



**POLYSOMNOGRAPHY PROFESSIONAL STANDARDS
COMMITTEE
Regular Board**

Meeting August 23,

2022

MINUTES

A meeting of the **Tennessee Polysomnography Professional Standards Committee** was called to order at 9:05 a.m. in the Iris Room, Ground Floor, Metro Center Complex, 665 Mainstream Drive, Nashville, Tennessee 37243 by Penny Sprigs-Smith, Committee Chairperson.

Members Present: Rozanne Valentino, MD
 Penny Sprigs-Smith, RPSGT
 Jim O. Donaldson, RPSGT
 Charity Worrick, RPSGT

Absent Members: Mark Spiceland, RPSGT

Staff Present: Stacy Tarr, Executive Director
 Rene Saunders, MD, Medical Consultant
 Jae Lim, Advisory Attorney
 Candyce Wilson, Administrative Director
 R. Brock Mann, Administrator

Ms. Sprigs-Smith called the meeting to order at 9:00 am and conducted a roll call of members present.

Rule Making Hearing

Mr. Lim gave his introduction and called to order a Rule Making Hearing. Staff present were asked to identify themselves. Mr. Lim stated the purpose of the Rule Making Hearing was to solicit comment on the rules proposed by the committee to amend rule 0880-14-.06 regarding the reinstatement of an expired Polysomnography License. Mr. Lim stated the notice of rulemaking hearing contained the entire text of the proposed rules and was published on June 13, 2022 on the Tennessee administrative website. Ms. Tarr added that it was also posted on the committee's website. Mr. Lim read the substance of the proposed rules for the record. Mr. Lim asked for any comments, and there being none, he concluded the rulemaking hearing. Ms. Sprigs-Smith made a motion to accept the rule making and Mr. Donaldson seconded. The motion passed unanimously with a roll call vote.

Election of Officers

Ms. Tarr explained the need for an election of officers for the upcoming year. Mr. Donaldson made a motion for Dr. Valentino to become Committee Chair and Ms. Sprigs-Smith seconded. Dr. Valentino accepted the position and the motion passed. Mr. Donaldson made a motion for Ms. Sprigs Smith to become Committee Secretary and Ms. Worrick seconded. Ms. Sprigs-Smith did not accept the position and a vote did not occur. Mr. Donaldson made a motion for Ms. Worrick to become the Committee Secretary and Ms. Sprigs-Smith seconded. Ms. Worrick accepted the position and the motion passed. Ms. Tarr explained that Ms. Sprigs-Smith would continue as Chair for the remainder of the meeting and Dr. Valentino would begin the first meeting of 2023 as Chair.

Approval of Minutes

Mr. Donaldson made a motion to approve the meeting minutes from June 21, 2022 and Dr. Valentino seconded. The motion passed.

Legislative Report

Ms. Olivia Spears, a Department of Health Legislative Liaison, gave the legislative report to the Board. Ms. Spears included in her report pieces of health related legislation: The Department had two successful legislative initiatives that became law relating to local county health departments and the Controlled Substance Monitoring Database, respectively; Healthcare Facilities will move away from the Department of Health to the Health Services and Development Agency (HSDA)/Health Facility Commission on July 1, 2022; Healthcare providers can continue to utilize telehealth and receive reimbursement

for telehealth services; The Board of Pharmacy and the Board of Nursing will now hire and fire the Executive Director of the Board; and a registry within the Tennessee Commission on Aging and Disability was created to combat the operation of unlicensed facilities.

Ms. Spears spoke of Public Chapter 680—SB1909/HB1904—Johnson/Faison Re Autoclave Requirements. This public chapter exempts autoclaves from the clearance requirements of the Board of Boilers Rules if the autoclave sterilizes reusable medical or dental equipment used by an individual licensed under title 68 or 63, is installed in accordance with the manufacturer's recommendations, contains a boiler, and is regulated by the FDA.

