

TENNESSEE COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS

DATE: May 18, 2018
TIME: 9:00 A.M., CT
LOCATION: Health Related Boards
Poplar Room, Ground Floor
665 Mainstream Dr.
Nashville, TN 37243

COUNCIL MEMBERS

PRESENT: Jackie Miller, Hearing Instrument Specialist, Chair
Bruce L. Fetterman, M.D
Lordy D. Smith, Consumer Member

COUNCIL MEMBERS

ABSENT: Vacant
Vacant

STAFF

PRESENT: Mark Waters, Deputy General Counsel
Christie Taylor, Advisory Attorney
Teddy Wilkins, Unit Director
Yvette Hernandez, Board Administrator

The meeting was called to order at 9:15 a.m. by the council Chair. Mr. Miller and Dr. Fetterman were present. At this time there was not a quorum present. Ms. Wilkins suggested the meeting be started as many individuals had traveled a long way to come to the meeting so the meeting could proceed with reports. Ms. Wilkins then introduced Ms. Yvette Vagle, new council administrator who will also work with the Communication Disorders and Sciences Board. At this time, Ms. Lordy Smith arrived which constituted a quorum. Mr. Mark Waters, Deputy General Counsel introduced Ms. Christie Taylor who will be the new advisory attorney for the Council.

Minutes

The Council reviewed the minutes from the February 2, 2018 meeting. Dr. Fetterman made a motion, seconded by Ms. Smith, to accept the minutes as presented. The motion carried.

Office of General Counsel

Mr. Waters presented the following OGC report:

Conflict of Interest Policy for Board Members

Mr. Waters reviewed the Conflict of Interest Policy with the Council. If you have a personal or financial interest in the outcome of any issue or matter before this board which may suggest a bias on your part, you are asked to state that interest on the record so that a determination can

be made as to whether there exists a need for recusal. You are reminded that it is the duty of this board to protect the health, safety and welfare of the citizens of Tennessee and that the administration of this solemn responsibility is dependent upon avoiding even the appearance of impropriety.

Rule Activity

The rules are undergoing legality review in the Attorney General's office.

Disciplinary Activity

As of May 9, 2018, the Office of General Counsel (OGC) does not have any open case files. There are no contested cases to present to the Council.

Legislative Report

Patrick Powell, Legislative Liaison for the Department of Health, presented the following legislation to the Council.

Public Chapter 611

This law requires an agency holding a public hearing as part of its rulemaking process, to make copies of the rule available in "redline form" to people attending the hearing.

This takes effect July 1, 2018.

Public Chapter 675

This act requires the department of health to accept allegations of opioid abuse or diversion and for the department to publicize a means of reporting allegations.

Any entity that prescribes, dispenses, OR handles opioids is required to provide information to employees about reporting suspected opioid abuse/diversion. That notice is to either be provided individually to the employee in writing and documented by the employer OR by posting a sign in a conspicuous, non-public area of minimum height and width stating: "NOTICE: PLEASE REPORT ANY SUSPECTED ABUSE OR DIVERSION OF OPIOIDS, OR ANY OTHER IMPROPER BEHAVIOR WITH RESPECT TO OPIOIDS, TO THE DEPARTMENT OF HEALTH'S COMPLAINT INTAKE LINE: 800-852-2187."

Whistleblower protections are also established. An individual who makes a report in good faith may not be terminated or suffer adverse licensure action solely based on the report. The individual also is immune from any civil liability related to a good faith report.

This act takes effect January 1, 2019.

Public Chapter 744

This statute allows a licensing entity the discretion to not suspend/deny/revoke a license in cases where the licensee has defaulted or become delinquent on student loans IF a medical hardship significantly contributed to the default or delinquency.

This act took effect January 1, 2019.

Public Chapter 745 and Public Chapter 793

These public chapters work together to create and implement the “Fresh Start Act.” Licensing authorities are prohibited from denying an application or renewal for a license/certificate/registration due to a prior criminal conviction that does not directly relate to the applicable occupation. Lays out the requirements on the licensing authorities as well as the exceptions to the law (ex: rebuttable presumption regarding A and B level felonies). There were a number of professions that were excluded and some that were neither included or excluded.

These acts take effect July 1, 2018.

Public Chapter 754

This chapter prevents any board, commission, committee, etc. created by statute from promulgating rules, issuing statements, or issuing intra-agency memoranda that infringe on an entity member’s freedom of speech.

Freedom of speech includes, but is not limited to, a member’s freedom to express an opinion concerning any matter relating to that governmental entity, excluding matters deemed to be confidential under TCA 10-7-504.

Violations as determined by a joint evaluation committee may result in recommendations to the general assembly concerning the entity’s sunset status, rulemaking authority and funding.

This act took effect April 18, 2018.

Public Chapter 929

This act redefines policy and rule and requires each agency to submit a list of all policies, with certain exceptions, that have been adopted or changed in the previous year to the chairs of the government operations committees on July 1 of each year. The submission shall include a summary of the policy and the justification for adopting a policy instead of a rule.

This act also prohibits any policy or rule by any agency that infringes upon an agency member’s freedom of speech.

