

**VIRGINIA BOARD FOR
ASBESTOS, LEAD, AND HOME INSPECTORS
DRAFT MEETING MINUTES**

The Virginia Board for Asbestos, Lead, and Home Inspectors met on Thursday, May 14, 2015, at the Offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia.

The following members were present:

Sandra Baynes
Colleen Becker, Chair
Suzanne Blevins
Phillip Fincher
Erich Fritz
James Haltigan

Brian Koepf
Gene Magruder
Reginald Marston III
Frederick Molter IV
Kenneth Nash
Peter Palmer, Vice Chair

The following board members were not present at the meeting:

Rick Holtz
W. Chris Nixon

The following staff members were present for part or all of the meeting:

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Jill R. Hrynciw, Board Administrator
Cathy Clark, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present.

Ms. Becker, finding a quorum of the Board present, called the meeting to order at 9:02 a.m. **Call To Order**

Ms. Henshaw advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

The Board took the agenda under consideration. **Approval of Agenda**

Mr. Koepf moved to approve the agenda. Mr. Marston seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the

effective date of the regulations.

Mr. Magruder moved that the Board approve the minutes of the February 5, 2015 Board meeting. Mr. Palmer seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Approval of Minutes

Ms. Becker opened the floor for public comment. David Harvey, of Planet Protection Services; Howard Varner, of EHS Laboratories; Michael Lefon, of BEST, Inc.; and Joseph France, of France Environmental, Inc. were present. Mr. Harvey, Mr. Varner, and Mr. Lefon each addressed the Board regarding issues with the language in the Project Monitor Guidance Document that was adopted by the Board on February 5, 2015.

Public Comment

Mr. Molter recused himself from the meeting.

Mr. Molter Recused

In the matter of **File Number 2015-02127, Matos Builders, LLC (ASB)**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Matos Builders, LLC, did not appear at the meeting in person, by counsel, or by any other qualified representative.

File Number 2015-02127, Matos Builders, LLC (ASB)

Mr. Magruder moved to accept the summary and recommendation of the Presiding Officer and deny Matos Builders' application for an Asbestos Abatement Contractor license. Mr. Fincher seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

As Presiding Officer, Mr. Molter was not present, did not participate in the discussion, and did not vote on this matter.

Mr. Molter returned to the meeting.

Ms. Henshaw initiated a discussion of the Project Monitor Guidance Document adopted by the Board at its February 5, 2015 meeting. After the Board adopted the guidance document, Ms. Henshaw received notification from the general public and regulated community that the guidance document does not accurately reflect current practice and

Project Monitor Guidance Document Discussion

institutes a major change in the industry. Such a change would be cost-prohibitive for many who perform on-site analysis. Ms. Henshaw explained that the intent of the guidance document was to clarify how an individual (project monitor or on-site analyst) could prove AIHA accreditation or PAT Program proficiency as those are accreditations/designations applicable to analytical laboratories and not individuals. Ms. Becker and Mr. Fincher provided that an industry procedure is that a quality assurance sample is taken each day an analyst is taking samples and the laboratory that employees the analyst retains the results of the quality assurance sample. This is known as quality control documentation and it could be requested of the laboratory should the analyst's competency ever be questioned.

Mr. Palmer moved that the Board rescind the current Project Monitor Guidance Document and publish an amended guidance document based upon today's discussion. Further, Mr. Palmer moved to authorize staff to make any technical amendments necessary to the guidance document in consultation with the Chair prior to publication. Mr. Fincher seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations..

Ms. Henshaw provided an update on the current status of the regulatory review processes for the Board's regulatory packages.

The proposed fee amendments to the Asbestos Licensing Regulations were approved and effective May 1, 2015.

**Update on
Regulatory Review
Process**

The proposed amendments to the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and the Certified Home Inspector Regulations made pursuant to the Governor's Regulatory Reform Initiative were approved and effective May 1, 2015.

