

PRESIDENT'S MESSAGE

By: Lisa Cabiale O'Connor, President

Fall Conference 2010

The 2009 Fall Conference "Current Trends in Licensure and All That Jazz" was held in New Orleans September 10-12, 2009. Attendees were energized by the conference presentations and submitted a number of suggestions for topics to be covered during the Fall 2010 Conference. The NCSB Board of Directors is meeting in late March to finalize arrangements for that meeting. Be sure to mark your calendars for the 2010 NCSB fall conference to be held in Santa Fe New Mexico, October 14 through 16. The conference program will address current licensing trends and the implications for licensure in each state. More information about the conference theme and tentative program topics will be sent to member boards in early summer.

Strategic Planning

When the Board meets in late March in Santa Fe, there will be a continued discussion on the topic of Strategic Planning. Once again our goals for the next 2 years continue to include:

- Increase Communications with all State Boards regarding issues to be addressed and actions to be undertaken by NCSB
- Increase membership in NCSB
- Be THE RESOURCE in regulatory and licensure issues
- Benchmark NCSB with other like organizations

The Board is enthusiastic about pursuing these goals and is currently investigating application for a grant aimed at the regulatory arena and the work of licensing boards. The intent is to secure the Council's position as the "go to" organization for licensing and regulatory issues across the country.

Honors of NCSB

Honors of NCSB will once again be a part of the conference programming for fall, 2010. This award is intended to recognize an individual for his or her exemplary contributions to NCSB, a member licensing board in their state, or an individual employed by a member organization that addresses regulatory issues/concerns for the professions. At the Fall 2009 conference the Honors of NCSB were awarded to Ayn Stehr, J.D., the attorney for the Louisiana licensure board and an annual presenter on the legislative process at NCSB board member training sessions. Ayn was honored for giving of her time and talent on the national level to advance the professions, for sharing her knowledge of the legislative process, and for her ongoing dedication to consumer protection. The next edition of *Licensure* will highlight some of the accomplishments that earned Ayn this prestigious award. Look for more information regarding this award, and the call for nominations packet sometime in early March.

Providing input to the Board

Let us know what NCSB can do for you. Take a moment to send your message to me via email (lisa_oconnor37@hotmail.com) or fax (415) 383-7682. Your input is important! There is still time to get in your suggestions or ideas for the fall conference!

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CURRENT TRENDS IN LICENSURE THEME OF 2009 FALL NCSB CONFERENCE

The twenty-second annual NCSB conference, “Current Trends in Licensure and All That Jazz”, was held in New Orleans September 10-12, 2009. The meeting began with the pre-conference Board Member Training (see details elsewhere in this publication). The conference included sessions on telepractice, supervision, licensing the international graduate, regulation of support personnel, discipline, universal licensure, and ethics. Highlights of the conference included:

- Nina Antoniotti, Ph.D., RN, began with a keynote address describing the philosophy of telepractice—that of removing barriers of access to specialty health care services for remote-based populations through the use of technology. With respect to licensure, she emphasized that a license is not necessary for telehealth but is necessary for professional practice, and those licensure requirements should be determined by state licensing boards. Her presentation was followed by a panel discussion on cutting edge perspectives in telepractice—see article by Jack Lynch on this presentation.
 - A panel discussion on the use of alternative supervision methods was led by Stephen Harris (LA). He discussed the use of Skype technology as a means of supervising remote-based professionals.
 - Licensing the international graduate was another panel discussion moderated by Karen Stein (PA) and led by Lisa O’Connor (CA), Leila Salmons (TX), and Kerri Phillips (LA).
 - The first day concluded with the popular State Information Exchange where states represented at the conference discussed successes and challenges experienced by their respective boards the past year. A complete report on the State Information Exchange will be included in the Summer edition of *Licensure*.
 - Saturday morning began with a panel on support personnel. Moderated by Doreen Oyadomari (AL), the panelists included Donna Edgmon (AR), Sandy Capps (NC), Heather Johnson (KY), Leila Salmons (TX), and Marianna Walker (NC).
 - Groups then broke out into roundtables to discuss the topics of discipline (Kimberly Watson, AR), licensing international graduates (Leila Salmons, TX), support personnel (Lisa O’Connor, CA), and universal licensure (Theresa Rodgers, LA).
 - The conference concluded with an address by David Hodgson (Canada) on the role of licensing boards in addressing the topic of ethics.
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PRE-CONFERENCE WORKSHOP PROVIDES BOARD MEMBER TRAINING

