 6, 2023

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BOARD MEMBERS:

Patrick M. Murphy, Au.D., M.Ed., CCC-A, FAAA, Chair

Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs Lisa A. Butler, M.A., CCC-SLP, Vice Chairperson Sarah E. Delano, M.Ed., CCC-A, Secretary Amy S. Goldman, MS, CCC-SLP Andrew A. McCall, M.D., FACS - Absent

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BUREAU PERSONNEL:

20 Cynthia K. Montgomery, Esquire, Deputy Chief 21 Counsel, Counsel Division, Department of State 22 23 24 25 26

Dana M. Wucinski, Esquire, Board Counsel Thomas M. Davis, Esquire, Regulatory Board Counsel Paul J. Jarabeck, Esquire, Senior Board Prosecutor Shakeena L. Chappelle, Board Administrator Andrew LaFratte, MPA, Deputy Policy Director, Department of State Michael McDonald, Policy Director, Department of

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ALSO PRESENT:

Victoria Lantz

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Jennifer Smeltz, Republican Executive Director, Senate Consumer Protection & Professional Licensure Angie Armbrust, Senior Associate, McNees-Winter Group LLC, representing the Pennsylvania Speech-Language-Hearing Association Randall Boyer

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> Sargent's Court Reporting Service, Inc. (814) 536-8908

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State Board of Examiners in Speech-Language
Pathology and Audiology

September 6, 2023

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[Pursuant to Section 708(a)(1) and 708(a)(5) of the Sunshine Act, at 10:00 a.m. the Board entered into Executive Session with Dana M. Wucinski, Esquire, Board Counsel, for the purpose of conducting quasijudicial deliberations on the matters on the agenda and to receive advice of Board Counsel. The Board returned to open session at 10:30 a.m.]

* * *

The regularly scheduled meeting of the State Board of Examiners in Speech-Language Pathology and Audiology was held on Wednesday, September 6, 2023. Patrick M. Murphy, Au.D., M.Ed., CCC-A, FAAA, Chair, called the meeting to order at 10:30 a.m.

Lisa A. Butler, M.A., CCC-SLP, Vice Chairperson, was not present at the commencement of the meeting.

* *

Roll Call of Board Members/Introduction of Attendees
[Shakeena L. Chappelle, Board Administrator, provided
a roll call of Board members and an introduction of
attendees.]

4 1 2 Approval of minutes of the June 2, 2023 meeting 3 CHAIR MURPHY: 4 We're going to go into the approval of the minutes. I'll entertain a motion 5 6 to approve. 7 [The Board discussed corrections to the minutes.] 8 CHAIR MURPHY: 9 Any other corrections or additions to 10 the minutes? 11 MS. GOLDMAN: 12 I'll make the motion to approve with 13 corrections. 14 CHAIR MURPHY: 15 Do we have a second? 16 ACTING COMMISSIONER CLAGGETT: 17 Second. 18 CHAIR MURPHY: We'll have Shakeena do a roll on this. 19 20 21 Dr. Murphy, abstain; Commissioner 22 Claggett, aye; Sarah Delano, abstain; 23 Amy Goldman, aye. [The motion carried. Patrick Murphy and Sarah Delano 24 25 abstained from voting on the motion.]

5 * * * 1 2 Report of Prosecutorial Division 3 [Paul J. Jarabeck, Esquire, Senior Board Prosecutor, 4 on behalf of Amber Lee Czerniakowski, Esquire, Board Prosecution Liaison, presented the Consent Agreement 5 for Case No. 22-68-017681. 6 7 MS. WUCINSKI: I believe the Board would entertain a 8 9 motion to approve the Consent Agreement 10 and Order at Case No. 22-68-017681. MS. GOLDMAN: 11 12 I so move. 13 CHAIR MURPHY: 14 Do we have a second? 15 ACTING COMMISSIONER CLAGGETT: 16 Second. 17 CHAIR MURPHY: 18 Roll call vote. 19 20 Dr. Murphy, aye; Commissioner Claggett, 21 aye; Sarah Delano, aye; Amy Goldman, 22 aye. 23 [The motion carried unanimously. The Respondent's 24 name is Kyle Lyn Martin.] * * * 25

