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Professional Licensing Agency

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Governor Michael R. Pence

BEHAVIORAL HEALTH AND HUMAN SERVICES LICENSING BOARD ELECTRONIC MEANS PARTICIPATION POLICY

Posted on the public BHHS webpage and copies available from main office

The following policy (the "Policy") regarding electronic participation in the Behavioral Health and Human Services Licensing Board ("BHHS" or "Board") meetings was approved as set forth herein at the public meeting of January 28, 2013 by due consideration and 8-0-0 vote of the Board.[1]

I. Recitals: Policy and Legal Considerations

This Policy is adopted, and shall be interpreted to:

A. Balance ease of Board member's access and participation with orderly proceedings, including best practices for meetings including administrative hearings conducted in meeting;
B. Follow Ind. Code § 5-14-1.5-3.6 and any other applicable provisions of the Open Door Law and other applicable law, and be interpreted in a manner consistent with such laws;
C. Encourage Board members to physically attend meetings whenever possible, especially when hearings are scheduled.[2]
D. Ind. Code § 5-14-1.5-3.6 applies to electronic participation in Board meetings and establishes various requirements, including that Board members may participate electronically only if a means of communication is used that permits the Board member, all other Board members, and members of the public physically present at the place where the meeting is conducted to simultaneously communicate with each other during the meeting; at least four Board members must be physically present at the place where the meeting is conducted; all votes in electronic meetings shall be roll call votes; each Board member must be physically present for at least one meeting of the Board annually; absent adopted policy to the contrary, a Board member who participates by electronic communication is considered present, may be counted in establishing a quorum, and vote at the meeting; and the Board must comply with the Open Door Law and adopt a policy under Ind. Code § 5-14-1.5-6(g).

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[1] Statutory Background. P.L. 134-2012 (HEA No. 1003-2012) affected the Open Door Law (ODL) and the Access to Public Records Act (APRA). A notable change would allow a State agency such as the Behavioral Health and Human Services Licensing Board ("BHHS") to allow its Board Members to attend meetings via electronic means on or after January 1, 2013. In order to permit participation in such a fashion, BHHS has adopted this Policy. BHHS is authorized and required to develop such a policy through Ind. Code § 5-14-1.5-3.6.

[2] Physical attendance is also important to maintain the minimum three members at the designated meeting site.

II. Policy Provisions

Based on the foregoing Recitals, the following Policy is hereby adopted by the BHHS under Ind. Code § 5-14-1.5-6(g):

1. At least four (4) Board members must be physically present at the designated meeting site. In case of difficulty of scheduling or multiple Board Members requesting electronic participation, the Chairperson of the Board in conjunction with the Board Director, shall determine who may attend electronically.

2. Consistent with Ind. Code § 5-14-1.5-3.6(b), a Board member participating via electronic means can do so by telephone, computer, video conferencing, or any other method of communication that allows for simultaneous communication and is capable of being recorded by members of the public present at the designated meeting site.

3. A Board member appropriately participating via electronic means is considered present, is counted for quorum purposes, and may vote at the meeting on all matters. A Board member participating via electronic means may cast the deciding vote on any matter properly before the Board and may fully participate in the meeting.

4. A Board member participating in a meeting via electronic means is not required to do so in a setting that is open to the public.

5. A Board member attending via electronic means shall notify the Chairperson and Board Director reasonably in advance of the meeting. A Board member does not require prior Board authorization to participate electronically under this policy unless the Chairperson objects or must require physical participation in order to have three Board members physically present at the place where the meeting is conducted.

6. The Chairperson is delegated to supervise and coordinate electronic participation with the assistance of the Board Director and in consultation, as necessary, with the Deputy Attorney General assigned to the Board.

7. Board members are encouraged, but not required, to attend in person all meetings possible, especially where administrative hearings are scheduled. This Policy endeavors to balance convenience and greater membership participation with operational efficiency and quality.

Date Jan 28, 2013

Kimble Richardson, M.S., L.M.H.C., L.C.S.W., L.M.F.T., L.C.A.C., Board President
On Behalf Of
Behavioral Health and Human Services Licensing Board