The annual pre-conference workshop on September 10, 2009, focused on all aspects of board service. Ayn Stehr, a board attorney with a background in administrative law, discussed statutory authority, including the rulemaking process and the disciplinary process. Following that presentation was a mock disciplinary hearing that delineated the entire process from the initial letter of complaint to the testimony of witnesses to imposition of sanctions for each of the violations. Members of the audience served as the hearing panel and participated in the questioning of witnesses, in the examination of evidence, in deliberation of the testimony, and in the determination of appropriate sanctions. Ethical situations and dilemmas relating to the practice of speech-language pathology and audiology were then employed to guide attendees through the logical process of ethical decision-making and to provide them with an opportunity to receive and review complaints that might be brought before a regulatory board. Instruction was provided in drafting a consent order in response to some of the complaints, as well as suggestions for coding in reporting of sanctions to the national data bank. Plans are to offer the pre-conference workshop at the 2010 conference in Santa Fe.

TELEPRACTICE: CUTTING EDGE PERSPECTIVES

By: Jack Lynch

Telepractice continues to play an increasingly important role in the SLP and Audiology professions, and state licensing boards are rightly paying closer attention to this service delivery medium. Telepractice was a focal topic of the 2009 NCSB conference, which featured presentations on telepractice from :

- Nina Antoniotti, Telehealth Program Director for the Marshfield Clinic in Wisconsin.
- Lawrence Molt, Chair of the Alabama State Board and Associate Professor at Auburn University
- Janet Deppe, Director of State Advocacy for ASHA
- Stephen Harris, current Chair of the Louisiana State Board and Coordinator of Related Services for St. Mary Parish Schools
- Jack Lynch, Co-Founder of Presence TeleCare, LLC

The conference speakers painted a generally positive picture of telepractice. Ms. Antoniotti, the keynote speaker, advocated for thoughtful restraint in regulating telepractice, based on her extensive experience managing a telehealth program. Mr. Harris discussed his positive experience using Skype as a supervision tool in St. Mary's Parish schools. Lawrence Molt reported that more academic research is needed to establish best practices in telepractice; early research on telepractice efficacy is promising, with 27 of 28 studies showing positive results. Janet Deppe discussed state variability in regulation, as well as ASHA's efforts to develop model legislative language for the regulation of telepractice.

Open discussion on telepractice focused on licensure portability, specifically the possibility of establishing an interstate compact for telepractice similar to the 23-state Nurse Licensure Compact. The key question for participants was whether establishing a unique license for telepractice would require revision of each state's speech-language pathology and audiology practice act.

SLP telepractice has been studied and implemented since 1997, when a Mayo Clinic study showed positive results with the medium. Other pioneering programs include INTEGRIS health, a non-profit hospital in Oklahoma that has been serving 8 school districts since 1999; the OMNIE program in Ohio, which has been providing telepractice services to 4 rural districts; private practices serving school districts in Houston (Clinical Communications); Wisconsin (OnPoint Speech and Language Services); and West Virginia (LinguaCare). In addition, the National Rehabilitation Hospital, Tripler Army Medical Center, and the Visiting Nurse Service of New York have been utilizing telepractice in the provision of services. Approximately 40,000 telepractice sessions have been conducted to date. Consistent with results in academic settings, these programs have experienced strong client, SLP and family satisfaction ratings, with no instances of complaints.

