

COUNCIL FOR HEARING INSTRUMENT SPECIALISTS

MINUTES

Date: March 9, 2006

Time: 9:00a.m.

**Location: Cumberland Room, Ground Floor
Cordell Hull Building
425 5th Ave. North
Nashville, TN 37247-1010**

Members Present

Dr. David Levy, Chairman

Mr. Thomas A. Stewart, Secretary

Mr. Jackie L. Miller, Council Member

Mr. James D. Alderman, Citizen Member

Ms. Robbie Bell, Ex Officio, Director

Members Absent

Dr. Robert E. Bowers, Council Member

Staff Present

Ms. Bonnie Ferrell, Administrator

Ms. Marva Swann, Unit Director

Ms. Juanita Presley, Advisory Attorney

Mr. Jerry Kosten, Rules Coordinator

Ms. Brandi Bozarth, Litigating Attorney

The Council Chair, Dr. David Levy determined that a sufficient number of Council members were in attendance to constitute a quorum and called the meeting to order at 9:15 am.

Conflict of Interest

Ms. Juanita Presley reviewed the Conflict of Interest Policy with the Council members.

Travel

Ms. Presley reviewed the rules for travel with the Council.

O.G.C. Report

Ms. Presley informed the Council of the following:

Rules:

- Notice of Rule Making Hearing on amendments to Rule 1370-2-.05, .06, .09, .15 regarding submission of passport size photograph with application; examination and re-examination fee; provision of copy of bills of sales with application for renewal of expired license; petitions for stays and reconsiderations.

Contested Hearings

- Ross Osborne, Consent Order
John Evans, Licensure denial appeal

Policy Statement

- Policy statement regarding requirement for continuing education.

Contested Case

John Evans – Mr. Steven Darnell was the presiding judge.

Ms. Bozarth, State's litigating attorney presented the charges against Mr. Evans to the Council. Mr. Evans was denied reinstatement of his Tennessee Hearing Instrument Specialist License at the meeting due to disciplinary action against him in Texas. He signed an agreement not to renew his license in the state of Texas.

Mr. Evans was appealing the decision of the Council.

Ms. Bonnie Ferrell testified for the state.

Mr. Evans testified for himself, presenting a letter from the State of Texas stating that he could now apply for a license in Texas.

Ms. Bozarth stated at her closing argument that allowing him to apply for a license did not guarantee that Texas would grant him reinstatement of his license.

Council for Licensing Hearing Instrument Specialists

March 9, 2006

Page 2

Dr. Levy stated that Mr. Evans, by his own admission was practicing in Tennessee without a license. Mr. Evans stated he was working for Dr. Shea as a technician . Dr. Levy thought it would be premature to issue Mr. Evans a reinstatement of his license at this time. He stated that Mr. Evans should have reinstated his Texas license prior to coming before this Council.

After hearing all the evidence presented by both sides and hearing the closing arguments, a motion was made by Mr. Thomas Stewart to deny reinstatement of Mr. Evan's license. The motion was seconded by Mr. Jackie Miller and the motion carried.

The Council recessed at 10:30am for a break.

The Council reconvened at 10:45am.

Consent Order

Mr. Ross Osborne

Ms. Bozarth presented the Council with the consent order signed by Mr. Osborne. Mr. Osborne was charged with three (3) Type B Civil Penalties.

- 1. He mistakenly represented the address of the Council for Licensing Hearing Instrument Specialists incorrectly on his purchase agreements.**
- 2. Provided to a client a purchase agreement that contained the inaccurate address of the Council for Licensing Hearing Instrument Specialists.**
- 3. Failed to indicate on purchase agreement provided to client whether the instrument being sold was new, used, or rebuilt.**

Mr. Osborne consented to pay five hundred dollars (\$500) each, for a total civil penalty assessment of one thousand five hundred dollars (\$1,500). Mr. Osborne also agreed to pay the assessed actual and reasonable costs of the prosecution, not to exceed two hundred fifty dollars (\$250), including all attorney and paralegal time; all costs incurred by administrative law judges, court reporters and witnesses, including, but not limited to, travel and lodging during the prosecution of this matter. Said costs will be established by an affidavit of costs prepared by the department. Mr. Miller made a motion to accept the Consent Order as written. Mr. Stewart seconded the motion and the motion carried.

