

TENNESSEE BOARD OF COMMUNICATION DISORDERS AND SCIENCES

DATE: August 7, 2018

TIME: 10:00 A.M., CDT

LOCATION: Health Related Boards
Poplar Room
665 Mainstream Dr
Nashville, TN 37243

BOARD MEMBERS PRESENT: Mary Velvet Buehler, Chair, Audiologist/Speech Pathologist
Kimberly Vinson, MD, Otolaryngologist
Julie A Davis, Speech Pathologist
Debby Starr, Au.D, Audiologist
Carrie Crittendon, Au.D, Audiologist
Richard Morton, Citizen Member

BOARD MEMBERS ABSENT: Jean Brandon, Speech Pathologist

STAFF MEMBERS PRESENT:
Yvette Hernandez, Board Administrator
Teddy Wilkins, Unit Director
Christie Taylor, Assistant General Counsel

Ms. Velvet Buehler, Chair, called the meeting to order at 10:05 am. A roll call was conducted and a quorum was present.

Ms. Buehler stated she has received various communications regarding concerns of Clinical Fellowship (CF) and Speech Language Pathology Assistants (SLPA) supervision and the idea of a Provisional License for CF's. Ms. Buehler requested someone make a motion to add this to the agenda. Julie Davis made the motion, seconded by Dr. Kimberly Vinson. The motion carried.

Ms. Buehler stated per the last meeting she understood the attorney reported there was not a way to get a provisional or temp license for a CF. Tennessee is only one of 4 states that do not have a provisional or temp license for CF's. Ms. Buehler is concerned that only having a registration for CF's is hurting the professionals and patients. Christine Taylor, Board Attorney stated it is the opinion of the Office of General Counsel that the statute does not appear to have any language that would grant the Board authority to provide a provisional licensure. Ms. Taylor stated she has drafted language that will allow a path for provisional licensure or a CF. Ms. Davis stated she does not understand what Ms. Taylor meant by Clinical Fellowship **OR** provisional license. Ms. Taylor explained the applicant would get to choose if they wanted to do the Clinical Fellowship registration or apply for the provisional license. Ms. Davis stated "As a point of clarification, all Speech Pathologists do a Clinical Fellowship, no matter what. The question here is changing from registration to provisional license." Ms. Davis went on to state "Our national organization

American Speech and Hearing Association (ASHA) requires the Clinical Fellowship and most facilities do as well. The language change request is taking the registration status, which relegates that Clinical Fellow to student, even though they have a job and are being paid, but cannot bill, changing them to a professional.” Ms. Taylor reiterated there is no statute of authority to allow the Board to change the registration to a license.

John Williams of the Tennessee Association of Audiologists and Speech Language Pathologists asked why OGC has taken their position. Mr. Williams then presented Ms. Taylor with a copy of T.C.A. 63-17-110(b)(3) which says “ To be eligible for licensure” but does not say what kind of licensure. As I read that language, it gives the Board fairly broad authority. The problem is CMS (Medicare) will not reimburse a clinical fellow without a license of certification. The goal is to try to make the rule use the language that will allow that type of reimbursement. The change that needs to happen is to use the term Licensure and not registration.

Ms. Taylor explained there is another statute, T.C.A. 63-17-114 which indicates that one cannot restrict the activities of the Clinical Fellow. By requiring a provisional license. additional steps are required, which OGC sees as a restricting.

Ms. Davis explained that once one graduates with their Master’s degree one begins their CF when they are employed. In any other state one would apply for licensure, and then go to work with all the professional responsibility of a fully licensed Speech Pathologist. These are educated, graduated professionals being treated like students. Instead of a restriction we are broadening their opportunities.

Ms. Buehler stated they would not view this as a restriction; they are not able to be employed in the state with any agency that provides therapy for adults and bills Medicare. They have to leave the state to work as a CF.

Ms. Taylor stated the language drafted for the provisional license does have further requirements to get the provisional licensure. This is where OGC sees it as a restriction. We do understand everyone is advocating for this, and I will move forward with only the provisional licensure if that is what you want us to do.

Ms. Vinson stated I think I understand; you are changing the language so that a CF could choose to register in the current form or get a provisional license. Ms. Taylor agreed, since it is OGC’s opinion that you may not have the authority to do only the provisional licensure. Ms. Davis then states “so what you are offering is the path of least resistance.”

