

COUNCIL FOR HEARING INSTRUMENT SPECIALISTS

MINUTES

- Date:** December 14, 2006
- Time:** 9:00a.m.
- Location:** E.M.S. Conference Room, 3rd Floor
227 French Landing
Heritage Place Metro Center
Nashville, TN 37243
- Members Present:** Mr. Thomas A. Stewart, Chairman
Mr. Jackie L. Miller, Secretary
Mr. James D. Alderman, Citizen Member
Dr. Robert E. Bowers
Mr. Craig Haltom
- 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
- Visitors Present:** Ms. Courtney Cross, Court Reporter

The Council Chair, Mr. Thomas Stewart determined that a sufficient number of Council members were in attendance to constitute a quorum and called the meeting to order at 9:00 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:
The Criminal Background Check, Rule 1370-2-.05 became effective May 31, 2006.

Amended Rule 1370-2-.08, .12, .19, .20 regarding examination equipment, retirement C.E., screening panels, and advertising became effective September 23, 2006.

Amended Rule 1370-2-.05, .06, .09, .15 regarding refundable examination fees, stays, deletion of requirement of signed photographs, bills of sale at renewal and informal settlements, are pending review by OGC.

Contested Cases/Consent Orders

Mr. Herman Cupit, License # 385

Ms. Bozarth, the Council's litigating attorney presented the charges against Mr. Cupit to the Council. Mr. Cupit advertised for Tennessee Hearing Instrument Specialists in the Leaf-Chronicle newspaper in Clarksville, the Audibel Class A Custom Full Shell hearing aid for three hundred and ninety-five dollars (\$395.00) and the Audibel Class A Custom Canal hearing aid for six hundred ninety-five dollars (\$695.00). The Audibel Class A Custom Full Shell hearing aid is not sold at the Clarksville location of Tennessee Hearing Instrument Specialists. Mr. Bozarth then informed the Council of the terms of the Consent Order to which Mr. Cupit agreed. Mr. Cupit's license will be placed on probation for a period of one (1) year, effective the date this Consent Order is ratified by the Council. While on probation, Mr. Cupit shall submit all advertisements for his practice to the administrative staff for the Council. Mr. Cupit shall pay one (1) Type C Civil Penalty in the amount of Fifty Dollars (\$50.00) plus the costs of this action. After a lengthy review and discussion, Dr. Robert Bowers made the motion to accept the Consent Order as written. Mr. Jackie Miller seconded the motion and the motion carried.

Mr. Thomas C. Brown, License #586

Ms. Bozarth, the Council's litigating attorney presented the charges against Mr. Brown to the Council. Mr. Brown had been convicted of Driving Under the Influence on December 10, 1986, March 1, 1996, and May 24, 2001. On Mr. Brown's application for HIS Apprentice licensure, dated January 28, 1999, when asked "Have you ever been convicted of a felony or a misdemeanor other than a minor traffic violation?" Mr. Brown answered "no". On Mr. Brown's application to upgrade from Apprentice, dated September 21, 1999, when asked "Have you ever been convicted of a felony or a misdemeanor other than a minor traffic violation?" Mr. Brown answered "no". On Mr. Brown's 2002 Health Related Boards Reinstatement Application he answered "no" to the question "Have you ever been convicted of any crime and not notified the Board?" Mr. Brown was employed by Hixson Hearing Aid Centers from August 11, 2003 until February 5, 2004. After being terminated from employment from Hixson Hearing Aid Centers he made several harassing phone calls to the offices and employees of Hixson Hearing Aid Centers. On March 16, 2004 an Order of Protection was filed against Mr. Brown in Hamblen County, Tennessee. The court ordered Mr. Brown to restrain from

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committing further acts of abuse or threats of abuse against petitioner and further ordered Mr. Brown to refrain from any contact with petitioner for a period of one (1) year. On April 22, 2004 Mr. Brown pled guilty to harassment, public intoxication, and reckless endangerment in Hamblen County, Tennessee. Ms. Bozarth informed the Council of the terms of the Consent Order to which Mr. Brown agreed. Mr. Brown's license to practice as a hearing instrument specialist in Tennessee shall be and is hereby placed on probation, effective the date this Consent Order is ratified by the Council, and shall last a minimum of three (3) years. Mr. Brown shall have an evaluation with the Tennessee Professional Assistance Program and shall follow any and all recommendations of the evaluation. Should the evaluation recommend a contract with Tennessee Professional Assistance Program, Mr. Brown's probation shall run concurrent with said contract. This probation is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank. Mr. Brown shall pay the costs of this action and shall not exceed five hundred dollars (\$500.00). Mr. Brown is hereby assessed six (6) Type B Civil Penalties in the amount of five hundred dollars each, for a total assessment of three thousand dollars (\$3,000.00), to be paid at two hundred and fifty dollars (\$250.00) per month for one (1) year, with the first payment due thirty (30) days after date this Consent Order is ratified by the Council. After much discussion Dr. Bowers made a motion to accept the Consent Order as written. The motion was seconded by Mr. Miller and the motion carried. The Council thanked Ms. Bozarth.

Examinations

Ms. Bonnie Ferrell informed the Council of her progress in contacting Ms. Shannon Gerger, of the North Carolina Board for Hearing Instrument Specialists. Ms. Gerger stated that they had a new simulator and had used it in giving examinations for the first time the beginning of November. Ms. Gerger said that it worked well and there was some discussion on leasing it out to other states; but they had not made a decision yet. Ms. Gerger said she would turn the matter over to Ms. Trina Bedsaul, the chairman of the examination committee and they would get back with me when they made a decision..

Mr. Jerry Kosten stated that a lot of questions would need to be addressed concerning the leasing of a simulator. The Council discussed some of the questions that would need to be addressed, such as cost, if the simulator could be programmed for different types of hearing loss, if we should decide to lease one would it have to go out for bid, etc?. This being the case, the subject was tabled until Ms. Ferrell received more information from North Carolina.

Ratification of Applicants

Dr. Bowers made a motion to ratify the following Applicants that were tested on November 12, 2006 and November 25, 2006:

1. Clounce, Stephanie L. – Passed

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2. Smalley, Katy Brianne – Passed
3. Woolum, Rhonda A. – Passed
4. New, Eric - Passed
5. Dyke, Sandra R. – Failed
6. Rigg, David M. – Failed

Mr. Miller seconded the motion and the motion carried.

Minutes

After reviewing the minutes of the October 12, 2006 Council meeting, Mr. Craig Haltom made a motion to accept them as written. The motion was seconded by Mr. Miller; and, the Motion passed.

Administrator's Report

Ms. Ferrell reviewed the Administrator's Report with the Council informing them of the statistical report regarding licensees. She said that it was taking longer for applications to be complete due to having to wait for the Criminal Background Check.

Financial Report

Ms. Ferrell reviewed the financial report with the Council. The report shows that the Council is showing a little better bottom line, which means that they are on the right tract and may be able to show a positive balance in the future.

Investigative Report/Disciplinary Report

Ms. Marva Swann informed the Council that there were currently eight (8) open complaints in investigations and no new disciplinary actions at this time.

Mr. Stewart requested the administrative staff attend the Tennessee Hearing Society and International Institute for Hearing Instrument Sciences seminar in March of 2007.

Adjournment

There being no further business, Mr. Miller made a motion to adjourn the meeting and administer examinations. The motion was seconded by Mr. Haltom and the motion carried. The meeting adjourned at 10:10am. Practical examinations were administered immediately following the meeting,

Mr. Thomas Stewart, Council Chair

Date