Ms. Pears Spoke of Public Chapter 726—SB1719/HB1800—Roberts/Ragan This public chapter extends the Polysomnography Professional Standards Committee to June 30, 2027.

Ms. Spears spoke of Public Chapter 833—HB1997/SB1936—Cochran/Jackson. She explained this clarifies the Administrative Law Judge shall decide procedural questions of law. Allows the director of the administrative procedures division of the secretary of state's office to issue subpoenas. Allows electronic participation in hearings, by agreement of the parties. The hearing officer may allow electronic testimony if the absence of the witness would otherwise cause a delay of the hearing. Requires a final order be issued within 90 days. Allows a petition for reconsideration be filed within 15 days of the entry of the final order or initial order.

Ms. Spears Spoke of Public Chapter 883—SB2285/HB1749—Bell/Ragan. She explained this related to UAPA and Judicial Review Standards. Requires a judge over a contested case not defer to an agency's interpretation of the statute or rule and shall interpret it de novo. Remaining ambiguity shall be resolved against the agency.

Ms. Spears spoke of Public Chapter 911—HB2309/SB2464—Freeman/Reeves 3 Re Professional License Requirements. Mandates a person seeking a professional license have US citizenship or be authorized under federal law to work in the US as verified by the SAVE Program (allows DACA children who are now adults to obtain professional licensure if not otherwise prevented by the license).

Ms. Spears spoke of Public Chapter 1094—SB1891/HB1905—Hulsey/Doggett Re Mandatory Reporting of Fatal Drug Overdoses. Requires a fatal overdose be reported to law enforcement, including by doctors and nurses.

Ms. Spears asked for and questions, hearing none she concluded her report.

Applicant Interview

Brandon Miller – Ms. Tarr made a request on behalf of the applicant to allow him to be interviewed by phone due to travel related to his current job not allowing him to be physically present at the meeting. Members of the committee accepted this and Mr. Miller was reached via phone. Dr. Saunders provided background information for Mr. Miller, he is currently verified as an RSPGT with an active license in Oregon. He has no criminal history or prior committee action and is attempting to qualify for Tennessee Licensure via the grandfather clause due to his education being A-STEP. After brief discussion the committee determined due to his practice beginning before July 1, 2007 and having an adequate amount of continuing education qualified him to fall under the grandfather clause. Ms. Tarr explained Mr. Miller was also missing a License Verification form from the state of Oregon as well as a clear criminal background check, both of which had been requested, but not yet received. A motion was made by Dr. Valentino to grant a full license with the contingencies of receiving the criminal background check report, the verification Oregon License, and proof continuing education hours, Mr. Donaldson seconded. At this point Dr. Saunders asked the committee amend the motion to contain the specifics of the continuing education hours and Ms. Tarr asked for the addition of the word “clear” to be added in reference to the background check and license verification. The committee accepted the amendments to the motion and specified the continuing education to be provided would be 60 hours between the years of 2016-2022 and the background check and license verification received must be clear. The motion passed.

Ratify New/Reinstated Licenses and Renewals

Mr. Donaldson made a motion to approve the new/reinstated licenses and renewals. Dr. Valentino seconded the motion. The motion passed by roll call vote.

Discuss and Consider Candidates to Serve as Investigations Consultant

Mr. Lim informed the committee that because Dr. Valentino currently serves as the consultant during investigations, she would have to recuse herself from any hearings involving discipline she was involved in. He went on to explain this could cause an issue in having a quorum to take committee action if she were to recuse herself in such a situation where not all committee members were present. Mr. Donaldson asked about vacant positions and Ms. Tarr answered there is currently one vacant position, but also a consumer member who historically does not attend meetings of the committee.

Reports from the Office of Investigations and Disciplinary Coordinator

Mr. Roger Knowlton, Intake Coordinator of the Office of Investigations, reported there was one open complaint and no closed complaints to date for the year 2022. The

open complaint was regarding a lapsed license. Upon there being no questions, Mr. Knowlton concluded his report.

