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BEFORE THE WASHINGTON STATE INSURANCE COMMISSIONER

In the matter of:

Amandeep Cheema

)
)
) OIC CASE No. 1384783

)
) **AMANDEEP CHEEMA'S**
) **OPPOSITION TO OIC'S MOTION FOR**
) **LEAVE TO AMEND LICENSE**
) **APPLICATION DENIAL**
)
)

OIC seeks leave to amend the grounds for denial of Ms. Cheema's license application. The license application was denied on July 26, 2016. The sole bases for the denial was that Ms. Cheema's husband, Harinderjit Singh Bisla is alleged to have assisted his wife with the licensing test by providing answers to test questions. OIC asserted only that the alleged misconduct permitted OIC to deny the license under RCW 48.17.530(1)(c) for attempting to obtain a license through fraud and misrepresentation. Concurrently, OIC informed Ms. Cheema of her right to appeal that decision, which she has done. The grounds for denial of the license are established and the appeal of that decision has been perfected.

Seven weeks after OIC issued the license denial they seek to add eight (8) additional statutory and regulatory grounds for the denial. None of the authority cited

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1 by OIC's motion supports the amendment they seek. OIC relies primarily on RCW
2 34.05.434(1) as the authority allowing the leave to amend. This statutory section
3 speaks to the Notice of Hearing issued by the hearing examiner. In this case, the
4 Notice of Hearing was filed September 7, 2016. It has nothing to do with allowing OIC
5 to amend the legal grounds for a license denial after perfection of the appeal. It
6 provides:

7
8 **RCW 34.05.434**

9 **Notice of hearing**

10 (1) The agency or the office of administrative hearings shall set the time
11 and place of the hearing and give not less than seven days advance
12 written notice to all parties and to all persons who have filed written
13 petitions to intervene in the matter.

14 OIC also cites WAC 10-08-130(1)(b) which allows the hearing officer to
15 consider the necessity or desirability of amendments to the pleadings. This hearing
16 officer requested OIC to provide legal authority allowing it to amend. Nothing in OIC's
17 Motion for Leave to Amend speaks to the necessity of amending. WAC 10-08-130
18 (1)(b) does not authorize amendment of the pleadings, only that the hearing officer can
19 consider it. Without a showing of necessity, the amendment should be denied.

20 WAC 10-08-130(1)(a) speaks to the need for simplification of the issues. OIC
21 makes no showing how amending their license denial will serve to simplify the issues.
22 In proper context, section (b) should be construed to allow amendment of the
23 pleadings when it assists in simplifying the issues. OIC's Motion for Leave to Amend
24 will not simplify the issues, but render them more complex.
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1 OIC goes on to argue that they have the power to correct its own action at any
2 point in the process before a hearing relying on *Lawrence v. Dep't of Health*, 133 Wn.
3 App. 665, 138 P.3d 124 (2006). That case is inapposite. In *Lawrence*, the Department
4 of Health filed charges against Dr. Lawrence for unprofessional conduct. The
5 Department subsequently sought and received a report from a medical expert which
6 failed to support the charges. The charges were dismissed without a hearing and
7 Lawrence appealed arguing he was entitled to a hearing and exoneration. He argued
8 being denied a hearing was violation of his constitutional rights to due process. The
9 Court of Appeals held the power to dismiss charges was implicit in the agency's power
10 to correct its own action. In the present case, OIC is not seeking to reverse their
11 decision; they are seeking to expand the legal grounds for the license denial. The
12 language from *Lawrence* cited by OIC is an incomplete quote and taken out of context.
13
14 The complete quote is:

16 Thus, although the APA does not contain a provision expressly
17 addressing voluntary dismissals, such power is implicit in the agency's
18 power to correct its own action at any point in the process before a
19 hearing, especially where, as here, the agency is both the regulator and
20 adjudicator.

21 *Lawrence*, at 665.

22 The only issue in *Lawrence* is whether the agency has authority to dismiss charges
23 without a hearing. Ms. Cheema would submit there is a substantial difference in an
24 agency correcting a decision to dismiss charges when they are no longer factually
25 supported and, as here, OIC's attempt to expand the legal bases for Ms. Cheema's
26 license denial.

1 Lastly, OIC cites the case of *McDaniel v. Social and Health Services*, 51 Wn.
2 App. 893, 756 P.2d 143 (1998) for the proposition that the issues at hearing need not
3 be confined to OIC's original pleading so long as the parties have a meaningful
4 opportunity to litigate the issue. The *McDaniel* case makes no such holding. The
5 proposition OIC cites the case for is dicta.
6

7 OIC submits no legal authority allowing it to expand the scope of license denial
8 after the appeal has been perfected. OIC has failed to make any showing of the
9 additional grounds for the license denial is necessary or relevant. The statutory
10 grounds in the application denial, RCW 48.17.530(1)(c), provides OIC adequate
11 grounds for them to present their case. No showing has been made why their case
12 calls for the amendment they seek.
13

14 The Motion for Leave to Amend should be denied.

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16 Dated this 20th day of September, 2016.

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19 _____
20 Steve Chance, WSBA #19765
21 Attorney for Amandeep Cheema
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