

## TENNESSEE COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS

DATE: March 22, 2013

TIME: 9:00 A.M., CST

LOCATION: Poplar Room, Ground Floor  
227 French Landing  
Heritage Place – Metro Center  
Nashville, TN 37247

### COUNCIL MEMBERS

PRESENT: Frederick Rayne, M.D.  
Jerry Hall, Hearing Instrument Specialist  
Thomas Stewart, Hearing Instrument Specialist, Council Chair  
Randy Williams, Hearing Instrument Specialist

### STAFF

PRESENT: Stacy Tarr, Acting Unit Director  
Alex Munderloh, Office of General Counsel  
Charles Custer, Board Administrator

Mr. Stewart called the meeting to order at 9:03 a.m. A quorum was present.

### Minutes

Dr. Rayne made a motion, seconded by Mr. Williams, to approve the September 6, 2012 Council Meeting minutes as amended. The motion carried.

### Financial Report

Lisa Tittle, from the Assistant Commissioner's office, advised the Council on the financial report. Ms. Tittle briefly advised the Council of the history of the Council finances and how the financial reports work. Ms. Tittle provided the Council with a line-by-line explanation of the financial report. For allocated expenses, Ms. Tittle advised the Council that their share of Administration Cost is 0.05%, based on the number of active licensees, as the cost is split among all Boards under the Health Related Boards umbrella. For fiscal year ending June 30, 2012 the council had total expenditures of \$24,614, total revenue of \$61,225.91 and a current year net of \$36,600.00. The Council has a cumulative carryover of \$22,734.00. Ms. Tittle also advised the Council of the current fiscal year projections. Ms. Tittle spoke to the Council on whether to maintain or eliminate the Council Operations Fee. She also advised the Council on upcoming expenses that will impact all Boards and the same rate (0.05%). These expenses include a new computer licensing maintenance system, and online applications. Ms. Tittle recommended that the Council hold off on a decision regarding the Operations Fee until fiscal year 2013 closes. Dr. Rayne commented on the financial report history over several years and how the expenses have risen and fallen over those years. He questioned if expenses will continue to rise and fall in the

future, as the decision to implement the Council Operations Fee partly came from those expense falls. Dr. Rayne also questioned the expenses related to support staff, and asked for projections of cost of support staff. Ms. Tarr spoke about the expenses of the support staff, and advised that support staff time was being allocated differently in the past than it is now. She stated that in the past, the staff time was allocated on a weekly method to each Board that a person was assigned to work on; whereas now, the staff time is allocated on the basis of time actually worked on each Board. Mr. Stewart also brought up the Operations Fee, and stated he would like to review the financials again at a future meeting and possibly revisit the Operations Fee.

### **Investigative Report**

There are five (5) cases open. Two (2) are currently being investigated and two (2) are ready for review, with one (1) ready for a second review.

### **Monitored Practitioners**

Three (3) practitioners are being monitored at this time.

### **Office of General Counsel**

Amendment to Rule 1370-02-.12, allowing new licensees to be credited for Continuing Education in the first year for passing the required examinations is set to be heard by the Joint Committee for Government Operations at their March 25, 2013 meeting. Mr. Williams, Mr. Munderloh and Ms. Tarr will attend.

The Office of General Counsel has three (3) open cases. There are two (2) consent orders and one (1) agreed order to be presented to the Council.

There is not any current legislation to be presented to the Council.

Consent Order for Taylor Harper, not currently licensed, but has application in process. Mr. Harper has been working as Hearing Instrument Specialist while unlicensed, and advertising himself as such. Proposed discipline is that Mr. Harper is to cease and desist practicing and refrain from using the title of "Hearing Instrument Specialist" until properly licensed by the Council. Mr. Harper will be assessed a civil penalty in the amount of one thousand dollars (\$1000.00), and assessed costs not to exceed five hundred dollars (\$500.00). Dr. Rayne made motion, seconded by Mr. Williams, to accept the Consent Order as presented. Motion carried. Ms. Tarr asked the Council how to move forward, as Mr. Harper has a pending application and is scheduled for testing after the meeting. Mr. Munderloh advised that the Council could deny licensure based on this disciplinary action. Mr. Munderloh also advised there is no rule that allows testing to be denied. Council decided to wait until passing of all exams and for Mr. Harper's file to be presented for Council approval before making a decision. Administrative staff will hold any potential "go-to-work" letter until Council gives final approval.

Consent Order for Herman Cupit, currently licensed as a Hearing Instrument Specialist. Mr. Cupit is charged with unethical conduct, and deceptive and unfair advertising practices. Proposed discipline is that Mr. Cupit's license be suspended for not less than one (1) year, and

that he appears before the Council to petition for an order of compliance prior to suspension being lifted. Following suspension, license shall be on probation for not less than two (2) years, during which time, all advertising shall be submitted to Council administrative staff for approval. Mr. Cupit will be assessed a civil penalty in the amount of fifty dollars (\$50.00), and assessed costs not to exceed five hundred dollars (\$500.00). Dr. Rayne made a motion, seconded by Mr. Williams, to accept the Consent Order as presented. Motion carried.