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[Paul J. Jarabeck, Esquire, Senior Board Prosecutor,
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2
   informed Board members that Ms. Czerniakowski would
3
   be speaking at the speech-language program at Temple
4
   University on September 19 and also speaking at the
5
   speech-language program at West Chester University on
 6
   November 7.
        Mr. Jarabeck stated that Ms. Czerniakowski would
   be doing outreach to discuss efforts taken at the
   Pennsylvania Department of State and how the process
10
   works for licensees and future licensees.
                                               He noted
11
   she is also working on potentially meeting with the
12
   speech-language and audiology programs at Salus
13
   University.
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        Ms. Goldman offered to join Ms. Czerniakowski in
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   the Philadelphia area if available.]
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   [Dana M. Wucinski, Esquire, Board Counsel, noted the
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18
   Board entered into Executive Session this morning for
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   the purpose of conducting quasi-judicial
20
   deliberations on a number of matters currently
21
   pending before the Board and to receive the advice of
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   counsel.
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   [Paul J. Jarabeck, Esquire, Senior Board Prosecutor,
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presented the Consent Agreement for Case No. 23-68-

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009113.]
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   MS. WUCINSKI:
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                  At agenda item 3, I believe the Board
 4
                  would entertain a motion to approve the
5
                  VRP Agreement at Case No. 22-68-009113.
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   MS. GOLDMAN:
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                  So moved.
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   ACTING COMMISSIONER CLAGGETT:
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                  Second.
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   CHAIR MURPHY:
                  Roll call vote.
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                  Dr. Murphy, aye; Commissioner Claggett,
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                  aye; Sarah Delano, aye; Amy Goldman,
15
                  aye.
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   [The motion carried unanimously.]
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   Report of Board Counsel - Miscellaneous
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   [Dana M. Wucinski, Esquire, Board Counsel, addressed
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   House Bill 1364, entitled Advisory Opinions.
21
   noted the bill would authorize licensing boards and
22
   commissions to issue advisory opinions concerning the
23
   meaning or interpretation of the act or regulations
24
   pertaining to the license. She stated that the
25
   advisory opinions would be legally nonbinding on the
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department except for with respect to the person to
whom the opinion was rendered. She mentioned that
the bill was last referred to the Professional
Licensure Committee on June 12, 2023.

Ms. Wucinski noted House Bill 1512, entitled Ensuring Telemedicine Access for Pennsylvanians, has been reintroduced, which would allow healthcare providers to provide services via telemedicine and require health insurers to cover the telemedicine services.

Ms. Wucinski stated that the purpose of the legislation is to promote public health practices, provide health care to patients in underserved and rural areas, and to mitigate the spread of infectious disease. She noted the bill would essentially make the COVID-19 telemedicine waiver permanent.

Ms. Wucinski mentioned the bill was referred to the Department of Insurance on June 26, 2023. She mentioned that she would reach out to Board members for their opinions if asked to do a bill analysis.

Ms. Goldman commented that she was surprised to see the bill on advisory opinions because of the longstanding prohibition against it.]

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25 Report of Regulatory Board Counsel

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[Cynthia K. Montgomery, Esquire, Deputy Chief
Counsel, Counsel Division, Department of State,
presented the final-form rulemaking for 16A-6805
regarding child abuse reporting. She noted the Board
approved the proposed rulemaking to move forward
through the regulatory review process on September 4,
2020.
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Ms. Montgomery informed Board members that the rulemaking was submitted to the Office of General Counsel, Governor's Budget Office, and Governor's Office of Policy and Planning on September 15, 2022.

Ms. Montgomery referred to Executive Order 1996
1, where no regulations can proceed without their approval. She mentioned the Budget Office prepared their fiscal note on September 26, 2022, the Policy Office approved it on October 4, and Office of General Counsel (OGC) approved it on October 21. She noted it then went to the Office of Attorney General on October 26, 2022, and was approved on November 23, 2022.