Council for Licensing Hearing Instrument Specialists

March 9, 2006

Page 3

Rules

Mr. Jerry Kosten explained the substance of proposed amendments to Rule 1370-2 - .05 - Procedures for Licensure, 1370-2-.06- Fees, 1370-2-.09 – Renewal of License and 1370-2-.15 – Disciplinary Actions, Civil Penalties, Informal Settlements, Assessment of Costs and Subpoenas

Legislation

Ms. Presley stated she would like to research further, particularly informal settlements. Mr. Stewart made a motion to postpone any action at this time. The motion was seconded by Mr. Miller and the motion carried.

Mr. Kosten informed the Council of S B 2511, regarding the requirement of two (2) hours of continuing education on recent amendments to the Tennessee Law and Rules for Licensing Hearing Instrument Specialists.

Policy Statement

Ms. Ferrell presented a Policy Statement regarding the new rule requiring all licensees to have two (2) hours of Tennessee Law and Rules as part of the twenty (20) hours of continuing education they are required to have for renewal of their license. This Rule went into effect on January 14, 2006. Mr. Kosten explained that the Policy Statement would exempt all licensees renewing in years 2006 and 2007. The Rule would not be enforced until the year 2008 due to the fact that when a licensee signs the renewal form he is attesting to having met the continuing education requirements for the previous two (2) years. That being the case, the two (2) hours of Tennessee Law and Rules were not in effect. Mr. Stewart made a motion to approve the Policy Statement as written. The motion was seconded by Mr. Miller and the motion passed.

Examinations

The Council recessed to administer practical examinations at 11:35am.

The Council reconvened at 12:15pm.

Minutes

Mr. Stewart made a motion to accept the minutes of the December 1, 2005 meeting as written. Mr. Miller seconded the motion and the motion carried.

Council for Licensing Hearing Instrument Specialists

March 9, 2006

Page 4

Investigative Report

Ms. Ferrell reviewed the investigative report with the Council. She stated that two (2) complaints were received this year and there were five (5) still open as of the end of February, 2006.

Disciplinary Report

Ms. Ferrell informed the Council that there were two (2) disciplinary actions to be heard today.

Financial Report

Ms. Ferrell presented the financial report to the Council.

Ratification

Mr. Stewart made a motion to approve the following applicants for licensure:

Jonathan Day – Full Licensure

Joy Day ----- Full Licensure

Tom L. Parker –Full Licensure

Mr. Miller seconded the motion and the motion carried.

Mr. Stewart made a motion to deny licensure pending passage of exams to the following applicants:

Katy Brienne Smalley, Apprentice, Tennessee Law

Thomas W. Vaughan, Full Licensure, Masking

The motion was seconded by Mr. Miller and the motion carried.

Administrator's Report

Ms. Ferrell reviewed the Administrator's Report with the Council. She informed them that there were one hundred and four (104) active licensed Hearing Instrument Specialists, and six (6) active Apprentice Hearing Instrument Specialists as of the end of February, 2006.

Elections

Mr. Miller made a motion to elect Mr. Stewart as Council Chair. Mr. Alderman seconded the motion and the motion carried. Mr. Stewart made a motion to elect Mr. Miller as Secretary for the Council. The motion was seconded by Mr. Alderman and the motion carried.

Adjournment

There being no further business, Mr. Stewart made a motion to adjourn the meeting. The motion was seconded by Mr. Miller and the motion carried. The meeting adjourned at 2:15pm.

Dr. David Levy, Council Chair

Date