

**TENNESSEE BOARD OF COMMUNICATION DISORDERS AND SCIENCES  
MEETING MINUTES**

**DATE:** November 10th, 2020 Revised

**TIME:** 10:00 A.M., CDT

**LOCATION:** Health Related Boards  
WebEx Meeting

**BOARD MEMBERS**

**PRESENT:** Debbie Starr, Au.D, Audiologist, Board Chairman  
Alicia Barker, Audiologist  
Carrie Crittendon, Au.D, Audiologist  
Carren Mills, Speech Pathologist  
Richard Morton, Citizen Member  
Ellen Pearson, Speech Pathologist  
David Haynes, MD, Otolaryngologist

**BOARD MEMBERS**

**ABSENT:**

**STAFF MEMBERS**

**PRESENT:**

Teddy Wilkins, Unit Director  
Doris VanOvermeiren, Board Administrator 1  
Ashley Fine, Assistant General Counsel

Due to gathering restrictions imposed by the Covid-19 virus, a virtual meeting was held via WebEx.

Ms. Wilkins read the opening remarks into the record, asking everyone to introduce themselves for the record; to state whether everyone could hear each other, and whether or not the members wished to proceed to hold the meeting virtually. Mrs. Wilkins expressed to the board a special thanks to the staff, Ms. Latonya Shelton, Doris VanOvermeiren, and Ms. Regenia Wheeler for the hard work they have accomplished for the board.

Motion to hold the meeting electronically was made by Mrs. Mills made a motion, seconded by Mr. Morton, A roll call vote was conducted, and all Board members were present.

Ms. Debbie Starr, Board Chairman called the meeting to order at 10:00 a.m.

Mrs. Pearson made a motion, seconded by Mr. Morton

A roll call vote was conducted, and all Board members were present.

## **Review/Approve Board Meeting Minutes**

Upon review of the August 4, 2020 minutes, Ms. Mills made a motion, seconded by Mr. Morton, to approve the minutes as written. A roll call vote was held, and all voted in the affirmative. The motion carried.

## **Investigative Report**

Ms. Lori Leonard, Disciplinary Coordinator for all non-nursing Boards gave the following report:

### **Summary of Currently Monitored Practitioners:**

There are three (3) currently monitored practitioners; one (1) under a Board Order., One (1) under Probation, and one (1) under Revocation.

### **Board Statistical Complaint Report**

**SLP's:** Four new complaints received in the office for Investigation and complaints for the year 2020, there were One (1) new complaint for falsification of records, One (1) fraud and false billing and Two (2) for unprofessional conduct. A total of four (4) complaints were closed. Two(2) were closed and sent to the office of General Council for formal discipline and Two (2) were closed with no action, there are Five (5) open complaints pending review and/or investigation.

**Audiologist:** There were six (6) new open complaints in 2020; Two (2) for malpractice, One (1) for unprofessional conduct, One (1) for Medical records request, One (1)for a lapsed license, One (1) for practice beyond the scope. Have closed eleven (11) complaints. Nine (9) were closed and sent to the office of General Counsel for formal discipline and two (2) complaints were closed with no action. There are currently three (3) open complaints that are being investigated and or reviewed at this time.

**SLP-A's:** No new complaints in 2020, no closed complaints and zero complaints currently opened to be investigated and or review at this time.

**Audiologist Aides:** There are no new complaints in 2020, no closed complaints and no complaints opened to be investigated and or review at this time.

## **Financial Report:**

Financial report is given by Alicia Grice for the year fiscal end of year 2020.

As a reminder the fiscal year report runs from July 1<sup>st</sup>, 2019 thru June 30<sup>th</sup>. 2020.

The revenue is up, and expenditures is down ending in the clear at just over \$72000.00 that was applied to the reserve balance. Revenue sources show for the year, over 80% of revenue was collected from application and renewal fees. Comparison of the allocated expenditures for the last 5 fiscal years and revenues have gone up steadily and met the challenges of 2020. The chart shows that the board has consistently had revenue that exceeded the expenditures. The calculation for the board and give the opinion and consideration of whether there would need to be fee structure for the board. This is done by dividing the average of the last 3 years operating expenditures and multiplying by 2 and compare that to the carryover or reserve balance. However, with this not being a typical year and the ongoing pandemic and not sure what the impact to the board will be. We are not recommending making any changes at this time. And

please keep in mind this report only includes 3 months of the pandemic financial impact. The hope is in the next fiscal year we will have more information to provide to the board.