Ms. Montgomery reported a delay in delivery because the General Assembly adjourned after Thanksgiving and did not return until January 2023. She noted the committees returned and was designated by the General Assembly and published in the

Pennsylvania Bulletin on March 18, 2023. She resumed delivery on April 14, 2023 and published as proposed on April 29, 2023. She informed Board members that no comments were received during the 30-day public comment period.

Ms. Montgomery also reported receiving a no comment letter on June 29, 2023, from the Independent Regulatory Review Commission. She also mentioned that no comments were received from the House Professional Licensure Committee or Senate Consumer Protection and Professional Licensure Committee.

Ms. Montgomery informed Board members that the rulemaking would be deemed approved once redelivered because there were no comments. She presented the final-form rulemaking unchanged from when published as proposed on April 29.

Ms. Montgomery noted they are implementing a copious amount of changes to the Child Protective Services Law that were made from 2014 through 2019 and updating existing regulations on licensure and continuing education and renewal to incorporate the statutory requirement that all licensees complete at least 3 hours of training in child abuse recognition and reporting as a condition of licensure and at least 2 hours of continuing education as a condition

of renewal.

Ms. Montgomery stated that the final face sheet would be presented to the Legislative Reference Bureau when published. She also explained that the final preamble is the explanatory document and the final annex is the text of the regulation. She noted amendments to § 45.12 application procedures to incorporate the requirement for applicants to complete at least 3 hours of approved training in child abuse recognition and reporting as required by the Child Protective Services Law.

Ms. Montgomery also noted amendments to § 45.13 on renewal and required continuing education to include the requirement that at least 2 hours of approved continuing education in child abuse recognition and reporting is completed as a condition of renewal. She referred to subchapter F to incorporate changes to definitions in § 45.401, noting the change to the definition of child abuse itself and made to the Child Protective Service as well.

Ms. Montgomery noted amendments to § 45.402 under mandated reporting requirements, noting the expansion of the duty to report, including coming in contact with the child in the course of their employment or through a regularly scheduled program, activity, or

service. She noted the duty to report if someone is directly responsible for the care, supervision, guidance, or training of the child. She also noted a duty to report if a person makes a specific disclosure to them that an identifiable child is the victim of child abuse. She stated that it is also a duty to report if an individual 14 years of age or

child abuse.

Ms. Montgomery commented that they do not have to make any kind of investigation or inquiry but have a duty to report. She explained that the investigation is done by the Office of Children, Youth, and Families or local law enforcement depending on the county.

older discloses to them that he or she has committed

Ms. Montgomery addressed another change, where a mandatory reporter, who is a member of an institution, is now required to report it and then tell the organization or institution that they made the report.

Ms. Montgomery informed everyone of changes to the reporting requirements because the Department of Human Services now has an electronic process, where changes can be made electronically.

Ms. Montgomery referred to § 45.403, where

- existing regulations were amended to require

 photographs, radiological exams, or medical tasks on

 a child be sent to the county Children and Youth

 Services agency within 48 hours after making the

 electronic report and also be sent to law enforcement

 officials.
 - Ms. Montgomery addressed § 45.404, noting a minor amendment to the Child Protective Services Law requiring the medical examiner of the county where the death occurred or the county where the injuries were sustained also be notified if someone suspects a child died from child abuse.

- Ms. Montgomery stated that the section on immunity from liability was amended to include amendments to the Child Protective Services Law and provides civil immunity to anyone who makes a mandatory report of child abuse or does any of the acts that are authorized under the Child Protective Services Law.
- Ms. Montgomery referred to § 45.406 regarding confidentiality, where a new section of the Child Protective Services Law makes it clear that privileged communications between a mandated reporter and their patient or client does not apply to a situation involving child abuse and does not relieve

the mandated reporter of the duty to report.

Ms. Montgomery addressed Section § 45.407 regarding non-compliance, where criminal penalties were amended and increased substantially from a misdemeanor to either a misdemeanor of the second degree or a felony under certain circumstances. She noted the addition of § 45.408, which is the mandatory training requirement on child abuse recognition and reporting.