The results of both the academic research and the existing telepractice programs lend support to Ms. Antoniotti's contention that efforts to regulate telepractice should respect the professional judgment of clinicians. Clinicians within the existing telepractice programs have diligently held themselves to the standard advocated by ASHA in its 2005 position statement: that the quality of telepractice services must be consistent with the quality of in-person services. They have acknowledged the unique aspects of the medium and have made thoughtful choices about technologies, personnel and processes. They have carefully evaluated the quality of the services using satisfaction surveys and control groups. They have informed clients about the unique

aspects of the medium and employed the latest encryption technology to ensure security. The client outcome data suggest that these efforts have been fruitful.

In regulating telepractice, state boards should consider the many circumstances in which telepractice can *enhance* services for a wide variety of clients, rather than just being a refuge of last resort for isolated populations. Examples include contact with specialists for low-incidence disorders, access to multi-lingual SLPs, or a preferred medium for clients who simply respond better to telepractice. By putting the full power of the internet at the clinician's disposal, telepractice may prove to be an important step forward for the SLP and Audiology professions.

NCSB RETURNING TO SANTA FE FOR 2010 FALL CONFERENCE

The 2010 Fall Conference will be held in Santa Fe, New Mexico, October 14-16, 2010. NCSB was held in Santa Fe in 2004, and there have been many requests to return to Santa Fe for another conference. The 2010 conference hotel, the Hilton Santa Fe, is just blocks from the Santa Fe Historic Plaza and will offer rooms at a rate of \$86.00 per night for single or double accommodations. Information regarding the preliminary program, as well as information about the hotel and transportation options to Santa Fe, will be mailed to member boards in early June.

APPLICATIONS FOR BOARD MEMBERSHIP AND INDIVIDUAL MEMBERSHIP

The mission of NCSB is to facilitate the role of licensure boards through communication and education. In keeping with the mission and the need for state boards to have a forum for networking, NCSB encourages all state licensing boards involved in the regulation of speech-language pathology and audiology to apply for membership in the Council. The application is for membership from January 1, 2010-December 31, 2010, and the application fee for state boards is \$400.00. NCSB has membership for individuals who are or who have been a member or an executive officer of a unit responsible for licensing the practices. Dues for individual membership are \$35.00 per year. Applications for membership should be mailed to:

**National Council of State Boards
P.O. Box 326
Wellsburg, WV 26070**

For further information contact Ken Gist at (304) 737-2395.

NCSB PRESENTS POSTER SESSION AT ASHA

A poster session entitled, "Let the Good Times Roll: Licensure in 2009", was presented at the ASHA Convention in New Orleans last November. The poster session utilized maps to depict characteristics of state licensure, including the areas of hearing aid dispensing, states requiring a doctoral degree for audiology licensure, support personnel, exemption-free licensure, and continuing education. Handouts containing statistics for each of the areas, as well as web site addresses for all licensing boards, were distributed to those viewing the poster session. The session provided an opportunity for NCSB to network with those from other states and also provided some visibility for the association.

NOTE: NCSB has been fortunate to have established ongoing communication with officials from the federal data bank agencies. Each year the data bank provides NCSB with updated statistics regarding the number of data bank reports for speech-language pathologists and audiologists. Following is the information from the data banks as of June 2009.

**Reporting of Speech-Language Pathologists and Audiologists to the National Practitioner
Data Bank and Healthcare Integrity and Protection Data Bank
By Donald Ilich, Jiaying Hua, and Arnette Wright**

The Federal government maintains two medical disciplinary data banks of which members of State boards for speech-language pathologists and audiologists, as well as individual practitioners, should be aware. The Healthcare Integrity and Protection Data Bank (HIPDB) and the National Practitioner Data Bank (NPDB) are flagging systems that were set up to be used in combination with information from other sources in making determinations on employment, affiliation, certification, or licensure decisions. The HIPDB and NPDB (collectively referred to as the Data Banks) information is designed to augment and/or verify, not replace, other sources of information. This practitioner-specific information is not available to the general public.