Financial Report

Ms. Alicia Grice, Fiscal Director for the Division of Health Licensure and Regulation presented the preliminary year-end report for fiscal year 2022. The report ran from July 1, 2021 until June 30, 2022. The report covered expenditures, revenue, and allocated expenditures. The total direct expenditures including payroll, travel, communications, and professional services were \$24,440.78. The allocated expenditures included administrative, investigative, cash office and legal cost, which totaled \$13,646.20. The total expenditures totaled \$38,086.98 dollars. Total committee revenue for the fiscal year was \$37,347.50. This resulted in a loss of \$739.48 for fiscal year 2022. The Previous two fiscal years were provided for comparison.

Technological improvement costs are removed from the net balance or reserve balance if there are not sufficient funds in the net balance. The technological improvements were made in LARS system to help the licensee and administrative staff. The technological improvements were \$1513.60.

Ms. Grice provided a breakdown of the Committee's income sources and about 65 percent from were renewal fees, sixteen percent from application fees, with the remaining nineteen percent coming from various other sources. Ms. Grice explained the policy regarding reserve balance being no more than three times the average of the last three years' expenditures. For fiscal year 2022, Ms. Grice stated the Committee's reserve balance ceiling would be 73, 000 dollars. Ms. Grice reported the Committee's reserve balance is \$24382.77. Upon there being no questions, Ms. Grice concluded her report.

Manager's Report

Ms. Tarr reported between June 1, 2022 and July 31, 2022, 6 technologists/technicians, 2 temporary, 0 trainee/student and 0 reinstatement applications were received in the administrative office.

Total New Licenses Issued

Technologist (Full)	2
Technicians (Temporary)	0
Trainee	0
Number of Renewals	33

Online Renewals	28
Percentage of renewals on-line	84%

The total number of active licensees as of July 31, 2022 were 484. The total number of temporary permits were 21, and the total student/trainee permits were 2.

Office of General Counsel

Mr. Lim stated there is currently three open cases and four licensees currently being monitored for discipline. All of those four have been reprimanded and fined in total \$7,198.93 which has not yet been collected. Upon no questions, Mr. Lim concluded his report.

Public Comment

Mr. Dustin Smith came before the committee to discuss Tennessee Code 63-31-106 which related to license requirement and the A-STEP program. Mr. Smith verified with Mr. Lim that the law would have to be changed by the Legislature and could not be changed by the committee but asked if the committee would support the change of that law if it were to come before the legislature. Mr. Lim advised the committee against making positional statements to hypothetical questions. The appropriate avenue would be, according to Mr. Lim, would be for a legislative proposal to be made and when pending a legislative proceeding to have the committee review and provide comment on such a topic. Mr. Smith rephrased his questions to include the specific topic of A-STEP education being reintroduced as a pathway for licensure because the legal basis for its exclusion is no longer applicable. Mr. Smith further voiced his concerns with the licensing requirements affecting the accessibility of patients to Polysomnographic care due to difficulty to gaining access to the required training/education. Dr. Saunders asked for clarification as to the reason why Mr. Smith had come before the committee to ask these questions because the committee does not lobby the legislature for law changes and also what his personal interest was with the topic. Mr. Smith explained his reason for coming was to bring the issue before the committee with the understanding the legislature would ask for committee insight for a change of the law. Dr. Saunders and Mr. Lim both stated that type of action is outside the scope of the committee's purpose. Mr. Lim explained to Mr. Smith the correct course would be to bring the issue to the legislature directly or to a group who could lobby for the changes he is wanting. Mr. Lim stated while the individual members may have opinions on the topic, the committee itself is bound by the law and should not give an opinion on the topic.

Schedule of Upcoming Meetings

Ms. Tarr provided the following dates for the 2023 meeting schedule:

February 7

May 9

August 29

Mr. Sprigs- Smith motioned to adjourn the meeting and Ms. Worrick seconded. The motion passed.

There being no other Committee business, the meeting was adjourned at 10:20 a.m.