Ms. Montgomery addressed exceptions, where the training may be duplicative or unnecessary under the circumstances. She stated that the regulation also makes it clear that exemptions are only applicable for the specific biennial renewal period.

Ms. Montgomery noted § 45.409 addresses the process for getting approval to be a course provider, which requires approval by both the Department of Human Services and the Bureau. She noted subchapter G regarding continuing education regulations is amending § 45.501 to incorporate the 2 hours of continuing education in child abuse recognition reporting.

Ms. Montgomery referred to § 45.502 and pointed out that every licensee is required to do child abuse CE their first renewal period and then every two

years with no exceptions.

Ms. Montgomery addressed § 45.503 regarding CE requirements for reactivation and inactive or expired licenses, noting they also must have the 2 hours of continuing education and child abuse recognition reporting.

Ms. Montgomery referred to the preamble, noting
to the explains what the Board is doing and how they got
to this point.]

10 MS. MONTGOMERY:

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If there are no questions, it would be appropriate at this time that there be a motion to approve the final-form rulemaking.

15 CHAIR MURPHY:

Do I hear a motion?

17 MS. GOLDMAN:

I so move.

19 CHAIR MURPHY:

Is there a second?

21 MS. DELANO:

22 I second.

23 CHAIR MURPHY:

We have a motion and a second. Any

discussion? Shakeena, please call a

1 roll vote. 2 3 Dr. Murphy, aye; Commissioner Claggett, 4 aye; Sarah Delano, aye; Amy Goldman, 5 aye. 6 [The motion carried unanimously.] 7 * * * 8 Appointment - Introduction 9 [Michael McDonald, Policy Director, Department of 10 State, introduced himself and provided a brief history of his personal and professional background. 11 12 He informed everyone that the policy office works 13 closely with the Governor's Office and secretary of 14 the department and all of the licensing boards and 15 commissions to review and assess legislation. 16 Mr. McDonald noted that they work closely with 17

Board Counsel to review and draft regulations. offered to help implement policies or changes for their licensee population and assess the impact. Не noted they also help keep the Board apprised of policies being implemented in other states.

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Mr. McDonald encouraged Board members to reach out to him or Deputy Policy Director Andrew LaFratte as a resource for any questions or concerns.

Mr. McDonald thanked Board members for their

service to the licensees and citizens of the Commonwealth of Pennsylvania.

Ms. Delano noted working on several advisory groups for the state of Pennsylvania and collaborating with colleagues across the United States. She asked whether speech and audiology boards in other state jurisdictions provide information or whether he searches for change.

Mr. McDonald explained that he usually searches for information but resources are available to keep track of and compile initiatives across the 50 states and other territories. He noted that a news story may bring something to their attention or maybe an advocacy group. He also mentioned reaching out to their counterparts and other state administrations.

Ms. Goldman suggested Mr. McDonald reach out to the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology because member boards share and discuss national trends and informed him of an upcoming conference.

Chair Murphy asked whether changes or additions concerning policymaking would automatically be set into the policies of that profession or whether it has to go through the legislative process to become part of it.

Mr. McDonald explained that there is no rule but some changes do require statutory amendments to implement, including scope of practice for licensees, adding requirements to the credentials, or creating new licensing classes. He noted that those changes require legislative amendments. The staff works closely with the Office of Legislative Affairs and the General Assembly.

Mr. McDonald noted that drafting and promulgating new regulations is handled internally but also goes through an extensive process. He commented that Ms. Wucinski is an expert whenever there are questions about what path to pursue in order to implement certain changes. He also mentioned that there may be alternatives to something that may require a statutory amendment.

Chair Murphy thanked Mr. McDonald for his presentation.]

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20 Report of Board Chairperson

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21 | [Patrick M. Murphy, Au.D., M.Ed., CCC-A, FAAA, Chair,

22 mentioned that 2024 meeting dates are set up for

23 March 8, June 7, September 6, and December 13. He

24 noted the importance of keeping the annual meeting

25 schedule the way it is set up in advance to be able

to have full Board member attendance.

