



POLYSOMNOGRAPHY PROFESSIONAL STANDARDS COMMITTEE
Regular Board Meeting

Tuesday, August 23, 2016

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: Roxanne M. Valentino, M.D.
 Jim O. Donaldson, PSGP
 Adam Clark, PSGP
 Dan Brown
 Theresa Hill
 Scott Vogt

Absent Members: None

Staff Present: Maegan Carr Martin, JD, Executive Director
 Rene Saunders, MD, Medical Consultant
 Tracey Alcock, JD, Advisory Attorney
 Tammy Davis, Administrator
 Stacy Tarr, Administrative Manager

The Committee convened at 9:00 a.m. A quorum was present and Dr. Valentino, Chair, called the meeting to order with a roll call.

Approval of Minutes

Dan Brown made a motion to approve the minutes from the May 10, 2016 Committee meeting. Jim Donaldson seconded the motion. The motion passed unanimously.

Applicant Interview

Tracey Alcock summarized Christopher Slaymaker's application for technologist. Mr. Slaymaker has numerous credentials and holds a bachelor's degree. The reason for the applicant interview is that he does not have the education specifically required by the rules and statutes for licensure.

We no longer utilize the A-Step program and require very specific polysomnography education. As far as our review of the application, he did pass the BRPT. He was able to take the BRPT based on his certification. Mr. Slaymaker can provide further information. Ms. Alcock gave the Board four options:

1. Approve for full licensure
2. Deny the application. If the application is denied, the applicant will have the right to appeal.
3. Allow the applicant to withdraw his application so that he can seek further education and reapply at a future date.
4. Table the application to the next meeting to allow Mr. Slaymaker to weigh his options and supplement his application as appropriate.

Scott Vogt recused himself from the discussion because he has known Mr. Slaymaker and worked with him. Dan Brown said that he has worked with Mr. Slaymaker over 20 years ago but does not need to recuse himself and that that relationship would not impact his decision in any way.

Mr. Slaymaker introduced himself and said that he agrees with everything that has been said up to this point. He is aware of the education requirements for licensure. He was unsure if AStep still applied but is aware now that it does not. He asked that the board consider his experience and years in the field of neurodiagnostics. He said that he is happy to respond to any questions that the Board has regarding his experience.

Dr. Valentino asked that Mr. Slaymaker walk the Board through his educational background:

Mr. Slaymaker received his Bachelor's degree from Mercer University in Macon, GA in 1975. He moved to Nashville and worked at various jobs until he chose to pursue a doctorate in veterinary medicine. He took the VAT and was accepted at University of Tennessee College of Veterinary Medicine. At the time, it was a 3 year program. He made it 2 years before he was dismissed from the program for poor performance. Instead of reapplying and taking the VAT again, he went into a master's program in neurophysiology. That's what started his career in neurodiagnostics. He took a part time position at a hospital in Knoxville. That job turned into a full time job and that's where he's been for 30+ years.

Dr. Valentino asked if he had been doing EEGs and intraoperative monitoring and EMGs. He responded yes. He said that at St. Mary's they had a sleep lab. He was helping during the day scoring records. That was in the late 80s early 90s before licensure was required. In order to sit for the BRPT, he had to complete 546 clinical hours at Methodist over the past year and a half. He sat for and passed the exam in May 2016. Ms. Alcock pointed out that he has held a license as a polysomnographic trainee in order to sit for the BRPT.

Dr. Valentino asked what degree the BRPT would accept. Ms. Alcock cited TCA § 63-31-106 which states that one of the following requirements must be met:

- A. Graduation from a polysomnographic educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs;
- B. Graduation from a respiratory care educational program that is accredited by the Commission on Accreditation of Allied Health Education Programs and completion of the curriculum for a polysomnographic certificate established and accredited by the Committee on Accreditation for Respiratory Care of the Commission on Accreditation of Allied Health Education Programs;
- C. Graduation from an electroneurodiagnostic technologist educational program with a polysomnographic technology track that is accredited by the Commission on Accreditation of Allied Health Education Programs; or
- D. Successful completion of an accredited sleep technologist education program, which is AStep. Ms. Alcock reminded the Board that option "D" no longer exists.

Ms. Alcock stated that the Committee alone is authorized to interpret its statutes. She added that the BRPT did consider his qualifications and allowed him to take the BRPT.

Dr. Valentino stated that her opinion is that Mr. Slaymaker's educational background would most fit with the electrophysiology pathway which is allowed, except that back in those years, there weren't formal neurophysiology training programs.