Agreed Order for Robert Moore, currently licensed as a Hearing Instrument Specialist. Mr. Moore pleaded “No Contest” to one (1) count of sexual battery, a class E felony. As a result of this plea, Mr. Moore was required to register with the Tennessee Bureau of Investigation as a sexual offender, and is on probation until August 20, 2017. Victim was the daughter of a former employee of Mr. Moore’s hearing instrument practice. Legal violations include unethical conduct, gross and/or repeated acts of ignorance or inefficiency in the conduct of person’s practice, conviction or offense involving moral turpitude. Proposed discipline is that Mr. Moore’s license be revoked, and he may not reapply for licensure for a period of not less than five (5) years. Mr. Moore shall be assessed costs not to exceed five hundred dollars (\$500.00). Mr. Williams made motion, seconded by Dr. Rayne, to accept the Consent Order as presented. Motion carried.

Senate Bill 0493 was presented. This bill encourages licensure Boards and Councils to expedite licensure applications for active military and spouses, and allows Boards to give credit for relevant and similar practice in the Armed Forces for Continuing Education. Dr. Rayne made a motion, seconded by Mr. Hall, to watch the progress of this bill, as it has not yet been made into law. Motion carried.

### **Administrative Report**

Mr. Custer advised the Council that as of March 8, 2013, there are 134 licensed hearing instrument specialists and 13 apprentices.

There are 16 new applications in process, and 1 reinstated license.

Between August 30, 2012 and March 8, 2013, 40 Hearing Instrument Specialists have renewed their licenses. Out of the 40, 17 renewed online.

The 2012 Continuing Education Audit revealed that 16 total licensees were audited and 9 were found non-compliant for a 44% compliance rate. Eight (8) licensees were deficient in the number of hours and one (1) was in non-compliance for failing to contact the Council office after receiving a second Notice of Audit letter.

Public Chapter 952, which advises of the move to online correspondence, was presented.

### **Newly Licensed**

Dr. Rayne made a motion, seconded by Mr. Hall, to approve the following newly licensed hearing instrument specialists, with the exception of licensee #1 and licensee # 4, due to conflicts of interest. Mr. Williams advised that he has a professional relationship with licensee #4, and

Dr. Rayne advised that he has a professional relationship with licensee #1. The motion carried for all licensees, with the exception of licensee #1 and licensee #4.

Dr. Rayne made a motion, seconded by Mr. Hall to approve licensee #4. Mr. Williams recused himself from voting. Motion carried.

Mr. Williams made a motion, seconded by Mr. Hall to approve licensee #1. Dr. Rayne recused himself from voting. Motion carried.

1	Bessette	Cecilia	785
2	Cardin	Aaron	778
3	Cobb	Eric	782
4	Croom	Elizabeth	777
5	Fields	MaryAnn	789
6	Gannaway	Jennifer	755
7	Jackson	Bradley	784
8	Shull	John	771
9	Vaughan	Donnie	754
10	Watson	Amy	776
11	Williams	Latisha	772

The motion carried.

### **Reinstatements**

Dr. Rayne made a motion, seconded by Mr. Williams to approve the following reinstatement. Motion carried.

1	Tyus	Kelly	577
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### **Closed Files**

Dr. Rayne made a motion, seconded by Mr. Hall, to close the following files for reasons listed. Motion carried.

1	Amato	Joan	760	Failed testing 1-30-12, has not requested retesting
2	Ballard	Rebecca	787	Has been "no show" for IHS National Exam on 4 occasions
3	Johnson	James	761	Has been "no show" for IHS National Exam on 6 occasions
4	Reese	Deborah	734	Has not pursued testing since application opened in 2009

## **File Review**

The Council reviewed the file of **John Mengelberg**. Mr. Williams made a motion, seconded by Dr. Rayne to accept the applicant for testing contingent upon proof of completion of probation as well as proof of payment of fines. The motion carried.

The Council reviewed the file of **Michael Murphy**. Mr. Murphy was requesting a waiver of the practical exams, as per TCA 63-17-211(b). The Council heard comments from David Morrison that historically, the Council has never waived practical exams for an applicant. Dr. Rayne made a motion, seconded by Mr. Williams, to deny Mr. Murphy's request for waiving the practical exams. The motion carried.

The Council reviewed the file of **Benjamin Vaughn**. Mr. Vaughn spoke to the Council on his own behalf. Dr. Rayne made a motion, seconded by Mr. Hall, to allow applicant to test, and approval of licensure shall be contingent upon proof of completion of probation as well as proof of payment of fines. The motion carried.

## **Agreed Citations**

Mr. Williams made a motion, seconded by Dr. Rayne, to accept the Agreed Citation for Jennifer Arndt. Motion carried.

