



POLYSOMNOGRAPHY PROFESSIONAL STANDARDS COMMITTEE

Regular Board Meeting

Friday, March 13, 2020

MINUTES

A regular meeting of the Tennessee Board of Medical Examiners' Polysomnography Professional Standards Committee was held in the Division of Health Related Boards, 665 Mainstream Drive, Iris Room, Nashville, TN 37243.

Members Present: Stephen Heyman, MD
Mark Spiceland, RPSGT
Penny Sprigs-Smith, RPSGT
Jim O. Donaldson, RPSGT
Charity Worrick, RPSGT
Scott Vogt, RPSGT

Absent Members: Theresa Hill, Consumer Member

Staff Present: Angela Lawrence, Executive Director
Rene Saunders, MD, Medical Consultant
Tracy Alcock, JD, Office of General Counsel
Samuel Moore, Advisory Attorney
Tammy Hulseley, Administrator
Candyce Wilson, Administrative Director

The Committee convened at 9:00 a.m. A quorum was present and Charity Worrick, committee chair, called the meeting to order with a roll call.

Election of Officers

This Committee is statutorily required to hold committee elections annually for a Chair and a Secretary. Those elections were currently due.

Ms. Worrick made a motion to nominate Penny Sprigs-Smith to serve as Chair. Scott Vogt seconded the motion. The motion passed unanimously.

Scott Vogt made a motion to nominated Mark Spiceland for Secretary. Jim Donaldson seconded the motion. A vote was taken and the motion passed unanimously.

Approval of Minutes

After review, Mr. Donaldson made a motion to approve the minutes for the August 21, 2019 Committee meeting. Mr. Spiceland seconded the motion. The motion passed.

Applicant Interviews

Marquita Harris – Ms. Harris is an applicant for a Polysomnography Technician temporary permit. Currently, she holds no certification and holds a student/trainee permit that will expire in June, 2020. She appeared before the Committee as a result of criminal history that suggests a pattern of behavior. The licensure recommendation by the Consultant, Dr. Rene Saunders, was to defer to the Committee. Ms. Harris gave a brief statement concerning her criminal past and her desire for a temporary permit. Ms. Harris attended a polysomnography program at Concorde College. Mr. Moore outlined the Fresh Start Act enacted by the Tennessee legislature. This act directs licensure boards to limit evaluation of an applicant's past offenses to those that directly relates to the practice at hand and not to unrelated criminal behavior. In this case, the evaluation should be strictly limited to the application of the practice of Polysomnography and whether or not the criminal history would bear on the applicant's ability to practice this profession. Ms. Alcock added that, should the Committee decide that there is a possible link between her criminal history and the ability to practice polysomnography, there is a "Factor Test" to aid in determining how to proceed. After discussion, Dr. Heyman motioned to approve her application. Ms. Worrick seconded the motion. The motion carried.

Starlita Danner – Ms. Danner is an applicant for reinstatement of her Technologist license that expired in April, 2019. She holds current RPSGT certification but has been out of clinical practice for greater than two years having practiced a total of six months prior to leaving practice. Dr. Saunders' recommendation was to consider reentry remediation training prior to licensing and to defer to the Committee.

Mr. Spiceland asked for clarification of remediation requirements. Dr. Saunders stated that this Committee has not developed a formal remediation policy, though it has been previously discussed. However, many other Boards have concluded that, applicants who have been out of clinical practice for a particular amount of time, must demonstrate competency to perform their job safely upon the citizens of the State of Tennessee. This Committee must determine whether it feels that someone who has been out of practice needs remediation, what is the time period required to trigger remediation, and what is needed to demonstrate competency?

Mr. Vogt noted that Ms. Danner has kept current regarding continuing education and motioned to grant the reinstatement of Ms. Danner's license. Ms. Sprigs-Smith seconded the motion. The motion carried.

Aimee Duncan – Ms. Duncan appeared before the Committee to request an extension of her temporary technician permit. Her permit expired in December, 2019, at which time she requested the extension. She has not obtained the BRPT credential needed to obtain a technologist permit.

