

BOARD OF HEARING AID DEALERS AND FITTERS

Minutes of June 21, 2005 Board Meeting

I. CALL TO ORDER

Gilbert Poliquin, Chair, established that a quorum was present and called the meeting to order at 10:56 a.m.

Members Present: Gilbert Poliquin, Robert Bruder, Wanda Creed, Linda Snow, Sallie Chisholm, and Dawn Dufkin-Britt.

Members Absent: None.

Others Present: Dennis Smith, AAG; Penny Vaillancourt, Board Administrator; Kevin Cookson, OLR Investigator; and Colleen Eugley, Acting Board Clerk; Amy Mills, AAG

II. EXAMS

Karen E. Chisholm appeared and completed the practical exam

III. OLD BUSINESS

A. APPROVAL OF MINUTES:

Bob Bruder, seconded by Wanda Creed, made a motion to accept the minutes of May 17, 2005, as revised.

Vote: 6 In favor

IV. NEW BUSINESS

A. COMPLAINT OFFICER REPORT

Initial Complaint Presentations

HEA – 074

The board filed a complaint alleging the licensee failed to obtain patient's signature on the medical waiver. Also, a review of the licensee's purchase agreement resulted in the board requesting the licensee to submit a revised purchase agreement that is consistent with the board's statute and rules as outlined below:

- The language containing the medical treatment of minors should reflect statute requirements as outlined in 32 MRSA, Section 1658-D (1)
- The lab fees should be listed, as referred to in statute 32 MRSA, Section 1658-C 4 A
- The "30 day risk free trial" language should be changed to "30 day trial".
- Warrantor or guarantor identity and address should be listed

Recommendation to dismiss with a letter of guidance to be placed in the licensee's file for 5 years for failing to have the medical waiver signed by the patient as required by board statute and rule.

Motion to table until next board meeting to review revised purchase agreement by Bob Bruder, seconded by Dawn Dufkin-Britt.

Vote: 4 in favor (2 recused – Sallie Chisholm & Wanda Creed)

Motion by Bob Bruder and seconded by Dawn Dufkin-Britt to send a letter asking for corrections to be made to the purchase agreement and submitted to the board.

Vote: 4 in favor (2 recused – Sallie Chisholm & Wanda Creed)

HEA-075

The licensee did not disclose criminal convictions on his trainee permit application. The subsequent background check indicated there were criminal convictions. The licensee sent a letter of explanation stating that he thought they were traffic violations and answered "no" to the criminal conviction question on the application. The Board discussed whether there was fraud or deceit involved in gaining licensure (refer to 32 MRSA Section 1658-N(1)).

Bob Bruder made a motion to request correspondence between the licensee and his attorney to make sure licensee knew he was pleading guilty to a crime. Linda Snow seconded the motion.

Vote: 3 in favor, 1 against (Gil Poliquin) (2 recused – Sallie Chisholm & Wanda Creed)

Voted to untable

New information was received by Dennis Smith, AAG, which included correspondence between the licensee and his attorney that was filed with the court. However, the board could not reach a conclusion as to whether or not the licensee was aware that he was pleading guilty to a criminal conviction based on that documentation.

Bob Bruder made a motion to schedule an informal conference with the trainee to review the additional information; Linda Snow seconded the motion.

Vote: 4 in favor (2 recused – Sallie Chisholm & Wanda Creed)

HEA-078

Complaint filed by a patient against a branch location of a business license, who claims to have had various problems with her Siemens hearing aid and had adjustments done a few times in 2003 and 2004. The complainant had requested a full refund from the licensee.

Motion to dismiss made by Sallie Chisholm, with correction on contract regarding delivery language. Motion seconded by Bob Bruder.

Vote: 5 in favor (1 recused – Wanda Creed)

HEA-076

A complaint was filed against a licensee by a licensed audiologist alleging three issues of unprofessional conduct. They are as follows: 1. Misrepresenting scope of practice; 2. Concern with licensee's testing methodology (masking and speech testing); and, 3. Feels licensee should have made medical referral.

1. The licensee billed the hospital for providing an audiologic evaluation to a client. The licensee was subsequently paid for the evaluation by the hospital. The licensee claims that she was not representing herself as an audiologist but felt that she should be paid for a hearing evaluation/examination.
2. Flawed testing methodology – the complaint officer conducted a sample auditing of patient files to examine licensee methodology in masking for air and bone; speech testing (SRT); MCL ; and UCL. Section 1658-M(5) of the statute - possible violation - negligence/incompetence.
3. No medical referral – licensee's testing methodology would not have revealed the need for a referral.

Additionally issues were raised upon the board's review of the licensee's purchase/sale agreement. The terms of warranty should be identified, along with identify/address of the warrantor, the model/style of hearing aid, and the terms of sale (60 day language were not in the agreement).

The board voted to offer the licensee a consent agreement that contained the following admissions and sanctions: Licensee admits to a violation of 32 MRSA Section 1658-N(2) and Chapter 7 of the board's rules regarding unethical conduct in billing for audiologic services when not authorized to do so under the scope of current license. Sanctions include a warning, six months probation to include a training program (no less than 16 hours) to include instruction, practical experience, as well as board inspection of office records. The board will approve the provider of the training program and the approved trainer will then follow up with the Board via written progress reports. Successful completion of the training and practical must be completed within 60 days of the executed consent agreement. Five office records per month for six months will go to complaint officer or to a Board designated licensed audiologist for review/approval. The licensee will be required to submit a revised contract to the board for its review.

Sallie Chisholm made the motion and Dawn Dufkin-Britt seconded the motion.

Vote: 4 in favor (2 recused – Wanda Creed & Linda Snow)

OTHER COMPLAINT ITEMS

HEA-073

Sallie Chisholm made a motion to untable HEA-073; Bob Bruder seconded the motion.

The Board reviewed the revised purchase agreement. A letter will be sent to request one more correction on the purchase agreement - the word "delivery" instead of "purchase" – in the "notice to purchaser" language. Also, the guarantor or warrantor address should be identified.

Motion to table made by Sallie Chisholm; Bob Bruder seconded the motion.

Vote: 5 in favor (1 recused – Wanda Creed)

B. APPLICATION REVIEW:

None.

C. CEU REQUESTS REVIEW:

No CEU requests this month.

D. CORRESPONDENCE

None.

E. MISCELLANEOUS

Wanda Creed will provide information to Penny Vaillancourt for the board's continuing education fall seminar.

Motion made by Sallie Chisholm to nominate Gil Poliquin to go to Quebec for IHS convention in October. Linda Snow seconded the motion.

Vote: 6 in favor

V. OTHER BUSINESS

A. ADMINISTRATORS Report:

Penny Vaillancourt reported that a continuing education audit will be conducted, including a random selection of a board member. She also provided the board with a financial update, including the budget bill and the potential impact on FY06. Penny Vaillancourt and board discussed that current AuD students need to get a trainee permit to practice.

V. ADJOURN:

There being no further business to discuss, the meeting was adjourned at 2:40 p.m. Motion was made by Bob Bruder and seconded by Sallie Chisholm.

Vote: 6 In favor

The next meeting is scheduled for Tuesday, July 19, 2005.

Respectfully submitted,

Colleen Eugley, Acting Board Clerk