Dr. Rayne made a motion, seconded by Mr. Williams, to accept the Agreed Citation for Melissa Blakeman. Motion carried.

Dr. Rayne made a motion, seconded by Mr. Hall, to accept the Agreed Citation for Lee Elder. Motion carried.

Mr. Williams made a motion, seconded by Mr. Hall, to accept the Agreed Citation for J. Larry Simpson. Motion carried.

Dr. Rayne made a motion, seconded by Mr. Williams, to accept the Agreed Citation for John Strehlau. Motion carried.

## **Agreed Citation Policy**

Dr. Rayne made a motion, seconded by Mr. Hall, to start the Policy as of today (March 22, 2013). Motion carried.

## **Review Continuing Education**

The Council reviewed a letter from **Travis Corder**, who is requesting an extension of time to achieve the required TN Law hours, due to timing of his file being approved and the amount of time to achieve the Law hours. Mr. Corder spoke to the Council on his own behalf to further explain his request. Dr. Rayne made a motion, seconded by Mr. Williams, to grant of extension through May 2013 for Mr. Corder to obtain the required law hours. Motion carried.

The Council reviewed a letter from **Jonathan Day**, who is requesting a waiver of the Continuing Education requirement of providing the Bill of Sale and the Calibration Certificate, due to having sold his practice. He is not in compliance of the Continuing Education audit at this time, due to lack of these documents. Dr. Rayne made a motion, seconded by Mr. Williams, to send a letter to Mr. Day advising that he retire his license, as well as provide either the required Continuing Education documents or show proof of selling his practice and equipment. If he submits such proof of sale of practice and equipment, the Council will waive the deficiency. Motion carried.

### **Council Operations Fee**

After reviewing the list of licensees that have not yet paid the Operations Fee, the Council discussed how to handle those licensees that do not pay in a timely fashion. Dr. Rayne made a motion, seconded by Mr. Hall, to allow a 90-day grace period from the date corresponding to the license renewal for payment. If the licensee has not paid by the 60-day mark, administration needs to send a letter advising 30 days to pay, otherwise additional action could be taken, including an addition of a \$100 fine. Mr. Munderloh will create a policy to clarify this, and bring to the Council at the next meeting for review. Mr. Williams is against. Motion carried.

### **Meeting and Testing Dates**

The 2014 meeting dates were set as March 4 and September 9. The 2014 testing dates were set as March 4; July 16; September 9; December 8. Various members of the Council advised administration that the dates of March 4 and December 8 were not good dates due to previous commitments and requested those dates be changed.

The Council also discussed adding a 3<sup>rd</sup> Council meeting within the year, due to heavy meeting agendas. Mr. Williams made a motion, seconded by Mr. Hall, that a third meeting be added to the calendar, beginning in 2013. Motion carried.

### **Discussion of 3 Fail Rule**

The Council discussed Rule 1370-02-.08(4)(c), where after 3 failed exams, an applicant must wait one (1) year before testing again. Mr. Hall made a motion, seconded by Dr. Rayne, that the rule be deleted through the rule making hearing process. Mr. Williams is against. Motion carried.

### **Update of Written and Practical Exams**

Mr. Custer brought concerns before the Council regarding the current examinations. The concerns include incorrect wording, duplicate questions, and misspellings, among other concerns. Mr. Hall made a motion, seconded by Mr. Williams, to create a task force to review and revise the exams, as open discussion could not occur, due to testing subjects being in the audience. The task force will consist of Mr. Stewart as the sole Council representative, Craig Haltom and at least one (1) other person to review the exams. Motion carried.

### **TN Hearing Society Conference**

Dr. Rayne made a motion, seconded by Mr. Hall, for the Council to pay for Mr. Custer to attend the TN Hearing Society Conference in May 2013 in Pigeon Forge TN as the Council Administrative representative, to assist in proctoring examinations and answer applicant and licensee questions. Motion carried.

### **Correspondence**

The Council reviewed a letter from the American Association of Audiology regarding their upcoming Continuing Education seminars. Mr. Williams made a motion, seconded by Mr. Hall, to approve the Continuing Education courses on behalf of Tennessee licensees. The motion carried.

The Council reviewed information from the International Hearing Society regarding the IHS testing process, and IHS going to a computerized testing system. Documentation provided was strictly informational in nature.

The Council reviewed a letter from Mitzi Slayden regarding her sponsoring an apprentice applicant. Ms. Slayden spoke to the Council on her own behalf. Ms. Slayden is a licensed Audiologist, but has no current Hearing Instrument Specialist license. The Council advised her that the rules state that only a licensed Hearing Instrument Specialist can supervise an apprentice. Her request for authorization to sponsor an apprentice applicant was denied.

### **Adjourn**

With no other Council business to conduct, Dr. Rayne made a motion, seconded by Mr. Hall, to adjourn at 1:13 p.m. The motion carried.

*Ratified by the Council of Hearing Instrument Specialist on July 16, 2013*