Ms. Taylor pointed out page 18 under subsection (b) for the board members to read the language that is drafted for provisional license. Ms. Wilkins pointed out that as she sees it, this is requiring the CF to complete the steps for full licensure instead of a one page registration. So when they upgrade to a full license they already have it all completed. Doing it all on the front end. Many of these steps are already in place with the registration to keep pace with the whole of Health Related Boards. The application has changed; the rules have not caught up with what we are doing upstairs. Like the background check; it is not reasonable to assume or to permit someone to work with vulnerable individuals without a background check. Ms. Buehler agreed. The Board members took a few minutes to review the language. Ms. Buehler asked “so you feel this is the best avenue for us?”

Ms. Taylor stated they would need a vote on the language for provisional licensure. Dr. Vinson asked if they needed rules for registration and provisional. It needs to be clear that both are available. Ms. Vinson then asked what else has changed. Ms. Taylor stated the only change was the section they had discussed. Ms. Wilkins then explained that sometimes the formatting changes with the wording to make the rules more clear.

Ms. Buehler then asked Ms. Taylor to read the change aloud. “A supervising licensee may register a Clinical Fellow or request a Clinical Fellow apply for provisional licensure in the following ways.”

Ms. Davis then stated the language suggested that it was the supervisor's responsibility to register the CF. Ms. Taylor stated that this is the way the rule was already drafted. Ms. Wilkins interjected stating that she had a problem with that, saying it should be the applicant's responsibility and not the Supervisor's [to apply]. Ms. Taylor stated she and her supervisors had another draft of language. She explained they all discussed 3 different drafts for that sentence. The one she read was what they recommended. Ms. Taylor then read a second drafted sentence "A supervising licensee may request a Clinical Fellow register or apply for provisional licensure in the following ways."

Ms. Wilkins and Ms. Buehler pointed out it still asks the supervisor to be responsible. It should be the applicant's responsibility. Dr. Vinson agreed but stated it was reasonable to expect the supervisor be responsible to tell an applicant what is required but the applicant becomes responsible to complete the steps. A short discussion between Dr. Vinson and Ms. Wilkins regarding semantics of responsibility took place. Dr. Vinson stated she preferred the second sentence. Ms. Vagle then stated she agrees with Ms. Wilkins that the applicant should be accountable to send in the application. Mr. Williams then approached the podium and explained at times an applicant may not have a supervisor yet when they wants to get a provisional licensure. But the language sort of suggests a Clinical Fellow has to have a supervisor to get the process started. Carrie Crittendon asked if it could not say 'the applicant is required to...' Discussion to take out the language "requiring the supervisor to..." be taken out, and where that language came from. Ms. Taylor then stated the Board could vote to take the language out of the existing rules and she would take that back to OGC to make changes.

Bobbie Beckman approached the podium stating it was her understanding that before one can apply as a CF with ASHA you must already have a supervisor. Therefore the person employing would direct you, and sign off on the application. She then thanked the board for discussing this topic.

Dr. Vinson pointed out that to protect patients, it is not fair to let the supervisor off the hook, the supervisor may not know if the CF is registered at all. Ms. Wilkins stated the supervisor should check the CF is registered or licensed. Dr. Vinson and Ms. Taylor agreed having the supervisor responsible added a layer of protection to the public.

Ms. Wilkins suggested that the rules go forward as written so that the rule making document can be filed and the rule making hearing go forward and any tweaks be made at that time.

Ms. Buehler asked for a motion on this portion. Richard Morton made the motion, Ms. Crittendon seconded. Motion passed.

Ms. Taylor asked for clarification on the Motion, making sure it was regarding the second sentence she read and not the first.

The Board then took time to go over the additional changes in the rules page by page. The following comments were made.

- Section 1 is definitions, addition of ACE
- Ms. Davis pointed out that on item 31 - Registration the word Clinical Fellow needed to be added back into the definition. Ms. Taylor concurred.
- On page 6 The board proposed to unstrike (5)(b)
- Read out loud the limitations to supervision.
- Regarding continuing education - Ms. Buehler asked if it was possible if we could be more similar to ASHA guide lines which are 30 hours every 3 years. Licensee's think they are meeting ASHA guidelines but are not meeting ours. Ms. Wilkins explained that was not possible, all the Health Related Boards are audited on a two year cycle.
- SLPA direct and indirect supervision - Ms. Beckman again approached the podium to address the board. SLPA's have a narrow list of responsibility, i.e. they would not treat a

