

BOARD FOR HEARING AID SPECIALISTS

MINUTES OF MEETING

The Board for Hearing Aid Specialists met on Monday, April 28, 2003, at the Offices of the Department of Professional and Occupational Regulation, 3600 West Board Street, 5th Floor, Richmond, Virginia. The following members were present:

Kathy J. Harvey, Chair
Jeffrey M. Rinehart
Thomas M. Frank
Richard E. Linde, M.D.
Thomas J. Michie
Paul D. Moran
Sonia Quintero

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

Karen W. O'Neal, Deputy Director for RPD
William H. Ferguson, II, Executive Director
Zelda W. Dugger, Board Administrator
Steve L. Arthur, Deputy Dir. for Admin. and Finance
James L. Guffey, Deputy Director for Enforcement
Jeffrey W. Buckley, Legal Assistant
Susan A. Garbini, Legal Assistant
Ilona H. LaPaglia, Legal Assistant
Carol Mitchell, Dir for Alternative Dispute Resolution
Wayne E. Mozingo, Field Investigator
Noelle B. Phillips, Investigator
Rashaun K. Minor, Administrative Assistant

Also in attendance was: Carla R. Collins, Assistant Attorney General

Kathy Harvey determined there was a quorum and called the meeting to order at 9:01 a.m., at which time she requested board members and staff present to introduce themselves. **Call to Order**

Mr. Rinehart moved to approve the agenda as amended. Mr. Moran seconded the motion. The members voting 'yes' were Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Michie, Mr. Moran, Mr. Rinehart, and Ms. Quintero. There were no negative votes. The motion passed unanimously. **Approval of Agenda**

Ms. Harvey asked for public comment. There was no public comment. **Public Comment Period**

Mr. Moran moved to approve the minutes as written of the Board for Hearing Aid Specialists Meeting December 9, 2002. Mr. Rinehart seconded the motion. The members voting 'yes' were Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Michie, Mr. Moran, Mr. Rinehart, and Ms. Quintero. The motion passed unanimously. There were no negative votes.

**Approval of
Minutes for
December 9, 2002
Board Meeting**

Steve L. Arthur, Deputy Director for Administration and Finance, provided training to the Board on DPOR's administration and finance responsibilities and procedures, including revenue, expenditure, and appropriation, budget and fee analysis.

Training

Mr. Arthur concluded by fielding general questions from Board members.

Mr. Arthur reported that the agency is required by Section 54.1-113 Callahan Act to review each board's financial position to determine whether fees need to be adjusted to ensure that revenue is sufficient, but not excessive, to cover the board's operating expenses. Mr. Arthur stated if a board shows revenue for the past biennium to be more than ten percent greater than expenses, the board shall revise the fees so that the fees are sufficient but not excessive to cover expenses.

Fees

Mr. Arthur stated to the Board that its revenue is greater than its expenses and recommended three alternatives for a fee reduction.

The Board reviewed the fee analysis and the proposals for fee reductions. Mr. Rinehart moved to begin the regulatory review process to adjust fees in accordance with by Section 54.1-113 (Callahan Act) of the Code of Virginia including examination fees and to accept proposal C to reduce fees. Mr. Frank seconded the motion. The members voting 'yes' were Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Moran, Mr. Rinehart, and Ms. Quintero. Member voting 'no' was Mr. Michie. The motion passed by majority.

James L. Guffey, Deputy Director for Enforcement, provided training to the Board on enforcement activities and authority including the administrative process act (APA), agency organization, statutory authority and enforcement proceedings.

Training

Mr. Guffey stated to the Board that practicing without a Hearing Aid Specialist license is a class 1 misdemeanor criminal offense and a third offense is a class 6 felony.

Mr. Guffey held a mock informal fact-finding conference to demonstrate how an informal fact-finding conference is conducted.

Mr. Guffey concluded by fielding general questions from Board members.

At 11:50 a.m. Mr. Moran moved, in accordance with the provisions of Section 2.2-3711(A)(7) Code of Virginia, moved that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding the offers in compromise in the appeals of the Board's Final Orders 2002-0477, 2002-0478, 2002-0479 and 2002-0480. The following non-members were in attendance to reasonably aid the consideration of the topic, Carla R. Collins and William H. Ferguson, II. This motion is made with respect to the matter identified as agenda item E Cases. The members voting 'yes' were Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Michie, Mr. Moran, Mr. Rinehart, and Ms. Quintero. There were no negative votes. The motion passed unanimously.

Closed meeting

At 1:15 p.m., the meeting reconvened in open section:

Open Meeting

CERTIFICATION OF CLOSED MEETING

**Certification of
Closed Meeting**

WHEREAS, the Virginia Board for Hearing Aid Specialists has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions on the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Virginia Board for Hearing Aid Specialists that such closed meeting was conducted in conformity with Virginia law;

NOW THEREFORE , BE IT RESOLVED, that the Virginia Board for Hearing Aid Specialists certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Hearing Aid Specialists.

VOTE: aye – 7, nay – 0

AYES: Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Michie, Mr. Moran,
Mr. Rinehart, Ms. Quintero

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

The Board upon a motion made by Mr. Moran and seconded by Mr. Frank voted to accept the offer made by Counsel Herbert E. Taylor, III representing William B. Rudisill, II to expedite the resolution of the matters in litigation and to ensure the protection of the public through permanent revocation of Mr. Rudisill's hearing aid specialists license. The members voting 'yes' were Mr. Frank, Ms. Harvey, Dr. Linde, Mr. Moran, Mr. Rinehart, and Ms. Quintero. Member voting 'no' was Mr. Michie. The motion passed by majority.

Cases

At 1:23 p.m. the Board recessed and reconvened at 2:03 p.m.

Lunch

The Board reviewed its examination statistics for informational purposes.

Examination Statistics

The Board reviewed its quarterly statistics for informational purposes.

Quarterly Board Statistics

Mr. Ferguson advised the Board that the Board for Hearing Aid Specialists Regulations are in the final stages of the regulatory review process. The Department of Planning and Budget and the Secretary's Office have approved the final regulations and that the final regulations are at the Governor's Office awaiting approval.

Regulations

Mr. Moran left the meeting at 3:10 p.m.

Member Departure

Ms. Harvey expressed an interest in a consumer brochure for the Board for Hearing Aid Specialist.

Other Business

Ms. Harvey suggested that board members speak at engagements as a means to make the public more aware of the Board for Hearing Aid Specialists and provide consumer education.

Ms. Quintero stated she would like to see the consumer brochure available in Spanish and would volunteer her services to aid in the translation.

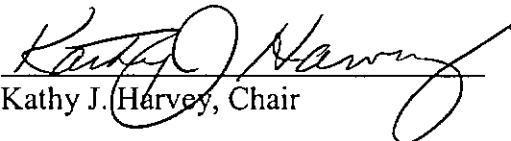
The Board continued its discussion of the financial analysis and fee

recommendations. Board action is included in these minutes under 'Fees'.

Mr. Michie left the meeting at 3:15 p.m.

Member Departure

There being no further business to be brought before the Board, the Chair adjourned the meeting at 3:17 p.m. **Adjournment**


Kathy J. Harvey, Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records