Dr. Saunders stated that we do not have any educational information in his packet. He did not provide any transcripts or official descriptions of his educational pathway. He just told reported that he graduated with a Bachelor's Degree and pursued veterinary medicine prior to his decision 30 years later to pursue a polysomnographic track. Page 24 will give you an idea of what the BRPT requires in order to sit for their exam.

Dr. Valentino asked Mr. Slaymaker if he is a registered EEG tech. He responded that he is.

Dr. Saunders confirmed that he was certified on April 20, 1991.

Mr. Slaymaker stated that he can make the transcripts available if need be.

Mr. Brown asked if Mr. Slaymaker is working in EEG as well as sleep. Mr. Slaymaker responded that he is working in both arenas at the hospital. Unfortunately, he cannot perform any polysomnographic duties until he is licensed. He does clerical duties and maintenance in the sleep lab. He stated that his trainee permit expired in either February or March.

Ms. Martin stated that the Committee may not feel that they have all the needed information to make a decision today. In that case, they can identify whatever information deficiencies there may be in the file and request that they be provided before the next meeting. The Committee shouldn't feel that they have to make a decision today if they consider the file incomplete.

Dr. Valentino acknowledged that part of the difficulty here is that Mr. Slaymaker's education predates the statutes in place now. His education may be sufficient in substance, but not form. Though Dr. Valentino is generally opposed to exceptions, she believes that Mr. Slaymaker's EEG training and subsequent polysomnography clinical experience and BRPT certification is adequate and she is comfortable issuing a license. She invited others to comment.

Mr. Donaldson said that he agrees with Dr. Valentino's reasoning and that Mr. Slaymaker definitely has the needed experience. Unfortunately, he doesn't meet the specifics. Mr. Clark agreed that he feels comfortable with Mr. Slaymaker's experience.

The Committee discussed whether, since the A-Step program is no longer an option, Mr. Slaymaker would be required to complete a formal two year graining program. The Committee also discussed the grandfather provision and whether it had application here. Mr. Slaymaker said that he was not practicing polysomnography in 2007. The Committee discussed the possibility of using AStep to meet the additional educational requirements.

Dr. Valentino summarized what she believed to be Mr. Slaymaker's pathway to licensure. He could either go back and complete a formal 2 year degree or successfully complete the A-Step program. Mr. Donaldson said that he thinks that the most reasonable approach is to have him take the A-Step program.

Dr. Valentino asked if the A-Step requires clinical hours. Mr. Clark confirmed that they are required. Ms. Martin stated that there are 23 modules. Dr. Valentino wanted to know the time requirement. Ms. Martin read from the FAQs and said that each module takes about 30 minutes to complete. Each module has a test as well.

Dr. Valentino said he believes Mr. Slaymaker may be able to qualify under TCA § 63-1-306(1)(C). He has already met (2) and (3). Then there is (4) which requires that he "meet any additional educational requirements established by the committee." The Committee can decide that nothing additional is required or maybe the A-Step academic part because the clinical has already been satisfied. She asked if there are any additional things to consider.

Ms. Alcock distinguished between conditional and contingent licensure. Dr. Valentino favored contingent licensure. Mr. Donaldson made a motion to grant Mr. Slaymaker a license contingent on Mr. Slaymaker taking the A-Step modules and submitting the appropriate paperwork to confirm his successful completion of the program. Mr. Brown seconded the motion. There was no opposition and one recusal. Ms. Martin told Mr. Slaymaker that he will receive a letter from the administrative office summarizing the action that the committee took today.

Ratification of New Licenses & Reinstatements

Mr. Clark made a motion to approve the new licenses, temporary permits and expired licenses. Mr. Donaldson seconded the motion. The motion passed unanimously.

Office of General Counsel

Ms. Martin reminded the committee that they all signed conflict of interest agreements.

Tracy Alcock, Advisory Attorney, informed the Committee that the Office of General Counsel currently has two open cases. There is one Consent Order and a contested case. The contested case was originally scheduled for today but it has been continued, possibly to the February 21, 2017 meeting. There will also be a rulemaking hearing that day.

Rule Amendments

At the last two meetings, the Committee discussed two different amendments to the rules. One has to do with continuing education and the other has to do with the consultant. The rulemaking process has commenced though it will be a while before the rulemaking hearing is scheduled. Once rulemaking is authorized by the Committee, the proposed rule is subject to internal review. The first rulemaking hearing is regarding the continuing education rule and proposes to remove existing language regarding acceptable continuing education programs under the rule and substituting language that lists the organization whose courses the committee has preapproved for credit towards the continuing education hour requirement. The second rule amendment amends the definition of a board consultant.