Dr. Saunders explained the reasoning for Ms. Duncan's appearance. She was uncomfortable with the administrative office acting on behalf of the Committee to issue an extension as the rules give the authority to issue an extension to the Committee. The biggest obstacle for Dr. Saunders was, if she denied an extension, were the applicants being allowed due process and would the Committee have made a different decision. Dr. Saunders asked that the Committee take this opportunity to set a precedent and issue guidance regarding extensions. She suggested that the Committee could take any of the following actions:

1. Grant the authority to grant an extension to the Committee consultants;
2. Require anyone who requests an extension to appear before the Committee;
3. Change the Committee's rules either to grant an automatic extension, no extension, or add language to the rules outlining under what conditions/circumstances an extension may be granted.

Dr. Saunders explained that she is not clear regarding why an applicant would not obtain the BRPT credential in the year allowed and subsequently need an extension. It costs approximately \$450 to sit for the RPSGT credential. There is no wait to retest after failing an exam. Payment, however, is required for each attempt. Ms. Worrick stated that an extension should be granted only if an applicant has attempted the exam prior to the request for the extension. Waiting for an entire year to attempt the exam is not criteria for an extension to be granted.

Ms. Duncan was given an opportunity to explain her reasoning for not attempting the exam prior to requesting an extension. She stated family medical circumstances beginning in July, 2018 prevented her from being able to study and attempt the exam.

Ms. Alcock reviewed the authority given to the Committee by the legislature to grant, in its sole discretion, a one-time three-month extension.

Mr. Vogt asked if Ms. Duncan was currently scheduled to take the exam. She stated that she was not. Mr. Donaldson stated that if the extension had been granted in December, it would have expired today and no attempt to sit for the exam has been made. Ms. Duncan stated that had an extension been granted in December, she most likely would not have attempted the exam due to her family circumstances.

At the conclusion of the discussion, Mr. Donaldson motioned to deny the extension. Ms. Sprigs-Smith seconded the motion. The motion carried.

Dr. Saunders reiterated that Ms. Duncan must not practice any activities in her employment that constitute the practice of polysomnography, she must obtain her BRPT credential, and must submit an application and obtain a license for polysomnography technologist in order to be authorized to practice polysomnography in the State of Tennessee.

Ratification of New Licenses and Reinstatements

Mr. Donaldson motioned to ratify the new licenses/reinstatements. Mr. Vogt seconded the motion. The motion carried.

Discussion Regarding Authority to Grant Temporary License Extensions

The discussion continued regarding granting authority to the consultants to grant temporary license extensions. The options are to continue granting temporary license extensions or to eliminate the extension. Dr. Saunders stated that it has come to her attention that there is a bit of lag time between applying for the exam and the exam actually being scheduled. She suggested that the Committee may want to maintain the extension as provided in the rules. Guidance regarding under what conditions an extension is granted and who is allowed to be the decision makers is required. The Committee agreed that in order to receive an extension, at least one exam attempt is required during the twelve months prior to the request.

Mr. Moore stated that a formal policy will be needed outlining the criteria that must be met to qualify for an extension and granting the authority for administration to grant the extension. Because both the statute (63-31-107(a1)) and rule task the Committee with the sole discretion to grant the extension, specific instructions to the consultants is required versus giving discretion to them. Dr. Saunders stated that the criteria to be decided is: (1) Are they required to attempt the exam at least once; (2) when is it appropriate to request an extension; and (3) who has the authority to grant the extension.

Ms. Sprigs-Smith made a motion to direct Mr. Moore to create a policy with specific criteria for granting an extension. This policy will contain direction that the exam must be attempted at least once during the twelve months prior to the request for the extension and tasking administration with the ability to grant the extension. This policy will be brought before the Committee at the next meeting for ratification. Mr. Donaldson seconded the motion. The motion carried.

Discussion Regarding Reinstatement from Retired vs. Expired

Currently, the Polysomnography rules address only how to reinstate from retirement and not reinstatement from an expired status. Mr. Moore referred to Rule 0880-14-.06 "(e) If licensure retirement was in excess of two (2) years, the licensee may be required to successfully complete whatever educational and/or testing requirements the Committee determines is necessary to establish current levels of competency". The

discussion at hand is regarding those individuals that have allowed their license to lapse.

Mr. Moore informed the Committee that the addition of criteria regarding reinstatement of lapsed licenses would require a rule. Dr. Saunders reminded the Committee that their responsibility is to safeguard the health, safety and welfare of Tennesseans by ensuring those who practice polysomnography are qualified and able to practice safely.