Finally, this act establishes that an agency’s appointing authority shall have the sole power to remove a member from a board, committee, etc.

This act takes effect July 1, 2018 and applies to policies adopted on or after that date.

Public Chapter 954

This legislation requires the initial licensure fee for low-income persons to be waived. Low income individuals per the statute are defined as persons who are enrolled in a state or federal public assistance program including but not limited to TANF, Medicaid, and SNAP. All licensing authorities are required to promulgate rules to effectuate the purposes of this act.

This act takes effect January 1, 2019.

Public Chapter 1021

This act allows for appeals of contested case hearings to be in the chancery court nearest the residence of the person contesting the agency action or at that person's discretion, in the chancery court nearest the place the action arose, or in the chancery Court of Davidson County. Petitions seeking review must be filed within 60 days after entry of the agency's final order.

This act takes effect July 1, 2018.

Investigative Report

Lori Leonard, Disciplinary Coordinator from the Office of Investigations advised the Council that there were no new complaints with currently four (4) complaints open, and the Investigations department is currently monitoring three (3) disciplined practitioners.

Administrative Report

Ms. Yvette Hernandez presented the Administrator's report to the Council and stated that there are currently a total of 151 licensed practitioners, and 44 licensed apprentices.

Ms. Hernandez stated between February 2, 2018 through May 17, 2018 there were six (6) new licensees, eight (8) new apprentices, eleven (11) renewals with three (3) online for 27%. Further, none (0) retired; one (1) reinstated; and three (3) expired.

Board meetings for 2018 after this meeting are:

September 28, 2018

2019 Council Meeting Dates:

January 25, 2019

May 17, 2019

September 20, 2019

Ms. Wilkins added that there are eleven (11) applicants ready to take the ILE and two (2) applicants ready to take the practical. May 2 was the last practical with additional practical to be scheduled later.

Financial Report

Ms. Noranda French was unable to be present to give the Mid-Year 2018 Fiscal Report. A hard copy of the report was provided to the Council members and Ms. French will be present at the September 28 meeting to present the 2018 closing report.

New Licensees

Dr. Fetterman made a motion, seconded by Mr. Miller, to approve the new licensees. The motion carried.

929 – Aitken, Scott William
877 - Creger, Lindsey B.
868 - Hale, Lauri B.
909 – Moore, Robert D
867 – Pirtle III, William B
915 – Wise, Lawrence C

Reinstatements

Dr. Fetterman made a motion, seconded by Mr. Miller, to approve the reinstated license. The motion carried.

28 - David H. Levy, AuD

Discuss Continuing Education

Ms. Wilkins reported the certificates for one hour of Jurisprudence earned at the February 2 meeting have been sent out after being delayed for some time.

Ms. Wilkins reported she spoke with Mr. Waters and Mr. Miller about granting a waiver or giving credit for the Jurisprudence credit that might have been missed due to the rescheduling of the January 18, 2018 meeting to February 2, 2018. Ms. Wilkins advised that this could not be done and the CE rule could not be waived. Ms. Wilkins reported she had reviewed the audits and all were compliant.

New Business

Dr. David Levy addressed the Council and gave background information of himself, stating he bears license number 28 which was granted in 1977 and has previously served on the Council under five (5) different governors. He is also licensed as and Audiologist. He has written exams and rules for the Council. He went on to state many years ago the Council approved two (2) different means of obtaining the two (2) hours of continuing education required in ethics and law every two (2) years which are to attend the Tennessee Hearing Society annual meeting or obtain a Council meeting for one (1) hour credit. This had been established in place for many years.

Dr. Levy stated due to the fact the board meeting for January 18, 2018 (the actual date was January 19) was canceled due to lack of a quorum, and rescheduled for February 2, 2018, and thirty (30) days' notice was not given for the rescheduled meeting, those individuals who had planned to

attend the January meeting may not have had time to change their schedules to attend on February 2. Further, Dr. Levy opined that the total of approximately 143 licensees missed the opportunity to earn CE credit in law and ethics due to the rescheduling and suggested that a letter should be sent to all licensees granting them credit for one (1) hour of CE. Dr. Levy requested a voice vote on the issue.

Ms. Wilkins requested Mr. Waters to give his legal advice on the issue and he stated that there is no thirty (30) day requirement for a meeting announcement for a rescheduled meeting and that the rules do not grant authority to waive or give credit for CE for those who did not attend the makeup meeting.

Dr. Levy stated he disagreed and that many licensees might be disenfranchised due to not being given credit for the one (1) hour law and ethics CE. Dr. Levy stated if the Council changes the protocols and precedents and disregarded the laws and rules it will put the Council in jeopardy. Dr. Levy asked the Council to take action. Mr. Miller asked that this matter be tabled to the next meeting on September 28, 2018 and Dr. Levy requested to be able to present the matter again at the next meeting.

Adjourn

With no other Council business to conduct, the Mr. Miller made a motion to adjourn the meeting seconded by Dr. Fetterman. The motion carried. The meeting adjourned at 9:42 a.m.

Ratified by the Council for Licensing Hearing Instrument Specialists on September 28, 2018