

BOARD FOR HEARING AID SPECIALISTS

MINUTES OF MEETING

The Board for Hearing Aid Specialists met on Monday, March 21, 2005, at the Offices of the Department of Professional and Occupational Regulation, 3600 West Board Street, 4th Floor, Richmond, Virginia. The following members were present:

Kathy J. Harvey, Chair
Thomas M. Frank
Olivia L. Kearney
Harry W. Kessler, III
Richard E. Linde, M.D.
Thomas J. Michie
Teresa M. Robinson

DPOR staff present for all or part of the meeting included:

Louise Fontaine Ware, Director
Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director for LRD
William H. Ferguson, II, Executive Director
Zelda W. Dugger, Board Administrator
Rashaun K. Minor, Administrative Assistant

There was not a representative present from the Office of the Attorney General.

Ms. Harvey determined there was a quorum and called the meeting to order at 9:08 a.m. **Call to Order**

Upon a motion by Mr. Frank and seconded by Ms. Robinson the Board voted to approve the agenda. The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, Dr. Linde, Mr. Michie, and Ms. Robinson. There were no negative votes. The motion passed unanimously. **Approval of Agenda**

Ms. Harvey asked if there was any public comment. There was no public comment. **Public Comment Period**

Upon a motion by Mr. Frank and seconded by Ms. Robinson the Board voted to approve the November 8, 2004 Board for Hearing Aid Specialists meeting minutes as amended and the January 19, 2005 Board for Hearing Aid Specialists Informal Fact-Finding Conference minutes as written. The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, Dr. Linde, Mr. Michie, and Ms. Robinson. There were no negative votes. The motion passed **Approval of Minutes for November 8, 2004 Board Meeting and January 19, 2005 Informal Fact-Finding Conference**

unanimously.

Ms. Robinson left the meeting.

Ms. Robinson leaves

In the matter of **File Number 2004-01337, Board v. Janson Jay Harrill** the Board reviewed the records, which consisted of the investigative file, transcript, and exhibits from the IFF, and the summary and recommendation. Janson Jay Harrill did not appear at the meeting in person, by counsel, or by any other qualified representative.

2004-01337 Janson
Jay Harrill

Upon a motion by Mr. Kessler and seconded by Mr. Frank, the Board voted that the Informal Fact Finding Conference be reconvened to obtain additional information based on the information already included in the Agency record.

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes. The motion passed unanimously.

Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

In the matter of **File Number 2004-01464, Board v. Janson Jay Harrill** the Board reviewed the records, which consisted of the investigative file, transcript, and exhibits from the IFF, and the summary and recommendation. Janson Jay Harrill did not appear at the meeting in person, by counsel, or by any other qualified representative.

2004-01464 Janson
Jay Harrill

Ms. Shirley Scarce was present at the meeting and addressed the Board on behalf of her husband.

Upon a motion by Mr. Frank and seconded by Ms. Kearney, the Board voted that there was clear and convincing evidence that Janson Jay Harrill violated the following section of the *Code of Virginia*:

Count 1: §54.1-1505(A)

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes. The motion passed unanimously.

Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

Upon a motion by Mr. Frank and seconded Ms. Kearney, the Board voted to reject the recommendation of the presiding officer and

increased the monetary penalty citing the severity of the infraction and imposed the following monetary penalty:

Count 1:	§54.1-1505 (A)	\$ 500.00
TOTAL		<u>\$ 500.00</u>

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes. The motion passed unanimously.

Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

In the matter of **File Number 2004-01500, Board v. Janson Jay Harrill** the Board reviewed the records, which consisted of the investigative file, transcript, and exhibits from the IFF, and the summary and recommendation. Janson Jay Harrill did not appear at the meeting in person, by counsel, or by any other qualified representative.

2004-01500 Janson Jay Harrill

Upon a motion by Mr. Kessler and seconded by Mr. Frank, the Board voted that the Informal Fact Finding Conference be reconvened to obtain additional information based on the information already included in the Agency record.

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes. The motion passed unanimously.

Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

In the matter of **File Numbers 2004-02444 Board v. Janson Jay Harrill** the Board reviewed the records, which consisted of the investigative file, transcript, and exhibits from the IFF, and the summary and recommendation. Janson Jay Harrill did not appear at the meeting in person, by counsel, or by any other qualified representative.

2004-02444 Janson Jay Harrill

Upon a motion by Mr. Kessler and seconded by Dr. Linde, the Board voted that there was clear and convincing evidence that Janson Jay Harrill violated the following section of its Regulations:

Count 1: 18 VAC 80-20-270.1.h

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes.

The motion passed unanimously.

Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

Upon a motion by Dr. Linde and seconded Mr. Michie the Board voted to reject the recommendation of the presiding officer and increased the monetary penalty citing the severity of the infraction and imposed the following monetary penalty:

Count 1:	18 VAC 80-20-270.1.h.	\$ 1,000.00
TOTAL		<u>\$ 1,000.00</u>

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, and Mr. Michie. There were no negative votes. The motion passed unanimously. Ms. Robinson, as the presiding officer of the IFF, was not present during the discussion or vote.