Ms. Alcock announced that Public Chapter 556 became effective, which extends the polysomnography committee for four years until June, 2020.

Previously we adjusted the meeting schedule to try and get the financials ready for the meeting. The minutes do not reflect whether we decided to have 2 or 3 meetings in a year. For now we have Feb. 21, 2017, April 11, 2017, May 9, 2017, and August 22, 2017. Either the April or May meeting needs to be cancelled. Dr. Valentino said that we should cancel the April meeting as it is so close to the Feb. meeting. Mr. Clark made a motion to meet three times in 2017 in Feb, May, and August. Mr. Donaldson seconded the motion. The motion passed unanimously.

Orders

Ms. Martin introduced the new administrator, Ms. Tammy Davis, to the Committee. She pointed out that the Committee currently has a lapsed license policy that sets a penalty of \$50 for each month of practice on a lapsed license as well as an unlicensed practice policy that sets a \$100 penalty for each month of unlicensed practice. Ms. Martin is wondering if the inconsistency in the per-month penalty is intentional. The Committee cannot take action to change either penalty today because discussion of this item was not added to the public notice; however she asked the Committee to consider whether one offense is worse than the other between now and the next Committee meeting.

Maggie Briley – Ms. Briley was not present not was an attorney present on her behalf. Ms. Briley engaged in unlicensed practice from January 1, 2016 through March 2016. She was assessed and has agreed to pay a civil penalty in the amount of three hundred dollars. Mr. Clark made a motion to approve the agreed citation. Mr. Donaldson seconded the motion which passed.

Mahinder Singh-Talwar – Singh-Talwar was not present nor was an attorney present on his behalf. Mr. Singh-Talwar practiced on a lapsed license technician from December through May 2016. He was assessed a \$100 penalty per month for eighteen months of unlicensed practice. We have agreed to allow him to make payments over a six month period and he has already made his first payment. Mr. Donaldson made a motion to approve the agreed citation, which was seconded by Mr. Brown.

Ms. Martin referred the Committee to the letter that will be sent to the programs. She said that once she has heard back from the programs, she will likely ask the Committee members to make themselves available to present to the programs to educate their students on the licensure requirements as well as how to maintain their license once obtained.

Manager's Report

Ms. Stacy Tarr provided the following statistical licensing report for the time period between February 1, 2016 and July 31, 2016:

Total New Licenses Issued

Technologist (Full)	29
Technicians (Temporary)	7
Trainee	9
Number of Renewals	61
Online Renewals	47
Percentage of renewals on-line	77

The total number of active licensees as of April 30, 2016 is 548.

Discuss Information to be Included in Correspondence to Programs

At the last meeting, the Committee discussed the need to correspond with the programs and identify some knowledge deficiencies to their students and potential licensees was discussed. Ms. Martin asked that Committee to share its ideas with her so that they may be included in the correspondence.

Unlicensed practice is one of the recurring issues with this profession, so Ms. Martin will be sure to emphasize the need for a license and also circulate the link to the rules that are contained on our website.

The letter will go to the program directors for each of the Committee's accredited programs. If there are any others associations that you think would be helpful in disseminating the information to either supervisors or licensees, the Committee was asked to let Ms. Martin know.

Reports from the Office of Investigations and Disciplinary Coordinator

Ms. Nichelle Dorroh reported that there is one (1) complaint in the Office of Investigations at this time. There are three (3) polysomnography technologists currently being monitored by the disciplinary coordinator.

Legislative Update(s)

Public Chapter 763 was summarized for the Committee. That legislation amended the prior law which required a person who had allowed their license to lapse to pay all past due renewal fees as a condition of reinstatement. That resulted in some inequities between licensees because the administrative office would collect much more from someone that had been out of practice for ten years versus someone who had been out of practice for two years. In some cases, someone may have purposely allowed their license to lapse because they were, for example, practicing in another state. Public Chapter 763 caps the assessment of past due renewal fees. That legislation states that anyone who allows their license to lapse for whatever reason has to pay a single past due renewal fee plus a late renewal fee. Pursuant to this legislative development, one hundred and eighty dollars is the most someone would have to pay to reinstate their lapsed license for this committee.

There being no other Committee business, the meeting was adjourned.