

Applicant Interview(s)

Allyn Y. Boatwright – Ms. Boatwright was invited to appear before the Committee to discuss her prior criminal history. Mr. Vogt recused himself. During the interview it was discovered that Ms. Boatwright had been practicing without a license. Ms. Lester made a motion to approve Ms. Boatwright's application for a temporary permit contingent upon an Agreed Citation for unlicensed practice. Mr. Donaldson seconded the motion which passed unanimously.

Trachena V. Wallace – Ms. Wallace was invited to appear before the Committee to discuss her prior criminal history. Mr. Vogt made a motion to approve the application for a temporary permit for Ms. Wallace, contingent upon reporting to us on a year basis her driving record. After further discussion, Mr. Vogt restated his motion; Mr. Vogt made a motion to approve Ms. Wallace's application for a temporary permit. Mr. Samples seconded the motion which passed unanimously.

Approval of Minutes

Mr. Samples made a motion to approve the minutes from the October 10, 2014 Committee Meeting. Ms. Lester seconded the motion. The motion passed unanimously.

Ratification of New Licenses & Reinstatements

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

Office of General Counsel

Ms. Bratton informed the Committee that as of May 12, 2015 there were two (2) disciplinary cases pending in the Office of General Counsel. Ms. Bratton informed the Committee that one (1) of the two (2) have signed a Consent Order to be presented to the Committee today. The second case will be coming before the Committee as a Contested Case at the October 27, 2015 Committee meeting. Ms. Bratton stated the Committee does not have any drafted rules at this time. Ms. Bratton and Ms. Martin have been discussing the Rules and there may be some sections that could be fleshed out better so some ideas for proposed changes could be presented at the October meeting. Representative of the Polysomnography Committee came before the Joint House and Senate Government Operations Committee in February of this year based on the Committee's fiscal situation, and the Operations Committee granted another year for the Polysomnography Committee to work on financial stability. Finally, Ms. Bratton reminded the Committee Members of the Conflict of Interest Policy.

Ms. Bratton presented the following consent orders to the Committee:

Consent Order(s)

Candace D. Meek – Ms. Meek was not present nor was she represented by counsel. Ms. Mary Katherine Bratton appeared on behalf of the State. After the Committee discussed the issue, Mr. Samples made a motion to deny the Consent Order. Mr. Vogt seconded the motion, which was unanimously approved. This issue will be brought back to the October 2015 meeting as either a Consent Order or a Contested Case.

Manager's Report

Ms. Stacy Tarr reported that between October 1, 2014 and April 30, 2015 there were new applications received in the administrative office in the form of: 9 Technologists (full license) 21 Technicians (temporary permit), 35 Trainee/Students, and 3 Reinstatements.

Total New Licenses Issued

Technologist (Full)	28
Technicians (Temporary)	22
Trainee	37
Number of Renewals	124
Online Renewals	101
Percentage of renewals on-line	81%

The total number of active licensees as of April 30, 2015 is 546.

Other Administrative Business

At the October 10, 2014 meeting, the question was brought up as to whether the Attachment 4/ Supervision Notification must be completed by a Supervising Physician, or whether it could be completed by a Polysomnography Technologist. It was determined that the form must be filled out by a Supervising Physician only, but that the form is not required in order to have an application approved, only that the information must be submitted before the licensee begins practicing. Administration is considering putting something on the website and/or communicating this information to the schools. Staff may also query the system and send notification to those licensees for whom the information has not been submitted

Financial Report

Vanessa Crutcher presented the financial report to the Committee. She began with the projections for fiscal year 2015. It is projected that the Committee will come out of the deficit. Ms. Crutcher reviewed the expected expenditures and revenue and discussed which items could vary more. The final fiscal Report will be presented at the October 2015 meeting. Dr. Valentino asked Ms. Bratton when the Polysomnography Committee would be asked to appear again before the Joint Government Operations Committee and Mary Katherine stated that it would be in January or February 2016, but only if the Committee is not doing well fiscally.

Office of Investigation & Disciplinary Report

Ms. Nichelle Dorroh reported that there are two (2) cases pending in the Office of Investigations as of May 11, 2015. There are three (3) polysomnography technologists currently being monitored by the disciplinary coordinator.

Legislative Report

Valerie Nagoshiner presented the legislative report. First, however, Ms. Nagoshiner provided some additional information regarding the Polysomnography Committee having to appear again before the Joint Government Operations Committee and how that process would work. Ms. Martin reminded the Polysomnography Committee that they are under a Sunset Audit. Ms. Nagoshiner then moved on to the legislative report. There was no specific Polysomnography legislation, but there were four bills that may be of interest to the licensees:

- Senate Bill 99/House Bill 88: This act defines “abuse” and “neglect” for purposes of placing a person on the registry of persons who have abused, neglected, or misappropriated the property of vulnerable individuals within the statutes that govern the Dept. of Health. It does not impact the definitions within the statutes that govern the Dept. of Intellectual and Developmental Disabilities nor the Dept. of Human Services. It also increases the time within which placement on the registry may be appealed from 30 to 60 days.
- Senate Bill 467/House Bill 216: This act allows the Joint Government Operations Committee (the legislative committee that reviews all rules) to stay a rule up to 75 days instead of 60 days. Present law authorizes the Joint Government Operations Committee to consider the following factors when reviewing rules: authority, clarity, consistency, justification, necessity and reference. This act adds arbitrariness and capriciousness as two new considerations.
- Senate Bill 892/House Bill 1003: This act makes disclosures of protected healthcare information permissible in medical malpractice lawsuits.
- Senate Bill 1223/House Bill 699: This act provides for the practice of telehealth. It outlines the following:
 - Defines a healthcare provider
 - Establishes a provider-patient relationship by mutual consent and mutual communication
 - Specifies that telehealth does not create a new standard of care
 - Prohibits any board from creating a more restrictive standard of professional practice for telehealth service
- Ms. Bratton outlined for the Committee the recent Supreme Court decision in the North Carolina Board of Dental Examiners v. F.T.C. case. The North Carolina Dental Board issued cease and desist letters to forty six non-dentists who were performing teeth-whitening and charging less than dentists. The F.T.C. filed an administrative complaint alleging anti-competitive action and restraint of trade under the Sherman Anti-Trust Act.

The Supreme Court opinion held that the board would only have been able to invoke state action immunity if they were subject to active supervision by the State. The ruling held that the activity which could potentially be seen as a restraint on trade must be clearly articulated in an expressed state policy and must be actively supervised by the State. Ms. Bratton differentiated the case from the Committee's position in that the NC board members appear to be appointed by their peers rather than the Governor, and that the board appeared to do its own cease and desist letters with apparently little involvement from state officials. Ms. Bratton informed the Committee that the State may provide for the defense and indemnification of agency members, and has, but the Committee should be cautious in its actions that may have an effect on market participants.

Ms. Martin introduced Ms. Shell, the new Board Administrator for the Polysomnography Committee.

Adjourned 10:45

These minutes were ratified by the Committee on October 27, 2015