### **OGC Report**

Ms. Ashley Fine ask the Board Chair Ms. Starr, to allow the legislative liaison that is attendance to give the legation Report and then resume with the OGC Report. Board agrees. There were problems with onboarding the lesion and it was suggested Ms. Ashley Fine present the following OGC report. Ms. Fine read aloud the Conflict of Interest Policy and Open Meeting Act Policy.

### **Disciplinary Activity**

Currently there are Eleven (11) open cases in the Office of General Counsel. One (1) consent order to be present today for ratification and no contested cases scheduled for this meeting. The rules for provisional licensure are in internal review.

The consent order is for April Instagall. Tennessee licensed Audiologist, License number 1810. On or about December 18<sup>th</sup> respondent pled guilty to possession of methacholine in about of the amount of 1 to 2 grams in circuit court of Desoto County of Mississippi the 17<sup>th</sup> Judicial District. The respondent was ordered to submit to 12 months of drug testing, pay the court cost, a \$1000.00 fine and pay fees of \$575.00. The respondent was represented in this case and as a result of investigations the respondent agreed to have her license to practice Audiology suspended for fifteen days, after the suspension her license would be placed on probation for a minimum of 2 years, she would have to get an evaluation with an entity whose purpose is to identify substance abuse issues within 30 days, have the evaluation forwarded to the department with in fifteen days of completion of the evaluation, submit written proof of completion of all the recommendations in the included in the evaluation to the disciplinary coordinator. The Office of General Counsel would ask the board to except the consent order and ratify it.

Upon review Ms. Crittendon made a motion seconded by Ms. Pearson to approve. Roll called was made and the motion carried Consent order approved.

Ms. Fine ask Ms. Starr Board chair if she would like the documents mailed or permission for Mrs. Wilkins to sign the documents, Ms. Starr ask Mrs. Wilkins to sign the documents.

### **Legation Report**

Mr. James Held, legislative liaison with the office of Legislative Affairs gave an update on information legist ration that the Tennessee Assembly passed in 2020. One is the initiative that the Department of Health passed and one from the General Assembly that was passed this year. Public chapter 594, the Department of Health, actual Legislative initiative and named it the Licensure Accountability Act. The bill allows all the Health-Related Boards to take action against the licensee that has been disciplined by another state for any acts or admissions that would constitute grounds for discipline in Tennessee. Mr. Held gives examples of explanation as to what a duel licensee in a border state that has done something state that constitutes discipline in that state but be able to still practice in Tennessee. Until this Public Chapter was passed only a few boards had the ability to take action against a licensee if they had done something in another state. The first part of this law makes sure every board has the ability to take action against a licensee if there were a situation as such. The second component expands the available emergency action for a board which will allow action for a board allowed beyond a simple summary suspension and this is from a scalpel approach rather than a sledgehammer approach when dealing with suspensions.

Finally Act establishes the notification of law changes for health practitioners can be done so by the online posting of the law changes to the respective board website and the notice must be maintained online for two years following any law change. This act took effect on March 20<sup>th</sup> and that is the Department of Health Licensure Accountability Act, Public chapter 594. Continuing with Public Chapter 738, this bill was passed by the General Assembly relative to public records and explains it prohibits government entities from authorizing the destruction of public records if the government entities knows if the records are subject to any pending public records request. Mr. Held is surprised this was not already a law and speaks of issues with Hamilton County and not aware of the details and they wanted to correct this issue, making sure that when there was destruction of public records the Public Request Coordinator would have to ensure to the government entity that the records were not subject to a Public Record requested .The records can still be disposed of in the same way and same retention schedule policy in the normal course of business and ensure that the records brought in say they are without knowledge that the records are subject to a Public Record request. This act took effect on June 22<sup>nd</sup> and that is Public Chapter 738. The last component of the Legation is Telehealth, the General Assembly through a few special secession this year did pass an expansion of telemedicine practice in Tennessee, this does cover health professionals under TN code title 63 of which the board is under and make the board aware that it did pass this year for the telemedicine. Mr. Held states he will make sure Ms. Fine and Mrs. Wilkins will get all the legislative updates for the board's records.