Chair Murphy noted it to be an honor and privilege to work with all of the Board members. He thanked everyone for their wonderful job and teamwork as members of the State Board of Examiners in Speech-Language Pathology and Audiology. He mentioned the importance of working together and communicating effectively and constructively to solve problems and be more productive.

Chair Murphy referred to an item on the agenda in June that he was unable to attend because of a procedural problem that delayed his reappointment for 16 months, noting Ms. Delano was also not in attendance. He mentioned that a vote was taken on the on the audiology brochure but did not include him or Ms. Delano.

Chair Murphy commented that the online version was not handled the same as previous work products. He expressed concerned about the handling of the audiology brochure but noted he did review it and would be contacting Ms. Delano over the next couple of months to look at the document for any adjustments for approval.

Chair Murphy requested Ms. Chappelle place the meeting dates on the next agenda so that any

questions or conflicts could be addressed ahead of time.

Acting Commissioner Claggett commented that there was ample time for review and to provide feedback.

He noted the version online is the one that was voted on and would not be changing at this point. He mentioned the importance of not spending too much time reviewing newsletters as opposed to less time worrying about processing applications.

Chair Murphy commented that he and Ms. Delano were not afforded the opportunity to speak at that meeting. He mentioned that there was an alternative version and is concerned whether the version is correct and representative of audiologists in the Commonwealth and the Pennsylvania Academy of Audiology. He noted that all of the changes on the audiology information sheet were from a grammatical standpoint and nothing from the legal standpoint. He expressed the importance of quality work coming out of the Board, especially his duty as a Board member to all of the constituents.

Acting Commissioner Claggett informed Chair

Murphy that the newsletter could be taken off line if
he does not feel comfortable but cannot continue with
the newsletter for another six months.

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        Chair Murphy agreed because he was not satisfied
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   with the current form and would like to revisit this
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   issue, noting that any changes made to the work
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   product have to be looked at from a legal standpoint
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   and not grammatically.]
                              * * *
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7
   Report of Acting Commissioner - No Report
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   [Lisa A. Butler, M.A., CCC-SLP, Vice Chairperson,
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   entered the meeting at 11:16 a.m.]
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   Report of Regulatory Board Counsel - 16A-6808
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   [Dana M. Wucinski, Esquire, Board Counsel, provided
14
   comments received for proposed regulation 16A-6808
15
   regarding licensure by endorsement for the Board's
16
   review. She addressed a comment from the
17
   Pennsylvania Speech-Language-Hearing Association
18
   (PSHA) requesting clarification on the personal
19
   interview language as to when a personal interview
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   will be required, who will conduct the personal
21
   interview, and the nature of the interview.
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        Ms. Wucinski informed Board members that she
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   would be able to address that in the final
24
   rulemaking. She noted the language was included to
25
   give licensees the ability to provide clarity through
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an informal meeting instead of provisionally denying the applicant and having them attend a hearing.

Ms. Wucinski stated that the Independent
Regulatory Review Commission (IRRC) had a comment
concerning Act 41 requiring the regulations be
promulgated within 18 months and urged the Board to
complete the final rulemaking as soon as possible.

Ms. Wucinski noted IRRC also asked why the Board puts the burden on the applicant to secure the jurisdiction's acts and regulations for licensure and why the Board does not take on the burden since the acts and regulations are available online. She mentioned it to be easier for the applicant to provide the information since it is their own state. She further noted that it may be easy for jurisdictions within the United States but is more difficult for applicants outside of the United States and may slow the application process.

Ms. Wucinski noted IRRC also asked whether the Board has considered making an annual list of jurisdictions deemed to be substantially equivalent. She explained that creating a list published online could quickly become misleading to applicants because it could become inaccurate information if the laws of that jurisdiction change.

Ms. Wucinski noted IRRC's comments asking the Board to clarify the personal interview process to be consistent with PSHA's comments, asking for clarity on the look-back period for disciplinary matters that may prohibit licensure, and asking why the Board limits the provisional license to one year.

