

BOARD FOR HEARING AID SPECIALISTS

MINUTES OF MEETING

The Board for Hearing Aid Specialists met on Monday, August 29, 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.
Matthew J. Myrick
Teresa M. Robinson

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

Louise Fontaine Ware, Director
Brian Hannigan, Chief Deputy Director
Nick A. Christner, Deputy Director for Compliance & Investigations
William H. Ferguson, II, Executive Director
Earlyne B. Perkins, Legal Assistant
Kera L. Woodard, Legal Assistant
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 9:13 a.m. **Call to Order**

Ms. Harvey congratulated Ms. Kearney and Dr. Linde on their re-appointments to the Board and informed the Board of its new citizen member Mr. Matthew J. Myrick. Upon Mr. Myrick's arrival, Ms. Harvey asked Mr. Myrick to give a brief description of his background. **Board Members**

Mr. Ferguson introduced Mr. Brian Hannigan to the Board as the new Chief Deputy Director of the Department of Professional and Occupational Regulation.

Upon a motion by Ms. Robinson and seconded by Mr. Frank the Board voted to approve the agenda with amendments. The members voting 'yes' were Mr. Frank, Ms. Harvey, Mr. Kessler, Dr. Linde, 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 Ms. Robinson and seconded by Mr Frank the Board voted to approve the March 21, 2005 Board for Hearing Aid Specialists meeting minutes as amended. The members voting 'yes' were Mr. Frank, Ms. Harvey, Mr. Kessler, Dr. Linde, and Ms. Robinson. There were no negative votes. The motion passed unanimously.

**Approval of
Minutes for
March 21, 2005
Board Meeting**

Ms Kearney and Mr. Myrick arrive for the meeting.

**Ms. Kearney and
Mr. Myrick arrive**

In the matter of **File Number 2005-03918 Board v. Gerald DuBrino** the Board reviewed the records, which consisted of the investigative file, transcript and exhibits from the IFF, and the summary and recommendation. The basis upon which the application may not meet regulatory requirements was corrected to cite Section 10 VAC 80-20-30 6 of the Board for Hearing Aid Specialists Regulations. Mr. DuBrino was present at the meeting and addressed the Board.

Upon a motion by Ms. Harvey and seconded by Dr. Linde, the Board voted to approved Mr. DuBrino's temporary hearing aid specialists license application.

The members voting 'yes' were Mr Frank, Ms Harvey, Ms Kearney, Dr. Linde, and Ms Robinson. The member 'abstaining' was Mr. Myrick. The member voting 'no' was Mr. Kessler. The motion passed by majority.

Ms. Robinson left the meeting.

**Ms. Robinson left
the meeting**

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. Mr. Harrill did submit a written statement on his behalf

**2004-01500 Janson
Jay Harrill**

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

18 VAC 80-20-270.1.h
18 VAC 80-20-270.3
18 VAC 80-20-270 6

The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, and Dr. Linde. The member 'abstaining' was Mr. Myrick. The motion passed by majority.

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 by Ms. Kearney, the Board voted to accept the recommendations and imposed the following monetary penalty:

18 VAC 80-20-270.3	\$ 2,500.00
TOTAL	<u>\$2,500.00</u>

In addition, the Board imposed revocation of the license

The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, and Dr. Linde. The member 'abstaining' was Mr. Myrick. The motion passed by majority.

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

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. Mr. Harrill did submit a written statement on his behalf.

**2004-01337 Janson
Jay Harrill**

Upon a motion by Mr. Frank and seconded by Dr. Linde, the Board voted that there was not clear and convincing evidence that Janson Jay Harrill violated the Regulations and to close with a finding of no violation.

The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, and Dr. Linde. The member 'abstaining' was Mr. Myrick. The motion passed by majority.

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

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' was signed by the Governor and effective July 1, 2005. The Board was informed of the standard regulatory process and the fast-track regulatory process.

Legislative Update

Upon a motion by Ms. Robinson and seconded by Dr. Linde the Board voted to approve the submission of a Notice of Intended Regulatory Action to reflect the amendments of House Bill 2711 and give staff the authority to process according to the Fast-Track regulatory process.

**Notice of Intended
Regulatory Action
(NOIRA)**

The members voting 'yes' were Mr. Frank, Ms. Harvey, Ms. Kearney, Mr. Kessler, Dr. Linde, Mr. Myrick, and Ms. Robinson. The motion passed unanimously.

Ms. Sweet provided statistical information requested by the Board on the failure rate of those re-taking the exam to see if there is a relationship or pattern.

Examination

The Board reviewed the draft brochure and was asked to provide input at the next meeting.

Board Brochure

The Board reviewed the 23 VAC 10-210-910. Maintenance contract and warranty plans for informational purpose.

Warranty

The Board reviewed its quarterly statistics for informational purposes.

Quarterly Statistics

The Board reviewed the Board for Audiology and Speech-Language Pathology (ASLP) May 19, 2005 unapproved meeting minutes. Statements pertaining to the HAS Regulations that were included in the ASLP's minutes were discussed

**Board for Audiology
and Speech-
Language Pathology
May 19, 2005
Meeting Minutes**

The Board reviewed its examination statistics for informational purposes.

**Examination
Statistics**

Former citizen board member, Thomas J. Michie, was recognized for his service and dedication to the Board for Hearing Aid Specialists.

**Other Board
Business**

Commonwealth of Virginia
Department of Professional and
Occupational Regulation
Board for Hearing Aid Specialists

Thomas J. Michie

WHEREAS, Thomas J. Michie, has faithfully and diligently served as a member of the Board for Hearing Aid Specialists from 2002 until 2005; and

WHEREAS, Thomas J. Michie, has devoted generously of his time, talent and leadership to the Board; and

WHEREAS, Thomas J. Michie, has endeavored at all times to render decisions with fairness, good judgment, and in the best interest of the Board, and

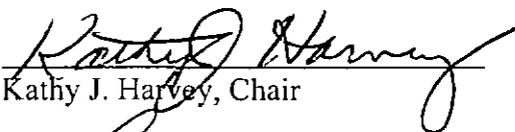
WHEREAS, the Board for Hearing Aid Specialists wishes to acknowledge its gratitude and deepest appreciation for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW THEREFORE BE IT RESOLVED, by the Board for Hearing Aid Specialists this twenty-ninth day of August, 2005 that Thomas J. Michie be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens and the Board for Hearing Aid Specialists; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held.

Kathy J. Harvey, Chair
Louise Fontaine Ware, Director

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


Kathy J. Harvey, Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records