Meeting Minutes IOWA BOARD OF HEARING AID DISPENSERS

November 5, 2012 Lucas State Office Building, 5th Floor Conference Room #526 Des Moines, Iowa

Greg Moore, board chair, called the meeting to order at 9 am.

Members Present:

Gregory Moore, Au.D, HAD Jon McAvoy, Public Member Stanley Haugland, MD, Public Member Dotty Walters, Au.D, HAD Catherine Dangelser, Au.D

Staff Present:

Sharon Dozier, Board Executive Barb Christiansen, Administrative Assistant Pam Griebel, AAG Marvin Firch, Outreach and Education Coordinator Barb Huey, Bureau Chief

Guests Present:

Cory Popelka, Miracle Ear Diana Kautzky, Woodard Hearing Centers and IHA board representative Todd Maas, Woodard Hearing Centers

Review Agenda

Dozier noted that under new complaints, the correct case numbers are #12-003 and #12-004.

Approval of Minutes

A motion was made by McAvoy to approve the meeting minutes of August 6, 2012. A second was received from Dangelser. All ayes, opposed none, motion carried.

Reports

Board Executive – Sharon Dozier reported that one candidate is taking the exam today at DMACC. The International Hearing Society (IHS) has completed beta testing on the new licensure exam and is in the evaluation of items and the psychometrics of the exam. The IHS recommends that states revise rules as needed to accommodate the changes in the exam. A committee will meet today following this meeting to discuss internet and mail order hearing aid

sales. Board members may wish to attend this meeting; if three or more members wish to attend, the board meeting will reconvene following completion of the agenda items and break. The Rules Committee met this morning and will have recommendations under their report.

Bureau Chief – Barb Huey asked members if there are problems with the secure email process. One member is still having problems. Huey said Marvin Firch may be contacted regarding issues, and reminded everyone that the email attachments disappear after 14 days. She encouraged members to save the documents to their computer hard drive.

AAG – Pam Griebel reviewed the Governor's Orientation for New Board and Commission members, held in October. She provided the handout from the legal overview she gave at the orientation. Griebel noted that there was also a presentation on ethics, and she will review information on ethics and conflict of interest issues at the February board meeting. Griebel noted the legislatively mandated Public Information Board, which becomes effective July 1, 2013. Additional information will be provided after rules are available at a later date, but it appears likely that much of the work of the board will be the provision of mediation and informal advice on issues regarding open meetings law. Griebel also noted that the handout includes the index of Sunshine Advisories. Griebel reviewed Executive Order 80, which provides an opportunity for stakeholder groups to provide recommendations on rulemaking. She noted that the executive order adds a step to rulemaking that gives department directors the option to form a stakeholder group. Griebel's office has issued guidance on this, and she noted that generally boards will continue to follow the current process of providing outreach to interested persons and organizations to gather input on rulemaking.

Chair – Greg Moore – No report was given

Committees -

Rules: Dotty Walters reviewed the topics that the committee will be recommending for rules amendments. These include the changes needed for the new online national exam once it is implemented and additional language to clarify the requirements for requesting an exam retake following three failures. Walters referenced the question that was raised by licensed audiologist and hearing aid dispenser Mike Tysklind regarding the practice chapter (Chapter 123). The question refers to the rules regarding the requirements prior to the sale of a hearing aid. If a physician exam has occurred, a new hearing test should be required. Walters noted that if the physician's recommendation does not indicate the need for further testing, that also needs to be recognized in the rules. The Committee recommends that the rules be made more clear by stating that anytime a medical evaluation has been completed and the client returns to the licensed hearing aid dispenser, the licensee needs to update the client history and complete additional testing, unless the physician states otherwise. If the physician provides an audiogram, the licensed hearing aid dispenser would not need to repeat it. The Committee recommends that

the rule for selling a replacement hearing aid for children under the age of 12 be clarified, since the law and rules require medical clearance within six months of selling a hearing aid. The rules will clarify that a lost or damaged hearing aid may be replaced within one year.

Catherine Dangelser reported on the Rules Committee review of correspondence from Miracle Ear regarding the requirements for reporting the office address in the discipline rules. She noted that the Committee recommends a revision in the rule for advertisements at 124.2(6), to require the address of the primary site of practice. This will be discussed further under New Business.

The Rules Committee also discussed the reporting requirements in Iowa Code section 154A.19 and asked AAG Griebel for guidance. Griebel stated that the board could request a change in the statute to require corporations selling hearing aids to automatically file a statement that they agree to obey the law. Further, the board could seek the authority to take action against a corporation that is not in compliance.

Public Comment

Cory Popelka asked if the board has considered a practical examination. Sharon provided a brief history on the Iowa Board's practical exam, which was eliminated in 2000. To date, the board his not indicated an interest in reviewing the possibility of reinstating the practical exam. Some states require a practical exam, and there would be a cost associated with this. Mr. Popelka stated that he felt much more competent after taking a Nebraska practical exam for licensure. He would like the board to implement a practical section of examination. Todd Maas stated that he passed the test without ever looking in an ear. Diana Kautzky added that the practical examination should be researched further. The board requested that the board executive contact the Iowa Hearing Association for input.

Administrative Rules

There were no rules on the agenda for review today. Dozier will draft the Rules Committee recommendations, schedule a conference call and then get the rules through the process. The board agrees to review the practical exam, and this will be on the next meeting agenda. Moore requested that the Rules Committee review this issue before the next meeting.

Applications

None for review

New Business

Correspondence received from Martha Tabor. She is an audiologist with AEA 1. Ms. Tabor asked whether school audiologists have the authority to dispense hearing aids. Dozier noted that in the past, board members have been opposed to this. Griebel stated that there are certain exemptions in the law under 154A.1(3) and 154A.19, and there may be other provisions in the

law that are applicable to the question. If the school only loans these hearing aids and the cost of the hearing aid is incurred by the school, it appears the activity falls within the exemption. However, since the law is vague regarding the involvement of a physician in the activity, it would be advisable to pursue a formal declaratory ruling. This would be consistent with a 1999 letter from the board on this issue. A request for a declaratory ruling would be a formal process that would be initiated by the AEA, with a citation to the legal authority for the activities of the school audiologist. There was agreement to correspond with Ms. Tabor to suggest this.

Correspondence received from Cory Popelka – Mr. Popelka provided information on Miracle Ear. He is a part owner of 14 offices in Iowa and Nebraska. He largely serves rural market areas and has started service centers for onsite provision of services in areas such as hotel conference rooms. He has communicated with Dozier about his advertising practices, and is requesting clarification on how to advertise these service centers, which are not at the primary address of the business. He requests that the primary place of practice be listed in advertising, since the client has the option of being seen at the primary office. His letter provides details of about the service centers and the employees serving clients. The advertising rules will be reviewed by the Rules Committee.

Complaints

There were none for review, and no closed session was held.

Hearings

None

2013 Board Meetings

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Moore noted that he and Walters will stay for the meeting on Internet sales. Many comments were received regarding this issue, most concerned with the lack of testing of clients. They will review how the Board and the Department of Public Health can work together to educate the public.

Adjournment

A motion was made by Walters to adjourn the meeting at 11:32 am. A second was received from McAvoy. All ayes, opposed none, motion carried.

The minutes were approved at the February 4, 2013 meeting.