The Board recessed at 10:15 am and reconvened at 10:36 am

Break

Ms. Robinson returned to the meeting.

**Ms. Robinson
returns**

The Board was informed that in the 2005 Virginia General Assembly, House Bill 2711 Hearing aid; practice of fitting or dealing which will amend the current language of 'fitting and dealing of hearing aids' to 'fitting or dealing of hearing aids' passed the House and the Senate and once signed by the Governor, House Bill 2711 would become effective July 1, 2005.

Legislative Update

Ms. Robinson asked Ms. Sweet if she could obtain statistical information on the failure rate of those re-taking the exam to see if there is a relationship or pattern.

Examination

Ms. Sweet stated she would have this information available at the next board meeting. Ms. Sweet also advised the Board they are welcome to observe the exam.

The Board reviewed its examination statistics for informational purposes.

**Examination
Statistics**

The Board reviewed its quarterly statistics for informational purposes.

Quarterly Statistics

The Board reviewed the Board for Audiology and Speech-Language Pathology February 17, 2005 meeting minutes. The Board asked to get

**Board for Audiology
and Speech-**

clarification from the Audiology and Speech-Language Pathology Board with regard to the statement that the Board for Hearing Aid Specialists' current regulations have conflicting sections.

Language Pathology
February 17, 2005
Meeting Minutes

The Board took under consideration the election of Board Chair and Vice Chair. Mr. Michie moved that Ms. Harvey continue to serve as Board Chair and Mr. Frank continue to serve as Board Vice Chair. Dr. Linde seconded the motion.

Elections

The members voting 'yes' were Ms. Harvey, Mr. Frank, Ms. Kearney, Mr. Kessler, Dr. Linde, Mr. Michie, and Ms. Robinson. There were no negative votes. The motion passed unanimously.

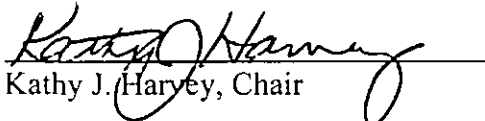
The Board will add to the next meeting agenda the following items:

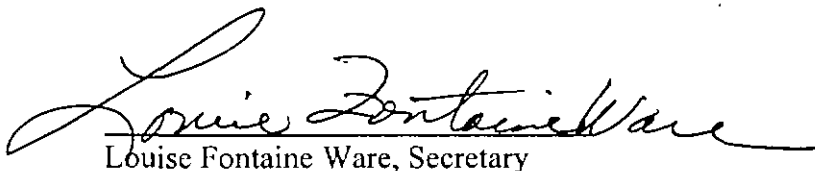
Other Board
Business

The Department of Consumer Affairs Bond requirement for extended warranties; Compliance and Investigations Division (CID) process, and Continuing Education.

There being no further business, the Chair adjourned the meeting at 11:54 am.

Adjourn


Kathy J. Harvey, Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Kathy Harvey
2. Title: Board Chair - Board for Hearing Aid Specialists
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting on March 21, 2005
5. Nature of Personal Interest Affected by Transaction: NA
-

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: HEARING AID SPECIALIST

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: Kathy Harvey Date: 3-21-05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

- 1. Name: Teresa M. Robinson

- 2. Title: Board Member – Board for Hearing Aid Specialists

- 3. Agency: Department of Professional and Occupational Regulation

- 4. Transaction: Board Meeting on March 21, 2005

- 5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that: _____

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: Teresa M. Robinson Date: 3/21/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Olivia Little Kearney

2. Title: Board Member - Board for Hearing Aid Specialists

3. Agency: Department of Professional and Occupational Regulation

4. Transaction: Board Meeting on March 21, 2005

5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: _____

Olivia Little Kearney

Date: _____

3/21/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Thomas Frank
2. Title: Board Member - Board for Hearing Aid Specialists
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting on March 21, 2005
5. Nature of Personal Interest Affected by Transaction: none

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: hearing aid specialists

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:

Tom M. Frank

Date:

3-27-05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Dr. Richard Linde
2. Title: Board Member- Board for Hearing Aid Specialists
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting on March 21, 2005
5. Nature of Personal Interest Affected by Transaction: License Hearing Aid

6. I declare that: _____

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: Professional Hearing Service

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature: Richard Linde, MD Date: 3/21/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Harry W. Kessler, III
2. Title: Board Member - Board for Hearing Aid Specialists
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting on March 21, 2005
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:

Harry W. Kessler III

Date: 3/21/05

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

1. Name: Thomas Michie
2. Title: Board Member - Board for Hearing Aid Specialists
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting on March 21, 2005
5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively and in the public interest.

Signature:

Thomas J. Michie

Date:

3/21/05