Ms. Wucinski explained that the individual may as well be licensed if the Board continually renews the provisional license. She further explained that it is limited because it would be difficult for them to say they are not qualified when they have been letting the individual practice for several years.

Ms. Wucinski stated that IRRC also asked the Board to replace a citation in the Regulatory Analysis Form (RAF) for the statutory authority and requested further clarification for different things in the RAF, noting she would provide additional explanations in the final rulemaking.

Ms. Wucinski informed Board members that she would be working on the final-rulemaking packet and addressing comments hopefully for the next Board meeting.

Ms. Goldman asked whether any new information was provided from Ms. DeLaurentis concerning citations.

Ms. Wucinski offered to provide Board members

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with the new citation information.

Ms. Goldman also asked whether the 2022 CE audit had been completed or where it was in the process.

Acting Commissioner Claggett informed Ms. Goldman that the CE audit process had not started.]

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7 Report from Other Board Members - No Report

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9 Report of Board Administrator - No Report

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11 [Dana M. Wucinski, Esquire, Board Counsel, informed

12 | Board members of a minor reorganization in the

13 counsel division that now includes a regulatory team

14 that is going to be working with assigned boards and

15 Board Counsel to help draft their regulations. She

16 stated that Tom Davis was assigned to the Board to

17 assist with the regulations.

Mr. Davis noted being excited to work with

19 everyone. He and Ms. Wucinski would be moving the

20 regulations along.

21 Ms. Goldman commented that there were no consumer

22 members on their Board and requested advice on

23 recruitment and outreach.

24 Acting Commissioner Claggett informed Ms. Goldman

25 that the Governor's Office is working on it and

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2.5
   trying to come up with a plan but had no advice to
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2
   offer. He mentioned that the Board could always
3
   reach out.
 4
        Ms. Wucinski offered to lead anyone interested in
5
   being a Board member in the right direction.]
                              * * *
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   [Patrick M. Murphy, Au.D., M.Ed., CCC-A, FAAA, Chair,
   noted the next scheduled Board meeting is December 8.
   He encouraged anyone who has items for the next
10
   agenda to provide the information to Ms. Chappelle.]
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12
   Adjournment
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   CHAIR MURPHY:
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                  I will entertain a motion for
15
                  adjournment.
   MS. GOLDMAN:
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17
                  I so move.
18
   CHAIR MURPHY:
                  Second?
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20
   MS. DELANO:
21
                  I second that.
22
   CHAIR MURPHY:
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                  All those in favor, signify by saying
24
                  aye. Opposed, nay.
25
                       We'll see you all in December.
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26 Thanks very much for your attendance 1 2 and participation today. 3 [The motion carried unanimously.] 4 5 [There being no further business, the State Board of Examiners in Speech-Language Pathology and Audiology 6 7 Meeting adjourned at 11:32 a.m.] * * * 8 9 10 CERTIFICATE 11 12 I hereby certify that the foregoing summary 13 minutes of the State Board of Examiners in 14 Speech-Language Pathology and Audiology Meeting, was 15 reduced to writing by me or under my supervision, and 16 that the minutes accurately summarize the substance 17 of the State Board of Examiners in Speech-Language 18 Pathology and Audiology Meeting. 19 20 21 22 23 Minute Clerk 24 Sargent's Court Reporting Service, Inc. 25

27 STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE 1 2 PATHOLOGY AND AUDIOLOGY REFERENCE INDEX 4 5 6 September 6, 2023 7 AGENDA TIME 8 9 10:00 Executive Session 10 10:30 Return to Open Session 11 10:30 Official Call to Order 12 13 Roll Call of Board Members 14 10:30 15 16 10:30 Introduction of Attendees 17 18 10:31 Approval of Minutes 19 20 10:32 Report of Prosecutorial Division 21 22 10:39 Report of Board Counsel 23 24 10:41 Report of Regulatory Board Counsel 25 26 11:00 Appointment - Michael McDonald, Policy 27 Director, Department of State 28 29 11:10 Report of Board Chairperson 30 31 11:21 Report of Regulatory Board 32 Counsel (cont.) 33 34 Adjournment 11:32 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49