Various reentry requirements were discussed including completion of A-Step modules, continuing education, remediation/preceptorship, and the possibility of restricted licensure. The required reentry requirement will be dependent on the amount of time the license was lapsed. One possibility is the following:

Greater than 4 years requires 10 CEs per year specific to patient care and scoring for each year the license was lapsed and less than 4 years requires Completion of an A-Step program prior to reinstatement of license.

Ms. Sprigs-Smith motioned that Mr. Moore draft a policy instituting a tier-phased reinstatement/reentry plan based on the Committee discussion for consideration at the next meeting. Mr. Donaldson seconded the motion. The motion carried.

Discussion Regarding Requirement of BRPT Credential on Renewal

Currently, there is no requirement that proof of current BRPT certification is required on renewal. A continuous BRPT credential is statutorily required. Mr. Moore cautioned that there is no requirement in the rules for proof of national certification on renewal. Ms. Alcock suggested that a policy be implemented requiring proof of current national certification upon renewal to align with the statutes. She suggested that a rule amendment is required for further direction via rule.

Mr. Vogt motioned that proof of current BRPT certification be required upon renewal. Mr. Spiceland seconded the motion. The motion carried.

Mr. Moore and Mrs. Alcock will review the statutes as they pertain to this issue and consider whether a rule change is appropriate.

Office of General Counsel

Ms. Alcock thanked the Committee for the opportunity to serve as Advisory Attorney as Mr. Moore steps into this role due to changes within the Office of General Counsel.

Mr. Moore reported that there are currently three cases for continuing education deficiencies as a result of a January, 2020 audit. Multiple agreed citations were sent to licensees. Two of those are currently in civil litigation. There is one lapsed license. There are no contested cases, orders of modification, or declaratory orders on today's agenda. The three current violations will be presented to the Committee at a later date.

Manager's Report

Ms. Lawrence reported that between August 1, 2019 and February 29, 2020, 12 technologists (full license), 14 technicians (temporary permit), 23 Trainee/Student, and 4 reinstatement applications were received in the administrative office and 42 new licenses issued:

Total New Licenses Issued

Technologist (Full)	19
Technicians (Temporary)	14
Trainee	24
Number of Renewals	139
Online Renewals	123
Percentage of renewals on-line	88%

The total number of active licensees as of February 29, 2020 is 536. The total number of temporary permits is 26, and total student/trainee permits is 153.

Reports from the Office of Investigations and Disciplinary Coordinator

Ms. Lori Leonard, Disciplinary Coordinator reported that there are three currently monitored licensees under Board Order and one licensee under suspension. In 2019, the Office of Investigation received one complaint regarding a CE violation. A total of two complaints were closed. One was sent to the Office of General Counsel for formal discipline and one was closed with a letter of concern. Ms. Leonard reminded the Committee that letters of concern are not reportable to the National Practitioner Databank and subsequently not considered formal discipline. At the end of 2019, the Office of Investigations had two open complaints being investigated/reviewed. In 2020, one new complaint has been opened regarding a continuing education violation. No complaints have been closed. There are two open complaints being investigated at this time.

Financial Report

Ms. Maria McCormick reviewed the mid-year financial report with the Committee. She stated that as of December, 2019, payroll expenditures for salaries and wages are \$4,217.55 and employee benefits are \$2,450.25. Other expenditures including travel were \$2,330.77 bringing direct expenditures to \$8,998.57, allocated expenditures (the most variable expenditures) were \$5,520.25 and total expenditures were \$14,518.82. This Board collected revenue of \$20,510.00. Net Revenue was \$5,991.18. The cumulative carryover was \$21,390.96.

Projections for fiscal year end are as follows: Salary/Wages are \$8,561.63 and employee benefits \$4,944.78 for a total of \$13,506.41, other expenditures \$6,305.65, and allocated expenditures \$11,136.06. Total projected expenditures are \$30,948.13.

Total projected revenue is \$45,403.00. Projected net revenue is \$14,454.87. Projected cumulative carryover is \$29,854.65.

Ms. Lawrence inquired regarding projected revenue for 2020 being less than 2019. Ms. McCormick reminded the Committee that this is a conservative approach and based on averages of the last few years. It can vary based on the renewal periods.

There being no other Committee business, the meeting was adjourned at 11:14 a.m.