swallowing patient. It is confusing as a practitioner with SLPAs employed, 10% direct, and 20% indirect [supervision] yet must remain on site. In school programs there may be a few hours where there is not a Supervising SLP. Many agencies supervise differently, some have never been supervised, and the 10 and 20% are looked at as monthly even though it is clearly stated as weekly. Is there a way to give a little more autonomy for a bachelor's level person who has been trained for 100 hours? Ms. Buehler asked "How this impacts the services provided to children in the school?" Ms. Beckman replied "First and foremost is protecting our clients; clients receive individual therapy, they are not grouped, kids are not falling through cracks, and they receive medical follow up. Many children's lives have been impacted by SLPAs as well as SLPs. I want to continue to see services provided individually and not this billing game of 10, 15, 20 minute sessions. AHSA guidelines for ethical practice say 30 to 35 minutes is the bare minimum. Ms. Buehler asked "What do you do currently regarding supervision?" Ms. Beckman stated "Currently we provide 30% direct, we do indirect at least once a week. The SLP does diagnostic, writes out the plan of care, trains the SLPA on the child's specific needs following those goals, monitors them, provides direct and indirect supervision, reviews all notes and signs off on them." Ms. Buehler asked, "Are they on site?" Ms. Beckman stated "Not 100% of the time, the supervising therapist is on call. There is always an SLP within 30 minutes. The SLP sees the child every other session; if goals are not met changes are made." Ms. Buehler asked "How many children would have to be discharged with the 100% supervision?" Ms. Beckman answered "About 300 in the schools." Ms. Buehler stated "That's just you, thousands of kids would be impacted all over the state." Ms. Beckman agreed then continued to say: "An SLPA is like a first year CF student. There are talented SLPAs at the start of therapy when directed by a plan of care, outlined by the SLP CCC and monitored every other session. Services will be impacted at an early age, such as children in Head Start. Children in individual therapy move out much quicker. I would like to know is there a way to look at that 100% onsite supervision. It will negatively impact our clients, and families and I'm at a loss that we are moving forward with this without looking at the consequences to our kids. If CFs are licensed to work with adults we will lose more CFs for pediatrics. I'm asking the Board if there is still time to look at that piece, so that supervision remains at the 10 to 20%. Ms. Buehler asked, "The biggest change we made that will impact the children is the 100 percent onsite all the time because you can't afford to pay two people to be onsite 100% of the time?" Ms. Beckman agreed. Ms. Crittendon asked "When you talk about experience would it make sense that after "X" amount of years that they (SLPAs) gain more independence?" Ms. Beckman answered that the state is more stringent than ASHA. The AHSA guidelines are no less than 20% of the actual student patient contact time weekly. Kim Sparkman, Quality Director for Bobbie Beckman's company approached the podium to speak. "The ASHA guidelines go on to say that after 90 work days the amount of supervision can be reduced and determined by the supervising SLP. So it does give that ability to reduce or increase the amount of alone time once they feel the SLPA has been experienced enough. ASHA does not say anything about how much should be on site, ASHA only defines Direct Supervision as being onsite in view."

Ms. Buehler asked if there is a motion to keep or change what we have? No motion was made. Ms. Buehler asked for a motion to approve the changes in the rules and send them to Rule making. Mr. Morton made the motion, Ms. Crittendon seconded, motion carried.

Review/Approve Board Meeting Minutes

Upon review of the May 1, 2018 minutes, Ms. Davis made a motion, seconded by Ms. Crittendon, to approve the minutes as written. The motion carried.

Investigative Report

Board reviewed Investigative report; Balance of Civil penalties were added.
Speech Language Pathology – No new complaints.
Audiologist – No new complaints.
Speech Language Pathologist Assistants and Audiologist Aides –No new complaints

OGC Report

Ms. Taylor presented the following OGC report;

Disciplinary Activity

At this time the Office of General Counsel has no cases open against CDS licensees.

Ms. Taylor read aloud the Conflict of Interest Policy and Open Meeting Act Policy. Regarding the rules, we just went over the CDS rules. The Council of Hearing Instrument Specialist had updated rules presented to Government Operation Committee on July 25 and will go into effect on August 12, 2018.

Legislation

Legislative Liaison for the Department of Health Lacy Blair notified the Board that August 17th will be her last day. Patrick Powell will be able to assist the Board any way necessary.
Ms. Blair read summaries of the following Public Chapters:

Public Chapter 611

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in “redline form” to people attending the hearing.
This act took effect July 1, 2018.