The proposed amendment to the Lead-Based Paint Activities Regulations to correct language for renewal of accredited lead training programs were approved by the Governor's Office on April 27, 2015. The Regulation will be published to the Virginia Register on June 1, 2015 with a 30-day public comment period ending on July 1, 2015. The Regulation will be effective on August 1, 2015.

The proposed fee amendments to the Lead-Based Paint Activities Regulations were approved by the Governor's Office on April 27, 2015. The Regulation will be published to the Virginia Register on June 1, 2015 with a 30-day public comment period ending on July 1, 2015. The Regulation will be effective on August 1, 2015.

The proposed fee amendments to the Certified Home Inspector Regulations were approved by the Governor's Office on April 27, 2015. The Regulation was published to the Virginia Register on June 1, 2015 with a 30-day public comment period ending on July 1, 2015. The Regulation will be effective on August 1, 2015.

The proposed amendment to the Certified Home Inspector Regulations removing the requirement that initial training courses have to be taken in a classroom setting was approved by the Governor's Office on April 27, 2015. The Regulation was published to the Virginia Register on June 1, 2015 with a 30-day public comment period ending on July 1, 2015. The Regulation will be effective on August 1, 2015.

The proposed Lead-Based Paint Renovation, Repair, and Painting Program Regulations (Initial Promulgation) are in the proposed stage currently undergoing review by the Governor's Office.

The Board discussed the proposed amendment to the Lead-Based Paint Activities Regulations to remove the exam fee cap, which was approved by the Governor's Office on December 27, 2014, and published to the Virginia Register for a 60-day public comment period that ended on April 10, 2015.

**Final Lead-Based
Paint Activities
Regulation to
Increase Exam Cap**

Following the Board's discussion, Ms. Baynes moved that the Board approve the final regulation to include removal of the examination fee cap, as was originally submitted as proposed. Ms. Baynes further moved to authorize staff to amend the final regulations to provide for an exam fee cap up to \$300 if it is necessary in order to obtain executive branch approval. Mr. Fincher seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

The Board discussed the implementation of House Bill 2103 (2015) with specific reference to the required development of a training module for certified home inspectors who are performing inspections on new residential structures.

**Implementation of
House Bill 2103
(2015)**

Following the Board's discussion, Mr. Palmer moved that the Board form a committee to develop a training module for certified home inspectors and make any recommendations necessary to amend the regulations for the Board's consideration, with committee members to include Mr. Marston as Chair, Ms. Baynes, Mr. Magruder, Mr. Marston,

as well as a representative from the Home Builders Association of Virginia, an instructor from the Department of Housing and Community Development's Building Code Academy, and a Building Code Official with the Department of Housing and Community Development. Mr. Molter seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

The Board discussed the need to begin regulatory review to facilitate the implementation of House Bill 2103. After discussion, Mr. Magruder moved to authorize staff to file the Notice of Intended Regulatory Action (NOIRA) for amendments to the Certified Home Inspector Regulations as necessary to implement the provisions of House Bill 2103. Mr. Fincher seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**NOIRA for
Certified Home
Inspectors
Regulations to
Implement HB2103**

The Board discussed the current process for lead examinations related to the two portions of the examination. Currently, an individual who has or had a lead license in another discipline that required examination does not have to take the 1-hour, 20 question, Virginia Law portion of the examination – only the technical portion must be successfully completed for licensure. However, an individual that held a lead license and wishes to apply again for the same license must take both parts of the examination, including the Virginia Law portion. Staff requested that the Board consider options that would be equitable whether applying for a new lead license or the same lead license. The following two recommendations were considered.

**Lead Exam
Procedure**

Option 1

An individual who holds a current or renewable (meaning the individual can renew without reapplying) license that required an examination is not required to take the Virginia Law portion for the new license type – only the Technical portion of the exam will be required. An individual who has an expired license that is not eligible for renewal (expired more than 12 months) must take the entire examination, including the Virginia Law portion, regardless whether the individual is applying for the same or different license.

