

Chairs Committee
March 16, 2009

Members

Ron Masters - present
Sue Salsman - present
Chuck Thomas - present
Jane Hagedorn - present
Patricia Broerman - absent

Staff Present

Cindy Houlson
Susan Van Horn
Wendy Zimmerline
Matt Oetker

Ron called the meeting to order at 4:00 p.m.

Sue Salsman presented Administrative Rules Committee Report. ARC has met two times and worked on guidelines for evaluating those licensees that answer yes to the felony and misdemeanor questions in the screening questions. The committee also worked on contested cases rules and discipline rules.

The guidelines for evaluating the yes answers to the screening questions will help staff. The guidelines were read, and discussion focused on who would be making the decision to approve or deny a license. The staff person responsible for the initial review is Cindy Houlson. She will use the guidelines to evaluate the licensee information. OWIs and possession of drugs and substance abuse are automatic approvals. If it is beyond simple possession, Matt Oetker will review and provide opinion. Members discussed different types of cases and how the guidelines would be applied. If it is something that is business related or has extenuating circumstances, those cases will be taken to the Board.

Discussion then focused on how to arrange the agenda and how the topics of contested cases, discipline and felony issues seem interrelated. And who was best to speak on each item.

Question: What is the definition for directly related to the profession mean? Everyone agreed if the offense was done while on the clock it would be directly related to the profession. Misrepresenting yourself as a licensed professional and theft related to billing for work that was never done were other examples. It is a department policy to include the survey questions and the under laying facts of the case affect whether the offense is directly related to the profession.

Comment: The Department of Public Health and counsel believe it is our obligation to look at all felonies and misdemeanors and how they relate to the public health, not just those directly related to the profession with the focus on public safety and public health.

It was decided to move applicable work experience after contested cases and the guidelines on ARC piece. Agenda will reflect change with audit first with guidelines following, contested cases will be ARC issue and report on Professional Licensure can be included then.

Comment: All agreed it best to advise licensees to fill out application truthfully in regards to survey questions.

Clarification: any offense with incarceration, bodily harm within the 5 year time frame has to be reviewed with the AAG. OWIs occurring anytime anywhere are automatically approved. If more serious offense occurs in conjunction with an OWI, there will be additional charges on record.

Question: Can the felony, misdemeanor cases brought to the Board be discussed in open or closed sessions. Matt will advise as each one comes forward. There are different circumstances that may affect each case and those circumstances will affect whether it is an open or closed session.

Sue will present guidelines and contested case outlines. Cindy or Matt could start and then turn the discussion over to Sue.

The Audit Committee issue was tabled at the February Board meeting. The recommendations coming to the March meeting are tied to the felony/ misdemeanor guidelines. The audit discussion was tabled until the ARC committee could meet with Professional Licensure. At the meeting with PL, they shared that they do not audit applications but choose to focus their limited resources on complaints and prosecuting offenders.

Contested cases set the rules for trials, through the initiation of a case through the appeal process. It is an agency trial and one issue to be decided is if the Board wants an Administrative Law Judge to participate. There are two ways to initiate a trial, one is to deny a license and then the licensee has 30 days to initiate a hearing. The other way is where the Board charges someone.

Clarification: Then the audits that will be discussed at the meeting are the red flag issues (yes answers to survey questions). Yes, work history is not being addressed.

Discussion focused on merits of random auditing and how to proceed prior to January 1, 2010 when new licensees all must test. All complaints by law must be investigated and Board members have an ethical duty to participate in the self regulation of the trades. If a Board member files a complaint they must exclude themselves from the trial process.

Professional Licensure puts a different perspective on auditing. Investigations are their focus and it is a huge commitment, each investigator has to have specialized knowledge on investigations. Specific instances were shared where individuals may have not

represented their experience truthfully. There is a recommendation that the Board establish a Discipline Committee in lieu of an Audit Committee. Each contested case takes a minimum of 2 hours. This conversation has to be held with the full board and will need to clarify issues so each member understands and the thinking process shared with the public. Ultimately the Board will need to vote on it, these are tough decisions and no easy answer regarding auditing issues. The vote at the February meeting supported going forward with licensing without the auditing process.

Jane Hagedorn will be chairing this meeting due to Ron having a previous commitment. Application and Fee Committee did not meet. CEU Committee will report that the forms and rules are still not finalized.

Test Committee report will be Prometric Contract has been sent to Prometric and we are in the 10 day waiting period waiting response. Once the contract is back the committee will meet with Prometric and start the question review. Tests will be given for Journey and Master levels in all four disciplines, plumbing, HVAC, refrigeration and hydronics.

Reciprocity Committee – has not met.

Comment: As a Board, we need to change our tone so we don't put out unreasonable expectations. We are doing great things as quickly as is reasonable and we need to state that.

Med Gas Committee – has not met.

Legislative report will be given by Ken Sharp. Tomorrow there is a meeting with the Stake holders and Senator Danielson at 12:30 in the Senate Lobbyist Lounge. The Board will take its lunch break at 12:15 – 1:15 to allow designated Board members to attend.

Applicable work experience will also need to be discussed. Staff needs clear guidance on whether the current required 5 years of journey and 5 years of master level experience is supported as a qualification for licensure. Issue centers on what experience is needed for a person who sat for the test. There is an expectation that a motion will be made affirming or changing the requirements.

Several miscellaneous license type issues came forward at the last minute. Board will need to review and provide direction to the staff on how to advise the individuals. Another issue will be documentation that Denny Molden is bringing concerning a case that involved a water softener installation company. This case refers to the 1941 Supreme Court case that is still considered the binding authority. Recommendation is until the case is reversed that the Board follow the case.

Meeting was adjourned 6:00

Cindy Houlson,