Speech-pathology and audiology State boards are required to report to the HIPDB certain adverse licensure actions taken against their licensees. Other actions that are reportable to the HIPDB concerning individuals in these professions include exclusions from Federal and State health care programs, health plan actions (e.g., contract terminations), government administrative actions, and health care-related judgments and convictions. The actions that are reportable to the NPDB include exclusions from Federal health care programs and medical malpractice payments. When Section 1921 of the Social Security Act is implemented in 2010, speech-pathology and audiology State boards will be required to report to the NPDB any adverse licensure actions (not limited to competence or conduct) and any negative action or finding concerning their practitioners. The information to be reported to the NPDB under Section 1921 is the same information that is currently reported to the Healthcare Integrity and Protection Data Bank (HIPDB). For more information on reporting to the Data Banks, see the NPDB-HIPDB Web site at www.npdb-hipdb.hrsa.gov.

As of June 30, 2009, 388,074 reports concerning 208,986 individual practitioners were in the HIPDB. About 80 percent of all reports were of State licensure actions (311,616) and 13.7 percent were for Federal and State health care program exclusion actions (53,077), with the remaining six percent for health care-related judgments or convictions, government administrative actions, and health plan actions (e.g. contract terminations). In contrast, the NPDB had 460,251 reports on 263,073 practitioners with 72.8 percent of them for malpractice payments (335,137), 15.3 percent for licensure actions (70,517), and 7.9 percent for Medicare and Medicaid exclusions (36,230). The remaining four percent were for clinical privileges/panel membership, professional society membership, and Drug Enforcement Administration (DEA) actions.

Speech-language pathologists and audiologists are among numerous health care practitioner groups that have reports in both Data Banks. The following table shows the number and type of reports concerning speech-language pathologists and audiologists that are in the Data Banks as of June 30, 2009.

Number and Type of Reports concerning Audiologists and Speech-Language Pathologists

| | Audiologists | Speech-Language Pathologists | Both |
|---|--------------|------------------------------|------|
| NPDB | | | |
| Medical Malpractice Payments | 32 | 8 | 40 |
| Exclusion Actions* | 19 | 0 | 19 |
| Clinical Privilege/Panel Membership Actions | 1 | 0 | 1 |
| All NPDB Reports | 52 | 8 | 60 |
| | | | |
| HIPDB | | | |
| State Licensure Actions | 139 | 437 | 576 |
| Judgments and Convictions | 7 | 27 | 34 |
| Exclusion Actions | 28 | 15 | 43 |
| Health Plan Actions | 4 | 0 | 4 |
| Government Administrative Actions | 1 | 0 | 1 |
| All HIPDB Reports | 179 | 479 | 658 |
| | | | |
| NPDB and HIPDB | 231 | 487 | 718 |

*Nineteen Exclusion reports for audiologists reported to NPDB were also reported to the HIPDB.

The following two tables show that some audiologist and speech-language pathologist (practitioners) have multiple reports in both the HIPDB and NPDB.

Number of Reports Submitted for each Audiologist

| Number of Reports | Practitioners w/ Reports in HIPDB | Practitioners w/ Reports in NPDB |
|-------------------|-----------------------------------|----------------------------------|
| One Report | 96 | 40 |
| Two Reports | 29 | 6 |
| Three Reports | 2 | 0 |
| Four Reports | 2 | 0 |
| Five Reports | 3 | 0 |
| Total | 132 | 46 |

Number of Reports Submitted for each Speech-Language Pathologist

| Number of Reports | Practitioners w/ Reports in HIPDB | Practitioners w/ Reports in NPDB |
|-------------------|-----------------------------------|----------------------------------|
| One Report | 239 | 8 |
| Two Reports | 96 | 0 |
| Three Reports | 9 | 0 |
| Four Reports | 3 | 0 |
| Five Reports | 1 | 0 |
| Total | 348 | 8 |

The following table shows the most frequently reported reasons or bases for actions reported to the HIPDB for audiologists and speech-language pathologists.