For example, an individual has a Lead Supervisor license that expired on January 31, 2015. The individual is now applying for the Lead Inspector license. The license is still renewable; therefore, the Virginia Law

portion is not required, only the Technical portion must be passed. If that individual's Lead Supervisor license expired March 31, 2014, then the individual would have to take and pass the whole exam, including the Virginia Law portion, regardless of whether it was the same license type (Supervisor) or a different license type.

Option 2

An individual applying for a lead license that requires an examination must take the entire examination, regardless of any prior or current licenses.

Ms. Baynes moved that the Board adopt Option 2, requiring an applicant to take the entire examination, regardless of any prior or current licenses. Mr. Haltigan seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

A handout was provided summarizing the asbestos and lead training course audits that have been conducted since the Board's last meeting. Ms. Hrynciw reviewed the summary with the Board. Three course approval audits have been conducted, which include one asbestos project designer refresher, one lead worker refresher, and one lead inspector course. One additional audit has been scheduled for an asbestos supervisor refresher course. Additionally, one training provider audit was conducted, and two other announced audits, scheduled for early May, will be rescheduled.

Asbestos and Lead Training Course Audits

Ms. Hrynciw provided the Board with an update on the Home Inspector CPE Audit. Of the 15 regulants solicited, 11 responses are received as of date. Of those 11, six have passed the audit, four are required to send in additional information, and one was pending review by staff.

Update on Home Inspector CPE Audits

Ms. Henshaw provided the Board with an update on the Lead Abatement Contractor Records Audits. She explained that due to staff shortages, the audits have been postponed.

Update on Lead Abatement Contractor Records Audits

Ms. Henshaw provided the Board with an update on the Board for Contractors Letters to Asbestos and Lead Licensed Contractors. She also introduced Mindy Spruill, Board Administrator for the Board for Contractors, who was in the audience to be available to answer any questions the Board may have. The Board was advised that the Board for Contractors recently mailed a letter to all contractor licensees with the asbestos or lead specialty requiring that the qualified individual named

Update on Board for Contractors Letters to ASB and LAC Licensed Contractors

on the license hold a current asbestos supervisor or lead supervisor, as applicable. While staff has seen a moderate increase in calls due to the change, it is necessary to ensure compliance with the Board for Contractors licensing requirements and to ensure minimal competency for those responsible for the regulated services.

Mr. Magruder moved to adopt the following resolution for Betty Jones, **Resolution** retiring Administrative Assistant to the Board for Asbestos, Lead, and Home Inspectors.

WHEREAS, Betty Jones has faithfully and diligently served as the Administrative Assistant to the Board for Asbestos, Lead, and Home Inspectors from 2012 to 2015, and the Department of Professional and Occupational Regulation from 1971 to 2015;

WHEREAS, Betty Jones has devoted generously of her time, talent and leadership to the Board;

WHEREAS, Betty Jones has endeavored at all times to render assistance and advice to the Board with fairness and good judgment in the best interest of the citizens of the Commonwealth; and

WHEREAS the Board for Asbestos, Lead, and Home Inspectors wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Board for Asbestos, Lead, and Home Inspectors this fourteenth day of May 2015, that Betty Jones be given all honors and respect due for her outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held by this Board.

Mr. Marston seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Mr. Koepf expressed his interest in serving on the committee to develop **Other Board**

the training module for certified home inspectors. By consensus, the Board agreed to appoint Mr. Koepf to the committee.

Business

The following tentative meeting dates for 2016 were presented:

Future Meeting Dates

- Thursday, February 11, 2016
- Tuesday, May 17, 2016
- Thursday, August 18, 2016
- Tuesday, November 15, 2016

Mr. Palmer moved that the Board approve the proposed meeting dates. Mr. Magruder seconded the motion, which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Koepf, Magruder, Marston, Molter, and Palmer. Board members Becker and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Becker requested that the Board members complete their conflict of interest forms and travel vouchers

Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting adjourned at 10:53 a.m.

Adjourn

Colleen Becker, Chair

Jay W. DeBoer, Secretary