



POLYSOMNOGRAPHY PROFESSIONAL STANDARDS COMMITTEE

Regular Board Meeting

Tuesday, August 21, 2018

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, Poplar Room, Nashville, TN 37243.

Members Present: Jim O. Donaldson, PSGP
 Mark Spiceland, PSGP
 Charity Worrick, PSGP
 Dan Brown, PSGP
 Scott Vogt, PSGP

Absent Members: Roxanne Valentino, M.D.
 Dan Brown, PSGP
 Theresa Hill, Consumer Member

Staff Present: Rene Saunders, MD, Medical Consultant
 Tracy Alcock, JD, Advisory Attorney
 Angela Lawrence, Executive Director
 Tammy Davis, Administrator
 Stacy Tarr, Administrative Director
 Candyce Waszmer, Administrative Director

The committee convened at 9:01 a.m. A quorum was present and Mr. Jim Donaldson called the meeting to order with a roll call.

Approval of Minutes

After review of the minutes from the May 8, 2018, Mr. Scott Vogt made a motion to approve the minutes after a typographical error on page 2 was corrected. The motion was seconded by Mr. Dan Brown. The motion carried and the minutes were approved.

Legislative Update

Mr. Patrick Powell, Legislative Liaison, presented information regarding the legislation that was passed in the most recent legislative session that will affect this Board in some way. That information included the following:

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 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).

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.

Applicant Interviews

Kelly Stidham – Ms. Stidham appeared before the Committee because she has been out of practice since April, 2015. She is seeking reinstatement of her license. Ms. Stidham has not practiced polysomnography since April, 2015. Her license expired December 31, 2016. Ms. Stidham currently holds BRPT certification. She has completed the requisite continuing education. However, only continuing education hours completed in 2018 were submitted. She was asked to appear before the Committee so that they could decide if any additional requirements should be required prior to reinstatement. Rule 0880-14-.06(4)(e) states that if a 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. Mr. Brown made a motion to reinstate Ms. Stidham's license with no conditions. Mr. Vogt seconded the motion. The motion carried.

Jacqueline Walker – Ms. Walker appeared before the Committee because she has a criminal history with multiple offenses. Ms. Walker is applying for a polysomnography technician license. Ms. Walker's application contains several letters of recommendation. These letters speak to her good character and polysomnography experience. Ms. Alcock reviewed Ms. Walker's criminal history with the Committee. After hearing from Ms. Walker and discussion among the Committee members, Mr. Vogt made a motion to issue a temporary license to Ms. Walker contingent upon an evaluation by Tennessee Medical Foundation. If the evaluation comes back with no recommendations, Ms. Walker will be granted an unrestricted technician license. If there are any conditions set by the Tennessee Medical Foundation, Ms. Walker must comply with those recommendations and come back before the Committee. Ms. Charity Worrick seconded the motion. The motion carried.

Ratification of New Licenses & Reinstatements

Mr. Vogt recused himself from this portion of the meeting due to knowing one or more of the new names on the ratification list. Ms. Worrick made a motion to approve the list. Mr. Brown seconded the motion. The motion carried.

Office of General Counsel Report

Ms. Tracy Alcock, Committee Attorney, introduced a new Committee member, Mr. Mark Spiceland. Mr. Spiceland works at St. Thomas.

There are no rulemaking amendments currently pending.

The Committee's most recent rule amendments had an effective date of August 23, 2017. The first rule amendment amended the continuing education rule, found at Rule 0880-14-.09(c), by removing existing language regarding acceptable continuing education programs and substituting language that lists the organizations whose courses the Committee has preapproved for credit towards the continuing education requirement. The second rule amendment amended Rule 0880-14-.08(2), concerning the Committee consultant to now state, "[t]he Committee shall select as a Committee consultant a designee who may serve as a consultant(s) to the Division..."

Ms. Alcock, Committee attorney, reported that there is one open case pertaining to the Polysomnography Professional Standards Committee.