Public Chapter 744

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency.
This act takes effect January 1, 2019.

Public Chapter 745 and Public Chapter 793

These public chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies).
These acts took effect July 1, 2018.

Public Chapter 754

This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member’s freedom of speech.

Freedom of speech includes, but is not limited to, a member's freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504.

Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity's sunset status, rulemaking authority and funding.

This act took effect April 18, 2018.

Public Chapter 929

This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule.

This act also prohibits any policy or rule by any agency that infringes upon an agency member's freedom of speech.

Finally, this act establishes that an agency's appointing authority shall have the sole power to remove a member from a board, committee, etc.

This act took effect July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act.

This act takes effect January 1, 2019.

Public Chapter 1021

This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the Chancery Court nearest the place the action arose, or in the Chancery Court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order.

This act took effect July 1, 2018.

Administrative Report

Yvette Vagle provided the administrative report. As of August 06, 2018, there are a total of 434 licensed Audiologists, 2835 licensed Speech Pathologists and 129 registered Speech Language Pathology Assistants.

Between May 1, 2018 and August 6, 2018

There are nineteen (19) new Audiologists, twenty-one (21) new audiology clinical externs, eight (8) retired, six (6) expired, a total of fifteen (15) Audiologists have renewed their licenses with zero (0) online for a percentage of zero (0) percent, and one (1) reinstatement.

There are one hundred twenty-four (124) new speech language pathologists, seventy-one (71) new clinical fellows, forty-four (44) retired, twenty-seven (27) expired, eighty-four (84) Speech Pathologists have renewed their licenses with zero (0) online for a percentage of zero (0) percent, and seventeen (17) reinstatements.

There are six (6) new Speech Language Pathology Assistants registered, two (2) retired, two (2) expired, a total of eleven (11) Speech Language Pathology Assistants renewed their licenses with zero (0) online for a percentage of zero (0) percent.

Ms. Vagle explained there was an issue with the online renewal system during this time, therefore there were zero (0) online renewals.

Ms. Vagle reviewed the remaining scheduled Board meeting dates for 2018 and 2019:

November 1, 2018
February 5, 2019
May 7, 2019
August 6, 2019
November 5, 2019

Newly Licensed/Registered

Upon review Mr. Morton made a motion to ratify the newly licensed Speech Pathologist, Speech Language Pathology Assistants and Audiologists, seconded by Ms. Crittendon, to approve the following newly licensed applicants. The motion carried.

Newly Licensed Speech Pathologists

6444 Abercrombie, Laven Abby	6475 Degra, Whitney Marie
6461 Adams, Cassidy	6210 Destefano, Andria
6529 Anderson, Mary Jean	6418 Diehl, Beth
6392 Banham, Jennifer	6177 Dodd, Logan Elizabeth
6167 Barry, Lydia Lowe	6536 Dowling, Ashton Doane
6188 Beaudette, Danielle M.	6270 Dupper, Christine C.
6438 Beck, Paige	6171 Eibl, Emily
6431 Bednarzyk, Leah Tess	6530 Emerson, Jillian Johnson
6455 Bohannon, Megan	6528 Greig, Patricia M.
6208 Bonham, Kelcy V.	6414 Hamby, Jennifer N.
6225 Bowlds, Amanda M.	6174 Hansen, Keri L.
6534 Briscoe, Lauren Allen	6295 Hart, Danielle Marie
6247 Buckner, Brittnay T.	6195 Hitch, Christine Louise
6387 Burgess, Mary	6244 Ingram, Sarah Lawson
6538 Butt, Bethany A. Glass	6287 Jetton Emily Odom
6524 Caldwell, Julie Ann	6541 Johnson, Deanna Nicole
6412 Calleja, Jimena	6239 Johnson, Emaly M.
6243 Canterna, Michelle M.	6259 Jones, Layne R.
6235 Cantrell, Julianne H.	6429 Jones Theresa
6434 Carey, Matthew John	6189 Jordan, Catherine C.
6190 Case, Elizabeth M.	6425 King, Amie Marie
6099 Clark, Charlotte A.	6545 Koula, Katelyn Jude
6207 Clark, Katherine W.	6217 Layne, Ashley Harmon
6220 Cochran, Ashley M.	6173 Leitnaker, Leah A.
6496 Connor, Laura Winchell	6428 Lewis, Marialyce
6433 Crane, Paisley	6440 Lines, Amanda Lynn
6242 Culwell, Caroline C.	6114 Locke, Kathryn P.

