

MINUTES FOR THE TBCR BOARD MEETING

September 20, 2013

ROLL CALL OF BOARD ATTENDEES:

Kenneth Mansfield, Board Chair
Jimmie Jane McConnell, Board Vice Chair (via telephone)
Earl Houston - Board Member
Briton Collins - Board Member
David Haines - AOC Staff Attorney
Debbie Hayes - AOC Staff Legal Assistant

PUBLIC MEMBER ATTENDEES:

Gene Jennings
Jim Vowell
Jim Beres
Teri Campbell
Trish Smith
Cassandra Beiling
Lori Wells
Pat Gildea
Sheila Wilson
Marilyn Morgan

APPROVAL OF MINUTES: Motion made by Vice Chair McConnell that the Minutes for the June 21, 2013 meeting be approved. Motion seconded by Chairman Mansfield. Vote taken and the motion passed unanimously.

OLD BUSINESS:

1. Direct billing invoices; update for budgeting purposes. Copies of the budget were provided by Debbie Hayes. A discussion was held as to whether or not the budget report would be on a quarterly or annual basis. It was decided the budget report with copies of expenses would be provided quarterly. Clarification was made that the Attorney General's billing was for payment of Disciplinary Counsel (hereinafter referred to as "DC").

2. Sunset Hearing Report. Chairman Mansfield stated that the recommendation is that TBCR continue until 2018. David Haines said it is to go to both government operations committees in the House and the Senate, and that will be the proposed action to take. Chairman Mansfield stated there was only one dissenting vote which was based on a matter of principal.

3. Revisit complaint 2012-09. A previous discussion was held on the reason for the complaint, the investigation, the DC's recommendation, and the complaint was tabled. Chairman Mansfield proposed two options: (1) accept the DC's recommendation; or (2) for the period of time the person practiced with a lapsed license that their license should be suspended for the same period forward, which would be four months.

Chairman Mansfield asked if there was a motion to accept DC's recommendation. None was made.

Chairman Mansfield made a motion to suspend the reporter's license for 4 months and a civil penalty of \$200; Vice Chair McConnell seconded. Motion carried unanimously. A further discussion was had and it was decided that a Judgment will be filed if the penalty is not paid.

4. Revisit CER, CET, CERT certification from AAERT as it pertains to LCR status.

A discussion was had pertaining to the various certifications offered through AAERT, that the law must be clarified because it is not specific to these certifications, and there should be a standard requirement for all LCRs. Chairman Mansfield stated a court reporter must be able to take down and transcribe the written record. Vice Chair McConnell stated that the CERT is Certified Electronic Reporter and Transcriber. Chairman Mansfield stated that the CER is an individual who monitors the recording equipment and the CET is an individual who is certified to make a transcript from the recording; but the CERT individual can make the recording and make the transcript. The CERT is equivalent to the steno machine and voice writer requirements.

Chairman Mansfield stated his concern is that someone could get an LCR without the qualification. David Haines suggested there should be modification to the statute and he will write up some language for clarification. Member Briton Collins suggested some sort of reference for the transcription as part of the definition of court reporting, that they coincide with one another, and that one or the other is not sufficient.

5. Rule 26. Has it be enacted? What is its present status? Chairman Mansfield stated that Ms. Hayes provided information that the present status is law as of Oct. 1st. David Haines stated that it currently only applies in one court.

6. Miscellaneous: Vice Chair McConnell wanted to know if the item in the last meeting minutes, Item No. 3, was done? Debbie Haynes said she would checked on it.

NEW BUSINESS:

1. Disciplinary Counsel recommendation Re complaints. Chairman Mansfield stated that he had not received any new DCS recommendations on outstanding complaints. He also suggested there be more face-to-face meetings during the year so that any complaints could be addressed via telephone conference and a resolution be resolved more quickly. Vice Chair McConnell stated her concern is we're not getting quicker turnaround on the DC recommendations and that four to six months for a resolution on a complaint is too long; that it is not fair to a reporter who has had a complaint filed and they're sitting in limbo; and that "no news is good news" is not necessarily comforting or stress relieving.

Chairman Mansfield proposed that a monthly telephone conference for complaints or unexpected matters and more face-to-face meetings during the year. Vice Chair McConnell stated that with 4 reporters, 2 attorneys, and a judge on the board, a determination could be made as to whether further investigation is warranted. If so, then it should be turned over to DC.

A motion was made by Member Earl Houston that we have either scheduled and/or to be announced monthly telephonic conferences, and that we increase our face-to-face meetings yearly by two and to be held quarterly. Chairman Mansfield seconded the motion. Vote was taken and the motion passed unanimously.