Ms. Alcock presented one Consent Order and one Petition for Order of Compliance. She reminded the Committee that in order to avoid any conflict of interest, if you have any personal or financial interest to be sure and raise that prior to any discussion in order to recuse yourself from that discussion.

Consent Order

Jillian Garrett – Mr. Spiceland recused himself from the discussion. Ms. Garrett is a licensed polysomnographic technologist who worked at St. Thomas Health for approximately six years until on or about June 23, 2017. On or about June 16, 2017, respondent's co-workers observed Ms. Garrett exhibiting strange and erratic behavior while on shift working as a Polysomnographic Technologist. She was suspected of impairment while she was working the night shift at St. Thomas Health, Center for Sleep. On or about June 16, 2017, due to her display of erratic behavior during her shift, she was asked to consent to a for-cause urine drug screen pursuant to the St. Thomas Health Substance Abuse Policy. Her urine tested positive for cocaine and opiates in the urine drug screen. She was terminated for violation of the St. Thomas Health Substance Abuse Policy on or about June 23, 2017. Respondent admitted that she took pills prior to her shift on June 15, 2017 and that she went to work impaired. She was arrested for DUI on or about November 1, 2017 for which she pled guilty on May 1, 2018. She was arrested and charged with a second DUI in December, 2017. She was sentenced to 11 months and 29 days supervised probation for the first offense, with 48 hours served in jail, and ordered to pay court costs and fines. She was sentenced to 11 months and 29 days supervised probation for the second offense, with 48 hours served in jail, and ordered to pay court costs and fines. The court ordered that the two sentences were to be served consecutive to each other. As part of her supervised probation, Ms. Garrett is prohibited from drinking alcohol and using and/or consuming any non-prescribed controlled substances and illegal drugs. Additionally she submitted to a drug and alcohol assessment

and/or treatment in May, 2018 and she is required to attend an Alcohol Safety School and Davidson County DUI School. This order shall suspend Respondents license for not less than six (6) months, and the license will remain suspended until she has completed the several requirements. Respondent must petition for an Order of Compliance and appear personally before the Committee for the suspension to be lifted. The order outlines requirements upon reinstatement of Respondents license as well. Respondent shall pay a total Civil Penalty of two hundred dollars (\$200.00) and pay the costs of prosecuting this case up to a maximum amount of four hundred dollars (\$400.00).

Mr. Vogt made a motion to approve the consent order. Ms. Worrick seconded the motion. The motion carried with one abstention and Mr. Spiceland recused himself. The Order will go before the Board of Medical Examiners for approval at the next meeting scheduled for September 25, 2018.

Petition for Order of Compliance

Anna Ealy – Mr. Donaldson recused himself from this discussion. Ms. Alcock reported that Ms. Ealy is petitioning the Committee lifting the suspension and reflecting compliance with the Agreed Order approved by the Committee on February 21, 2017. Ms. Ealy has shown compliance with the terms of the Agreed Order. She has not had any additional reprimands, citations, or other penalties during the time her license was suspended. Mr. Vogt made motion to remove Ms. Ealy’s license from probation and allow her to resume practicing polysomnography. Mr. Brown seconded the motion. The motion carried with one recusal. The Order will go before the Board of Medical Examiners for approval at the next meeting scheduled for September 17, 2018.

Manager’s Report

The activities that have transpired in the administrative office between May 1, 2018 and July 31, 2018 concerning the Polysomnography professionals are as follows:

New Applications Received:

- Full Technician 1
- Technician/Temp 5
- Trainee/Student 3
- Reinstatements 1

Total New Licenses Issued:

- Full Technician 6
- Technician/Temp 6
- Trainee/Student 3

There is no information available regarding renewals due to an issue with the new software. This issue is currently being worked on and these numbers will be available at the next meeting. The total number of active licenses as of April 30, 2018 is 537.

Office of Investigations Report

There are currently three monitored practitioners under Board order. One complaint (unprofessional conduct) has been filed this year and it is currently being investigated. Two complaints have been forwarded to the Office of General Counsel for collections.

There being no further committee business, the meeting adjourned at 10:11 a.m.