6464 Logan, Candace
6281 Lovelace, Morgan K.
6161 Lowczyk, Sara M.
5759 Lowrance, Debra L.
6442 Mashburn, Ashley Diane
6508 Maxey, Allison
6537 McCloskey, Natalie M.
6309 McCurry, Gina M.
6422 McKie, Brett Rousell
6345 Moadi, Sara
6238 Monday, Stormy
6288 Monteverde, Morgan T.
6274 Myers, April N.
6136 Norcross, Grace F.
6233 Ortega, Emily A.
6526 Pak, Natalie Sung Ae
6450 Pasternak, Caitlin
6449 Patton, Allison
6473 Patton, Natalie
6518 Peele, Alexandria
6302 Phillips, Payton B.
6246 Pierce, Catlyn M.
6512 Powers, Lakala
6160 Race, Katherine E.
6403 Rodriguez, Iliana
6514 Rose, Elizabeth Adams

6453 Rose, Jenna Coleman
6164 Rumbarger, Mary Larkin
6481 Sedgley, Jessica
6470 Shoffner, Amber
6237 Silverii, Sarah
6379 Simmons, Lauren C.
6547 Simpson, Charissa Leigh
6551 Smith, Jerrica Hope
6490 Stevenson, Megan Joyce
6452 Thomas, Stacey Merin
6205 Tiefel, Abigail
6457 Tobia, Rhonda Michelle
6409 Torgersen, Melissa
6454 Underwood, Allison Smith
6406 Venzon, Lisa Renee
6236 Walker, Emily L.
6546 Walker, Mary Kathryn
6447 Westphal, Kristen Copeland
5755 Whetsell, Lyndsay P.
6226 Whipple, Jenna Nicole
6253 Wiebke, Ellen
6261 Wolfe, Callie M.
6186 Wood, Abigail
6427 Zeldin, Victoria
6436 Zeller, Linsey Lee

Newly Licensed Audiologists

1906 Berlin, Alexandra Grace
1844 Cavitt, Alexandra L.
1829 Clearly, Michael P.
1849 Drolet, Jaclyn V.
1879 Frasso, Jenna Anne
1880 Grome, Rebecca
1901 Heitzinger, Christina Jeanette
1895 Hogue, Katherine Lydia
1903 Hopkins, Alexandra

1830 Horn, Claire McElwain
1822 Ingram, Anna W.
1891 McCann, Emily J. Garrett
1882 Murphy Holly
1840 Smith, Alexandra L.
1877 Tisdale, Anne Katherine
1836 Waggoner, Kristen Nicole
1900 Warren, Sarah Emily
1870 West, Sarah Elizabeth

Newly Licensed Speech Language Pathologist Assistants

567 Cox, Jessica Renee
538 Draghi, Marilyn C.
558 Hallham, Amanda Marie
546 Herron, Brittani

565 Malouf, August Clair
561 Richards, Gabrielle Nichelle
552 Rogers, Alice

Reinstatements

Upon review Mr. Morton made a motion to ratify the reinstatements of Speech Pathologists, seconded by Ms. Crittendon, to approve the following newly licensed applicants. The motion carried.

Speech Pathologist Reinstatements

5593 Anderson, Neeley Slattery
1998 Camarata, Mary N.
5525 Cliff, Starr
4672 Cofer, Stephanie R.
786 Davenport, Anna Christina
4894 Dotson, Jennifer R.
4881 Fayne, Ashia N.
5346 Giles, Hannah K Lloyd
3845 Harvey, Jennifer, L.

950 Jones, Watson Lori
2703 Lattus, Jessica A.
3196 Lewis Julie T.
2379 Martin, Laura Simmons
3919 Miliam, Michelle Frederickson
4665 Paslick, Courtney M.
4074 Ray, Amanda G.
3134 Usery, Susan L.

Audiologist Reinstatements

1543 Novakovich, Michelle Anne

Correspondence

No correspondence at this time

Adjournment

With no other Board business to conduct, Ms. Crittendon made a motion, seconded by Ms. Buehler, to adjourn the meeting. The motion carried, and the meeting was adjourned at 12:03 p.m.