### **Administrative Report**

Teddy Wilkins provided the following administrative report:

As of November 11, 2020, there are a total of 484 licensed Audiologists, 3169 licensed Speech Language Pathologists and 137 Speech Language Pathology Assistants.

#### **Between, August 2<sup>th</sup>, 2020 thru November 8th, 2020**

There were eleven (11) new licensed Audiologists, one (1) retired, zero (0) expired , 71 renewals with 54 of those on line, zero (0) reinstatements of license. (3) new audiology Clinical Externs 29<sup>th</sup>. 2020 for the renewal time.

There were ninety-five (95) newly licensed Speech Language Pathologists, eighty-five (85) new Clinical Fellows licenses, seven (7) retired; zero (0) expired). There were 383 Speech Pathologists have renewed licenses; Online Renewals were 315 and no reinstatements

There were five (5) newly registered Speech Language Pathology Assistants, zero (0) retirements, three (3) expired, and zero (0) reinstatements. A total of 14 renewals for Speech Language Pathology Assistants of which 10 were online renewals. No reinstatements

The numbers above show no licenses expired due to the Governor extending all expiration dates to August 31, 2020.

The next meeting will be held on February 2, 2021. It is likely we will have a virtual meeting due to gathering restrictions.

### **Newly Licensed Speech Pathologists**

Upon review Ms. Crittendon made a motion seconded by Ms. Mills approve the following newly licensed Speech Language Pathologist. Roll call was made, and the motion carried.

### **Newly Licensed Audiologist.**

Upon review Ms. Barker made a motion seconded by Ms. Pearson approve the following newly licensed Audiologist. Roll call was made, and the motion carried.

### **Newly Licensed Speech Pathologists Assistants**

Upon review Ms. Mills made a motion seconded by Ms. Barker approve the following newly licensed Speech Language Pathologist Assistants. Roll call was made, and the motion carried.

#### **Agreed Citations:**

None at this time.

#### **Correspondence.**

None at this time.

### **Rule Making, The Discussion of Telehealth**

Ms. Fine addressed the issues regarding [1370.1.21](#) with the proposed changes to the rules and statute [63-1-155](#) concerning telehealth.

Ms. Fine speaks of the Legislation Acts on the Telehealth statute. The healthcare provider now means any individual acting within the scope of a valid license issued pursuant to this title. Additionally, the definition of healthcare provider patient relationship is amended to account for anyone who affirmatively undertakes to diagnose or treat and to actively participates in the diagnose or treatment. Ms. Fines speaks of the last board meeting where it was discussed concerns of the effectiveness of the rule for Telehealth practice regarding Speech Language Pathologist and Audiologist. The Statutory amendment removed all of the issues. The rule and is now effective again. Speech language Pathologist and Audiologist can now practice telehealth. The statute does not allow clinical externs or students to practice Telehealth because they are not licensed. Clinical Fellows with the provisional license do qualify and practice telehealth because they have a license. The remaining issues that is being review by the department as to the determination as to whether Speech Language Pathologist registration qualifies under the statute and is an ongoing issue. Ms. Fine states that by the next board meeting she will be able to give more advice clarity on the issue. And that at this time Speech Language Pathologist and Audiologist and Clinical Fellows can practice telehealth. Clinical externs cannot under title 63 and waiting to determine whether or not if Speech Language Pathologist Assistants can or cannot practice telehealth. Ms. Mills ask if graduate student clinicians or students under supervision can practice telehealth. Ms. Fine responds students cannot practice telehealth. Dr. Haynes ask if the professions can only practice in Tennessee with the patient residing in Tennessee. Ms. Barker asks if this is means in- secureness and in secureness. Ms. Fine responds that to practice Telehealth, face to face and in synchronous and Stored for technology. Ms. Fine gives explanations for the rule and reminds the board they may discuss to amend the rule. Dr. Haynes ask Ms. Fine to give the definition for synchronous and Ms. Fines gives the definition. Ms. Barkers also explains how synchronous works. The board chair Ms. Starr ask the board members if they have suggestion for this situation. Ms. Barker suggests TAASLP has information in the update that was sent to the board that may cover the questions ask. Ms. Starr ask the board members if they need to keep the sincereness in or amend, struck out, deleted, and ask Ms. Fine if that would be an option. Ms. Fine responds, that the board can evaluate whether or not they want to maintain sincereness prohibition that is in the rule. And explains the telehealth statutes. Ms. Starr ask should the

board have the discussion now or wait to discuss it with TAASP information and what is Ms. Fine's recommendation. Ms. Fine gives suggestions the board that they can wait for the discussion with TAASLP or vote on it, table the discussion it would be the board's decision.

