

FILED

2016 SEP 13 P 1:17

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

In the Matter of:

Amandeep Cheema,

Appellant.

Agency No. 16-0216

OIC'S MOTION FOR LEAVE TO
AMEND LICENSE APPLICATION
DENIAL

RELIEF REQUESTED

The Office of the Insurance Commissioner (OIC) moves for leave to amend the license application denial issued to Amandeep Cheema, by informing Cheema that the denial is appropriate because she violated RCW 48.01.030, RCW 48.17.125, RCW 48.17.530(1)(b), RCW 48.17.530(1)(c), RCW 48.17.530(1)(h), RCW 48.17.530(1)(k), RCW 48.30.040, WAC 284-17-125(1), and WAC 284-17-125(3). This motion is made on the grounds that the OIC has the power to correct its own action at any point in the process before a hearing and that the prehearing stage is the appropriate time to identify issues, amend pleadings, and address matters as may aid in the disposition of the hearing.

ISSUE

In deciding this motion, this tribunal is presented with a single issue: May the OIC amend the license application denial issued to Amandeep Cheema?

FACTS

Amandeep Cheema applied for an insurance producer license on July 7, 2016. Declaration of Drew Stillman, Ex. 1. On July 26, 2016, the OIC denied Cheema's application. Stillman Decl., Ex. 2. The denial stated in relevant part:

The denial is based upon the fact that you admitted to the Insurance

1 Commissioner's investigators that your husband, Harinderjit Singh Bisla, had
2 assisted you by providing answers to test questions. RCW 48.17.530 (1)(c) permits
3 the Commissioner to deny a license to anyone who attempts to obtain a license
through misrepresentation or fraud.

4 *Id.* A hearing in this matter is scheduled for December 2, 2016. The OIC now seeks to amend
5 the license application denial.

6 EVIDENCE RELIED UPON

7 This motion is based on the Declaration of Drew Stillman, and:

- 8 1. A copy of the OIC's license application summary report that was generated upon Cheema's
9 application, attached to Stillman's Declaration as Exhibit 1.
- 10 2. A copy of the OIC's license application denial issued to Cheema, attached to Stillman's
11 Declaration as Exhibit 2.

12 LEGAL AUTHORITY

13 **It is appropriate to amend the license application denial because the matter is in the**
14 **prehearing stage and the amendment would provide Cheema with sufficient opportunity**
15 **to litigate the issues presented.**

16 This motion is made under RCW 34.05.434(1), which gives parties the full opportunity
17 to submit pleadings¹ and motions at appropriate stages of adjudicative proceedings. The
18 appropriate stage to amend pleadings by motion or otherwise is now, during the prehearing
19 phase. WAC 10-08-130(1)(b) (identifying the topic of "necessity or desirability of amendments
20 to the pleadings" as appropriate for prehearing conferences). In fact, an agency has the "power
21 to correct its own action at any point in the process before a hearing, especially where, as here,
the agency is both the regulator and adjudicator." *Lawrence v. Dep't of Health*, 133 Wn. App.
22 665, 676-78, 138 P.3d 124 (2006).

23 Granting leave to amend the license application denial at this time is not only proper, but
24 is also a fair and expeditious means to identify the issues to be determined at hearing. This is
because, even if the OIC does not exercise its power to amend the license application denial at

25 _____
26 ¹ The pleadings in this matter consist of the OIC's license application denial and Cheema's hearing demand. See
Black's Law Dictionary 969 (8th ed., abridged) (defining "pleading" as "a formal document in which a party to
a legal proceeding (esp. a civil lawsuit) sets forth or responds to allegations, claims, denials, or defenses").

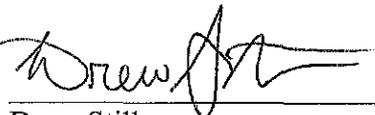
1 this time, the issues at hearing need not be confined to the OIC's original pleading. Rather, it is
2 appropriate to decide an issue at hearing where the issue was raised in an amended complaint, in
3 briefs, in oral argument, in other pleadings, or even at hearing so long as the parties have a
4 meaningful opportunity to litigate the issue. *McDaniel v. Dept. of Social and Health Servs.*, 51
5 Wn. App. 893, 898, 756 P.2d 143 (1988) (quoting *International Ass'n of Firefighters, Local 469*
6 *v. Public Empl. Relations Comm'n*, 38 Wn. App. 572, 579, review denied, 102 Wn.2d 1021
7 (1984)).

8 Because we are in the prehearing stage and Cheema will have ample opportunity to
9 litigate the issues identified in an amended license application denial, it is appropriate for the
10 OIC to amend the license application denial at this time.

11 CONCLUSION

12 For the reasons set out above, the OIC respectfully requests that the presiding officer
13 grant the OIC leave to amend the license application denial issued to Amandeep Cheema so that
14 the OIC may inform Cheema that she violated RCW 48.01.030, RCW 48.17.125, RCW
15 48.17.530(1)(b), RCW 48.17.530(1)(c), RCW 48.17.530(1)(h), RCW 48.17.530(1)(k), RCW
16 48.30.040, WAC 284-17-125(1), and WAC 284-17-125(3), which support the denial of her
17 license application.

18 DATED this 13th day of September 2016, at Tumwater, Washington.

19 

20
21 Drew Stillman
22 Insurance Enforcement Specialist
23 Legal Affairs Division
24 Office of the Insurance Commissioner
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