Most Frequent Reasons or Basis for Actions for Reports

| Reasons or Basis for Action | Audiologists | Speech-Language Pathologists |
|---|---------------------|-------------------------------------|
| Other, not classified | 25 | 34 |
| Unprofessional conduct | 28 | 50 |
| License Action by Federal, State, or local licensing authority | 16 | 19 |
| Violation of Federal/State statutes, regulations, or rules | 19 | 66 |
| Practicing without a valid license | 17 | 67 |
| Failure to comply with continuing education or competency requirements | 10 | 57 |
| Negligence | 9 | 10 |
| Submitting false claims | 7 | 3 |
| Criminal convictions | 15 | 25 |
| Filing false reports | 1 | 15 |
| Fraud (Unspecified) | 4 | 14 |
| Improper or inadequate supervision or delegation | 0 | 13 |
| Fraud, deceit, or material omission in obtaining license or credentials | 1 | 10 |

These statistics should give members of State boards and practitioners a good idea of what has been reported to the Data Banks and how the data might be useful in promoting their missions.

Board members and practitioners interested in learning more about the Data Banks should visit www.npdb-hipdb.hrsa.gov. The site includes interactive training on reporting to the Data Banks; information about the public use file; data on reports, including HIPDB reports submitted by State agencies and health plans (under Statistical Information, Data by Profession and State); annual reports; information on the Proactive Disclosure Service (PDS); and instructions for reporting and querying. There is also a Customer Service Center that can be reached at 1-800-767-6732.

LOG ON TO THE NCSB WEBSITE

Please visit the NCSB website at www.ncsb.info for information regarding NCSB, its publications, and the upcoming conference. Send suggestions for items you would like to have included to member(s) of the Board of Directors.

***NOTE:** The AMA has recently published scope of practice guidelines for allied health professions, including the profession of audiology. Because these scope of practice guidelines remain the purview of state licensing boards, NCSB has sent a response to the AMA expressing its concerns. Please make the response available to your member boards and to licensees in your state. Following is the text of that response.*

November 15, 2009

Michael D. Maves, M.D. MBA
Executive Vice President, CEO
American Medical Association
515 N. State Street
Chicago, Illinois 60654

Dear Dr. Maves:

RESPONSE TO AMA SCOPE OF PRACTICE SERIES

The Scope of Practice Partnership, formed in 2006 by the American Medical Association (AMA) to aid state medical societies in opposing scope of practice expansions by non-physician providers, has drafted a practice data module for the profession of audiology. It has been brought to the attention of the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology (NCSB) that information included in this document not only fails to accurately reflect the scope of practice for the profession of audiology, but may in fact, contain information that may be misleading to the public. Of particular concern to NCSB, an organization whose mission is to facilitate communication among licensure boards, are the descriptions included in the scope of practice document for audiology, the references to the education and training of audiologists, and the lack of information regarding direct access to audiological services.

As with many other professions, scope of practice statements began as an outgrowth of the needs of a professional association to define the practice. On a national level, scope of practice definitions, as well as preferred practice patterns for audiology, were initially developed by the American Speech-Language-Hearing Association (ASHA) and later by the American Academy of Audiology (AAA). Since the advent of the first audiology licensure act in 1969, states have been given the statutory authority to develop and promulgate laws, rules and regulations. Licensure for the practice of audiology is now required in all fifty states and in the District of Columbia. Inherent in all of these enabling statutes are scope of practice statements that specifically define the practice of audiology. Many of these statements were adapted from those of the professional associations, but the primary authority for defining the practice of audiology lies with the legislative powers given to states in formulating the laws, rules and regulations that govern audiology and the licensed audiologists within that state. As the profession of audiology has changed, so has its expanded scope of practice. These changes are reflected in the ever-changing scopes of practice by the national organizations that represent audiologists, and ultimately in the changes made in the enabling statutes for individual states.

Having phased out its Master's level training programs in 2006, the profession of audiology has undergone a transition to the doctoral level, as evidenced by the sixty-nine accredited universities that provide educational and clinical training leading to a clinical doctorate in audiology. Utilizing scope of practice guidelines developed by professional associations and state licensing boards, universities now provide a curriculum of academic and clinical training ensuring that

students have opportunities to acquire the knowledge and skills necessary for entry into independent professional practice across the range of practice settings with all age groups. Additionally, licensure boards across the country have recognized the need to modify their entry-level requirements to continue with their mission of public protection. To date twenty-two states have promulgated revised laws and/or rules that mandate a doctoral degree in audiology as the minimum standard to engage in the practice of audiology in that particular state. A number of other states have passed legislation with date-certain mandates for change.