### **The Discussion of changes to the rules**

Ms. Fine introduces Ms. Seek of TASSLP and before doing so, advises that TAASLP has suggestions for the amendment changes and the telehealth rule. Ms. Fine suggest to the board they should discuss all the necessary changes to the amendments at one time and try to make it in one rule packet and one vote.

Ms. Jamie Seek Vice president of Legislation Affairs for the TAASLP. Ms. Seek speaks of possible rule changes she has submitted to the Legislation. The first reviews for the A-Sincereness and In-Sincereness or telehealth issue. Ms. Seek suggest she has other amendments also to discuss and whether the board would like to review and discuss them at this time or table it for another discussion. Ms. Seek speaks of the current rule that deals with prohibition of the A-Sincereness of telehealth, 1370-01-21 section 5, no Sincereness of telehealth is allowed and points to the rules given to the board underlined in red for the suggested changes by TAASLP as it is discussed. Ms. Seeks again suggest to the board on the changes and wording issues of the rule. The next topic is telehealth supervision. Ms. Seek addresses the telehealth supervision and that the changes are related to the SLP clinical fellows are able to engage in telehealth and the clinical externs are not able to engage in telehealth based the upon the General Legislation that went through in August, and that the SLPA's and decision are still remaining for that area. They are required to have supervision from a licensed SLP. Ms. Seek refers to the rule 1370-01-01 section 18 for direct supervision and reads the rule and changes. Ms. Seeks explains of the circumstances concerning COVID and how it effects clinical fellow supervision and the recommendation for changes to the telehealth rules. That in the current rule 1370-01-21 is there is no mention of tele-a supervision or telehealth supervision allowed for the clinical fellows. Ms. Seeks refers to Ms. Fine's statement that at this moment as to what will happen with the SLPA's and external externs are not able to use the telehealth at this time. TAASLP would make the recommendation for the suggested change that as direct supervision or observation is needed for clinical fellows. Direct observation is defined by on sight supervision with the suggested change to the rule to include the practice of telehealth supervision or tele-a supervision which includes directing, coordinating, reviewing, inspecting, and approving each act of service. The recommended change is for telehealth for Speech Language Pathology, clinical fellows by a licensed Speech Language Pathologist is allowed in this section. These are the recommended changes that TAASLP would like to bring to the board. One is the A-Sincereness telehealth therapy, two dealing with the addition of allowing for supervision of SLP clinical fellows and this is the group that can participate in telehealth. Third area of suggestion addition is along the lines of the current legislation that was passed in August by the General Assembly which did expand the definition of a healthcare provider that allowed practitioners licensed under titled 63 to provide tele-a therapy. Ms. Seeks speaks about the legislation on the Sunset report for April 20,2022 and that TAASLP is actively involved with to make sure the necessary changes are made for this modality of practice for our professionals. Ms. Seek recommends one thing that has been brought to TAASLP's attention and is not a rule change, stating this can be taken up for the next board meeting, something brought up by other allied health professional boards is suggested addition or proposed statement is being added to rules. Such as a position statement. Recognizing the modality or validity of the modality of telehealth for the professionals that the board is covering. Ms. Seeks reads the writing for the changing of the words for Communication Disorders and Sciences recognizes that licensed audiologist, speech language pathologist and clinical fellows diagnose and suggest to Ms. Fine to change the verbiage to diagnose and or treat that would be in line with the Tennessee telehealth practice state statue. Diagnose or treat clients in the delivery of their services. The Board of Communication Disorders and Sciences recognizes that telehealth is a valid method of services delivery for audiologist, speech language pathologist, including clinical fellows and should be utilized for service delivery. Ms. Seek reminds the board that a decision does not have to be made at this time and there is the Sunset that was passed in August. And TASSLP has lot of work that will need to be

