

Oregon Liquor Control Commission Advisory Committee Meeting

Minutes

Service Permit Denial Criteria OAR 845-009-0020

Thursday, August 29, 2013
9:00 am – Noon

Present

Kelley Sheldon (Oregon Restaurant Services, Dotty's); Michael Maxwell (Oregon Culinary Institute); Nellie deVries (Oregon Restaurant & Lodging Association); Shannon Lilja (Lifeworks NW); Jesse Sweet (OLCC: AP&P); Gwenn McNeal (OLCC: Compliance); Shannon Hoffeditz (OLCC: Compliance); Shannan Coyle (OLCC: AP&P); and Annabelle Henry (OLCC: AP&P).

Invited but Not Present

Amy Norris (Service Permittee); Bill Perry (Oregon Restaurant & Lodging Association); Brian Butenschoen (Oregon Brewers Guild); Brian McMenamin's (McMenamin's); Christy Shones (Service Permittee); Chuck Flor (Olive Garden Restaurants); Craig Tidwell (Service Permittee); David Jackson, Officer (Portland Police Bureau); Dr. Bruce Goldberg (Oregon Alcohol & Drug Policy Commission); Duke Tufty (Wyse Kadish); George Iverson (Service Permittee); Gina Timmons (Portland Bartending Academy); Greta Pierce (Shari's Restaurants); Hasina Squires (Government Relations Strategies); Hobie Pearson (Elk Rock Bar & Grill/Action Server Education); Jeff Ruscoe (Oregon Mental Health & Addiction Services); John Schmerber, Commander (Hillsboro Police Department); Judy Cushing (Lines for Life); Kathy Stromvig (Mothers Against Drunk Driving, Portland Chapter); Linda Fisher-Lewis (Oregon DOT/DUII Program Manager); Lise Gervais (Public Action Management); Matt Biggs (Lifeworks NW); Melanie Johnson (Applebee's Restaurants); Miranda Vasquez (Service Permittee); Nick Davis (Elmer's Restaurants); Richard Drandoff (ChangePoint); Shannan Coyle (AP&P); Theresa Marchetti (Portland Office of Neighborhood Involvement); and Tom Parker (Lines for Life).

Meeting Minutes

The meeting began at approximately 9:05 a.m. on August 29, 2013 in room 103A of the Oregon Liquor Control Commission's Portland Headquarters. Annabelle Henry, OLCC Technical Services Coordinator, moderated the discussion.

Welcome Statement: Ms. Henry opened the meeting with a brief welcome statement and a review of the rulemaking process and the purpose of advisory committee meetings, in general.

Ms. Henry explained that the purpose of an advisory committee is to increase the public's involvement in the drafting and development of administrative rules. The Oregon Legislature, through its enactment of the Administrative Procedures Act (chapter 183 of the Oregon Revised Statutes) has noted the critical importance of public participation in the development and implementation of sound public policy. Ms. Henry stated that advisory committees are an excellent way to solicit input from external stakeholders during the early stages of the rulemaking process.

Ms. Henry stated that during this meeting, she would seek members' input on the proposed amendments to the rule as well as their likely fiscal impact. Ms. Henry explained that the Commissioners would consider members' suggestions and comments; however, the Commissioners would not be bound by the conclusions that the advisory committee reached or the topics that it discussed.

Ms. Henry stated that under Oregon's Public Meeting Law, advisory committee meetings like this one are open to the public. Consequently, members of the public may observe the meeting, but may not offer comments. Ms. Henry also stated that the meeting would be digitally recorded and that a summary of the discussion would be published. However, because advisory committee meetings are intended to promote the open exchange of ideas, Ms. Henry explained that meeting minutes would be limited to the topics discussed and the main points made and, except for Ms. Henry, individual speakers would not be identified by name in the meeting minutes. Ms. Henry asked members who wished to receive a copy of the meeting minutes to sign the provided attendance sheet.

Discussion of the Proposed Rule Language: Ms. Henry opened the discussion of the proposed amendments with a brief review of the rulemaking history. Ms. Henry stated that the Service Permit Denial Criteria rule entered rulemaking in June of 2013. Ms. Henry also stated that the purpose of the proposed amendments was to simplify the format and structure of the rule and to align the rule's substantive provisions with the Commission's current licensing standards.

The committee then began to discuss the proposed amendments. Advisory committee members were supportive of the proposed amendments.

One member noted that there seems to be an increasing number of people with a wider

variety of types of convictions who are applying for service permits.

Another member noted that some people who successfully complete substance abuse treatment programs may be denied a service permit for a substance abuse problem that no longer exists. The same member later stated that the “good cause” provisions of the rule appear to successfully address this concern.

Members were supportive of the proposed shift from the conviction date to the date on which the incident that resulted in the conviction occurred.

One member observed that the rule does not consider out-of-state Driving Under the Influence of Intoxicants convictions. The same member asked the Commission to consider these convictions.

Another member stated that research indicates a person with a substance abuse problem generally needs to go through treatment between three and eight times before it is effective.

One member noted that many individuals with a substance abuse problem lack the financial resources to obtain the necessary treatment.

Another member suggested the Commission use professional treatment standards (such as those set forth in the Diagnostic and Statistical Manual V) to define the bases described in the Service Permit Denial Criteria rule. The same member noted that professional definitions of what constitutes a mental or physical illness are always changing.

One member stated that a 12-month period of abstinence is an arbitrary timeframe because an individual’s response to treatment over time varies widely; however, given various policy considerations, this timeframe might be reasonable.

Another member stated that employing a person with an alcohol addiction in a job that required him or her to work with alcohol could be problematic. However, this member noted that an active substance abuser would continue to abuse alcohol regardless of where he or she worked. This member also asked that the alcohol industry be inclusive and provide opportunities for employment in order to help former substance abusers move beyond their prior choices.

Two members stated that they supported the required period of sobriety because it reinforced probation and employment incentives.

One member believes the proposed amendments will increase individuals’ access to service permits and also benefit the licensees that employ these individuals by increasing the applicant pool for these positions.

Discussion of the Fiscal Impact Statement: Next, Ms. Henry solicited the advisory

committee's help in drafting the Commission's fiscal impact statement. The purpose of the fiscal impact statement is to project, as accurately as possible, the expected economic impact of the proposed amendments. To guide this discussion, Ms. Henry directed the attendees to a brief questionnaire designed to assess the likelihood that the proposed amendments would result in a financial impact on business, and if so, the expected cost to comply with the proposed amendments.

Advisory committee members did not anticipate any negative fiscal impacts from the proposed amendments. One committee member anticipated a positive fiscal impact for employers because the proposed amendments would increase the number of employees, or prospective employees, who could qualify for a service permit. Another committee member anticipated a positive fiscal impact on individuals because the proposed amendments would increase the number of people who could qualify for a service permit and therefore, presumably, locate employment.

Next in Rulemaking: Ms. Henry stated that a public hearing on this matter has been tentatively scheduled for October 31, 2013, and that the period for public comments has been tentatively scheduled to end at 5:00 p.m. on November 14, 2013. [**** *Editor's Note: These dates have changed; please see forthcoming Notice of Hearing or website for more information.* ****] Ms. Henry also stated that the proposed amendments to the Service Permit Denial Criteria rule are tentatively scheduled to be presented for final action at the December 2013 Commission Meeting.

Ms. Henry closed the meeting by thanking members for their attendance and participation. The meeting ended at approximately 10:00 a.m. on August 29, 2013.