2. Website Committee Report: Recommendation. No report was available. Chairman Mansfield requested that the website committee put together a list of specifications. Once we know what we want, we can request more information and bids. Member Houston said it would be helpful if we could get somebody to provide us with a presentation and demonstrate what they can do.

Vice Chair McConnell stated that a lot of licensure boards are connected with their state; however, they have a direct link. Would we need to get a direct website or just a direct link to the current AOC website? It was also discussed that we need to revisit what the State could do and the cost.

David Haines stated the cost is going to be driven by what you want; the more you want, the more expensive. Debbie Hayes informed the Board that she still gets a lot of questions from court reporters to be able to look up their own CEUs, which should definitely be considered. Vice Chair McConnell suggested that Debbie could continue to keep track of the CEUs. Ms. Hayes said she wasn't sure if a standalone website could be linked to the database that she puts the CEUs in currently, but she would check.

Member Collins suggested a good starting point might be to view The Board of Professional Responsibility (BPR) site for lawyers where you can look up current status and past disciplinary proceedings, FAQs, licensure, and miscellaneous information. The one down side is you cannot access continuing education information or credits which are under a separate site. It's not a one-stop shop; it's about a 75% shop. The BPR site does a good job and would be a site to copycat or talk to them about their cost. TBCR's website would not need to be as complicated or as elaborate due to the lesser number of licensed court reporters than attorneys.

Vice Chair McConnell requested Member Collins be assigned to the website committee and that the website committee provide more information to the Board as to what might be needed and make a recommendation.

David Haines stated he could get the information as to the cost of the BPR's website, and then the Board to do what is called an "RFI" (Request for Information) to reconcile the likeness of the BPR with the Board's website to determine the potential cost and request bids. He further stated that we need to get the basic information and then a decision needs to be made as to what we need or do not need. He also mentioned one possibility for the renewal of licenses online but stated there might be an additional processing fee to do so.

3. Inactive license renewal: Does it always have to come before the Board or can it be handled administratively. Item skipped to be addressed later under Item # 4, Rules and Regulations review.

4. Rules and Regulations: A discussion was had pertaining to the updating and redefining of TBCR's Rules and Regulations. It was decided that once the recommendations were agreed to by the Board, a public notice would be provided to all Tennessee LCRs that they could be reviewed and that comments would be received and reviewed before being submitted for approval by the legislature.

There was a discussion and review of a number of other state requirements and definitions of Inactive Status. Vice Chair McConnell said in reviewing other states, there is a fee and continuing CEU requirements for every year when an individual requests inactive status. David Haines said he would draft some language for review by the Board for the next regularly scheduled board meeting pertaining to Inactive Status, Restoration, and the Review Process.

There was a discussion pertaining to the licensure by grandfathering method. Those sections are no longer in effect. It was decided they should be deleted or rescinded and those sections marked "reserved" for future use.

Chairman Mansfield requested a motion to adjourn this portion of the meeting to be picked up at the next regularly scheduled meeting. Member Houston so moved and seconded by Chairman Mansfield. Motion carried unanimously.

5. Miscellaneous: Next regularly scheduled meeting is set for December 6, 2013. Meetings for the calendar year of 2014 will be: Feb. 28th, May 16th, August 22nd, and Nov. 21st.

An E-blast will be sent to all LCRS that the TBCR Rules and Regulations were being reviewed and requests for any input or recommendation must be received by November 15th.

Debbie Hayes informed the Board that on a previous complaint on a reporter that was going to renew her license had decided to retire and not to renew her license; therefore it was decided the complaint will be forwarded to the DC. She also reported there had been two new complaints received and it was decided those complaints would be forwarded to DC. There was a discussion on outstanding complaints and no recommendations had been received from DC pertaining to those complaints.

Vice Chair McConnell noted that TBCR needs to update its FAQs and that at one time TCRA (Tennessee Court Reporters Association) had offered to share their FAQs. If that offer is still valid, do we want to incorporate those or come up with our own?

The Board has received several requests from reporters requesting some information and assistance pertaining to attorneys sharing a per diem and access to transcripts for court hearings. It was discussed there should be some guidelines so the reporter is not put in the position of having a complaint filed against her should the attorneys disagree. Vice Chair McConnell stated the Rules are pretty clear as to depositions and there are several laws with regard to this type of situation. David Haines said other states may have a more formalized policy and he would check to see there was more of a definitive public policy reason regardless of a contractual agreement limitation placed by the lawyer.

Chairman Mansfield made a motion to adjourn. Member Collins seconded. Vote taken and the motion passed unanimously. The meeting was adjourned at 11:30 a.m.