The issue of direct access to audiologists and the services they provide is particularly troublesome to NCSB as it continues its efforts to share information with licensure boards and to advocate for the protection of the consumers of our services. Audiologists, by virtue of academic training and clinical experiences, are qualified to engage in the autonomous practice of audiology, and are recognized as independent providers of services by state licensing laws and regulations in fifty states. Additionally, audiologists are recognized as essential health care providers in the performance of their duties and are eligible for reimbursement for their services. The expanding needs of the American health care system will be compromised if patients are denied access to the health care providers of their choice. Legislation across the country to mandate newborn hearing screening has heightened the awareness of the profession of audiology and has increased the demand for audiologists. The demand from this population, coupled with the ever-increasing needs of the geriatric population, highlights the importance of direct access to audiologists.

The continuously expanding scope of practice in audiology should not be construed as an encroachment on other professions. Rather, it should be viewed as a means of expanding services to a population that might not otherwise be served. The scope of practice in audiology should remain within the purview of its stakeholders—the universities providing the training, the professional associations representing audiologists, and most importantly, the individual licensure boards that possess the statutory authority to protect the consumers of audiological services.

The National Council of State Boards of Examiners for Speech-Language Pathology and Audiology (NCSB), in recognition of the fact that audiologists are regulated by statute to provide direct services to consumers in all fifty states, understands and promotes public protection. Existing state licensure laws ensure such protection, and regulation and/or restriction beyond what has been established by statute in all fifty states, is not only unwarranted but may indeed be harmful to consumers by restricting their ability to access care from qualified providers. NCSB respectfully requests that members of allied health professions assist the organization and the profession of audiology in their mission to hold paramount the welfare of the public by recognizing audiologists as independent providers and by removing any barriers that might restrict access to the provision of health care by audiologists.

Thank you for your attention to this matter.

Sincerely,

Lisa C. O'Connor, President
NCSB

NCSB ELECTS NEW MEMBERS TO THE BOARD OF DIRECTORS

As a result of elections held last summer, NCSB elected four individuals to fill expired terms on the Board of Directors. Biographical information, as well as terms of office, follows.

Kenneth Gist (2010-2012) is the former long-time Executive Secretary of NCSB and brings many years of licensure experience to NCSB. A charter member of NCSB, Ken served as treasurer from 1983-1988 and then as Executive Secretary from 1988-2009. He was awarded the Honors of NCSB in 1989. Ken is Professor Emeritus at Southern Connecticut State University and was a member of the first Connecticut licensing board.

Virginia Berry (2010-2012), a member of the Advisory Council of Speech-Language Pathology and Audiology in Mississippi, is a former member of the Arkansas Board of Examiners in Speech-Language Pathology and Audiology. Virginia is an Assistant Professor and Audiology Clinic Director at the University of Southern Mississippi and currently serves as Vice Chair of the ASHA Audiology Advisory Council.

Amy Goldman (2010-2011), currently Chair of the Pennsylvania State Board of Examiners in Speech-Language and Hearing, is an associate director of the Institute on Disabilities at Temple University in Pennsylvania. An expert witness in a variety of judicial proceedings to promote appropriate communication services and the inclusion of individuals with disabilities in the schools and communities, Amy directs Pennsylvania's Initiative on Assistive Technology.

Alison Grimes (2010) is head of the Audiology Clinic at UCLA Medical Center and an Assistant Clinical Professor in Head and Neck Surgery. A member of the California State Speech-Language Pathology and Audiology Board since 2000, and the immediate Past President of the American Academy of Audiology, her career interests have included hearing aids, pediatrics, and hearing function in aging individuals.

NCSB LISTSERV

NCSB provides a listserv for state board members and for individual members. The listserv is an excellent way to keep up with the latest issues related to licensure in the professions and to share your views with other professionals across the country. Subscribe to the NCSB Listserv. GO TO: <http://groups.yahoo.com/group/ncsb2>
We look forward to your input on critical licensure issues.

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