done with the General Assembly. At this time TAASLP will make the recommendation for three rule changes and the possibility of the position statement added at some time and the fact that we have a Sunset. Dr. Haynes ask Ms. Seek the definition of the asynchronous and in-synchronous. Ms. Seek explains hoe the asynchronous tele-a therapy works. Dr. Haynes ask for Audiologist, if anyone knows if over the counter hearing aids companies can communicate with Tennessee clients by both asynchronous and in synchronous communication as well. That they can do programing and instructing both A-Sincereness and In-asynchronous from another state, would that be correct. Ms. Starr states that does not fall under the board. Dr. Haynes asks if this situation is already happening in Tennessee, Ms. Crittendon confirms that it is happening here. Ms. Fine suggest she will research into the statutes for Tennessee and the other state. Ms. Mills ask the question concerning the graduate students under supervision licensed certified SLP supervisors or Audiologist, would they be restricted in the supervised roll of participating in telehealth or tele-a medicine based on what is described today. Ms. Fine answers the statue as amended requires a license. It does not allow people to working under supervision of that license to practice Telehealth. And that they would not be able to practice under title 63 regardless if you are looking at it as an asynchronous or In-synchronous modality. Ms. Mills asks even if they are 100 percent under their licensed supervisor, Ms. Fine responds that the statute does not address it, and it is something the board and associations would look into And require a legislative change to the statue. Ms. Mills and Ms. Seek discuss the restrictions due to COVID and students need to complete their supervision. Ms. Seek assures Ms. Mills that TAASLP lobbyist is working very digitate with the legislation to let the universities know they are trying to get the situation fixed as quickly as possible for students and universities. Ms. Starr ask the board if any discussion is needed concerning the topic from Ms. Mills. Ms. Crittendon ask if the change can be made today and Ms. Starr comments yes and that Ms. Fine can give advice and suggestions for the board. Ms. Baker confirms there are three different options or table the changes and Ms. Starr confirmed yes and reminds that Ms. Fine suggest making the changes as a package and the board can still make a proposal. Ms. Barker proposes to adopt the suggested rule changes and table the position statement for the next board meeting for further discussion. Ms. Pearson seconds the motion. Ms. Starr confirms the motion. Ms. Mills confirm the motion is for the 1370-01-25 that changes. The board discusses the vote on the changes to recommendation from TAASLP regarding the rules and will vote on them naming each rule and the motion. Ms. Fine suggest going through the rules individually and define each one and remove the word diagnose now because of the practice act. Ms. Fine suggest being specific. Ms. Fine also suggest changing the title of the rule to telehealth and tele-a supervision and have everything pertinent to the telehealth and supervision under the rule. Dr. Haynes speaks of the needed changes in these critical times with the pandemic and better access to care with minimum risk and better patience care during these critical times. Ms. Starr thanks Dr. Haynes and states that it is the porous of the board to give care to the public and safeguard. Ms. Crittendon agrees. Ms. Fine wants to point out the change to the rule 1370-01-21 paragraph 11 bottom of the first page, and discusses the current rule requirements for clinical fellowship that includes no less than 36 activities in the following combination, 18 direct onsite observation with one hour totaling one onsite observation and 18 monitored activities which may for example include telephone conferences, taped interviews and record views and questions if that is direct and indirect supervision and ask if that will be a limit or conflict in paragraph 11. Ms. Mills confirms if it is indirect or direct observation. Ms. Fine states yes this is what it means. Ms. Fine and the board discuss the verbiage for the rule 1370-01-21 paragraph 11. Mrs. Wilkins ask Ms. Starr if Ms. Barker would divine her motions for the discussion on the changes recommended by TAASLP for the rules. Ms. Barker made a motion to table the position statement for needed information from Ms. Fine and adopt the rules changes with the suggested wording on when direct observation is needed, adopt the wording on the position statement, taking out the word diagnose. Ms. Fine states, that the board has an existing policy statement and wants to replace it with the position statement, then the board would need to repeal the policy statement on the existing rule. Ms. Barker wants to change her motion to and read more information on the changes. Ms. Barker request change her motion to adopt the rules changes with the suggested wording on when direct observation is needed, propose to table the position statement until we can review position statement. Seconded by Ms. Mills. A vote roll call was taken. Motion carried

**New Business**

No new correspondence currently.

**Adjournment**

With no other Board business, Ms. Mills made a motion, seconded by Ms. Alicia Barker. Vote to adjourn, motion carried.

*Ratified by the Board February 2<sup>nd</sup> 2021*



