

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

The Virginia Board for Asbestos, Lead, Mold, and Home Inspectors met on February 7, 2012, at the offices of the Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia.

The following members of the Board were present:

Bonnie Atwood	Rick Holtz
Colleen Becker	Brian Koepf
Suzanne Blevins	T. Joel Loving
Christopher Chapman	Reginald Marston, III
Keith Cronan	Kenneth Nash
Dolores Daniels	Peter Palmer
Phillip Fincher	

Board Members Bowen Hyatt and Todd Vander Pol were not present at the meeting.

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

Gordon Dixon, Director, Arrived 10:20 AM
Mark N. Courtney, Deputy Director of Licensing and Regulation
David Dick, Executive Director
Michele Atkinson, Board Administrator
Jill Hrynciw, Board Administrator
Ann-Marie Brigil, Hearing Officer
Betty C. Jones, Administrative Assistant

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

Mr. Cronan, finding a quorum of the Board present, called the meeting to order at 9:05 a.m.

Call to Order

Mr. Dick asked the Board to amend the agenda because the Director would not be able to give his report because he was called to the General Assembly. Instead, Mr. Dick will provide a legislative update. Ms. Becker moved to approve the amended agenda. Mr. Loving seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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 Agenda

Ms. Daniels moved to approve the following minutes:

**Approval of
Minutes**

Board Meeting Minutes – November 15, 2011;
IFF Meeting Minutes – November 29, 2011;
IFF Meeting Minutes – December 15, 2011;
IFF Meeting Minutes – December 28, 2011; and
IFF Meeting Minutes – January 20, 2012.

Mr. Chapman seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Ben Kreider, Mid-Atlantic Laborers, Reston, Virginia, was present and addressed the Board with several issues concerning Senate Bill No. 482.

**Public Comment
Period**

Regarding **File Number 2012-01408, Todd Allen**, the Board members reviewed the record, which consisted of the application file, exhibits, and transcript from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Allen was present and addressed the Board. After Board discussion, Mr. Koepf moved to accept the summary and recommendation of the Presiding Officer with a correction to the Informal-Fact Finding Summary, number 1, fifth paragraph, beginning with "... sentenced to one (1) of which..." should be changed to read "sentenced to one (1) year of which," and approve Mr. Allen's application for asbestos supervisor subject to the terms of an Agreement for Licensure wherein Mr. Allen agrees to the following conditions within 14 days:

**File Number 2012-
01408 – Todd Allen**

1. Allen is required to report to the Board in writing within thirty (30) days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or misdemeanor in any jurisdiction for a period of two (2) years;
2. Failure to comply with the above provision will result in a suspension of Allen's license until compliance; and

Mr. Marston seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Regarding **File Numbers 2012-01277 and 2012-01566, Larry Janney**, the Board members reviewed the application files, which consisted of the exhibits, transcripts, and the Presiding Officer's Summaries and Recommendations. Mr. Janney was present and addressed the Board. Ms. Becker moved to accept the summaries and recommendations of the Presiding Officer with a correction to the Informal Fact-Finding Summary for 2012-01566, page three, under Recommendation, fourth paragraph, the language should read a mold remediator worker instead of a mold remediator supervisor, and approve Mr. Janney's mold remediator supervisor application and mold remediator worker application. Mr. Chapman seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

File Numbers 2012-01277 and 2012-01566 – Larry Janney

Regarding **File Numbers 2012-01283 and 2012-01282, Mario Alvarez**, the Board members reviewed the application files, which consisted of the exhibits, transcripts, and the Presiding Officer's Summaries and Recommendations. Mr. Alvarez was not present. Ms. Becker moved to accept the summaries and recommendations of the Presiding Officer and approve Mr. Alvarez's mold remediation supervisor application and mold inspector application. Mr. Chapman seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

File Numbers 2012-01283 and 2012-01282 – Mario Alvarez

Regarding **File Number 2012-01521, Fred Hughes**, the Board members reviewed the record, which consisted of the application file, exhibits and transcript, and the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. The Board reviewed a request from Mr. Hughes to have his reporting interval changed from quarterly, as in the Recommendation, to semi-annually.

File Number 2012-01521 – Fred Hughes

Mr. Koepf made a motion to accept the Presiding Officer's Summary and Recommendation and enter into an agreement for continued certification contingent upon Mr. Hughes agreeing to the following conditions within 14 days:

1. That until Hughes' certification expires in 2013, he agrees to submit a quarterly report to the Board advising of his employment status;
2. That should Hughes resume home inspection work at any time prior to the expiration of his certification in 2013, he agrees to submit evidence of the required general liability insurance within 15 days or within 15 days of the Board's request;
3. That Hughes agrees and acknowledges that the waiver of the general liability insurance requirement is valid for the current license/certification cycle only and will not carry over upon license/certification renewal;
4. If Hughes fails to abide by any terms outlined in the Agreement, he agrees and acknowledges that his certification shall automatically be suspended until such time he comes into full compliance; and
5. Any and all other terms the Board deems appropriate.

Ms. Becker seconded the motion which was opposed by the following members: Atwood, Blevins, Chapman, Cronan, Daniels, Koepf, Loving, and Palmer. The motion failed. Board members Colleen Becker, Rick Holtz and Kenneth 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 made a motion to amend the Presiding Officer's Summary and Recommendation and enter into an agreement for

continued certification contingent upon Mr. Hughes agreeing to the following conditions within 14 days:

1. Until Hughes' certification expires on October 31, 2013, he agrees to submit semi-annual reports to the Board advising of his employment status;
2. Should Hughes resume home inspection work at any time prior to the expiration of his certification on October 31, 2013, he agrees to submit evidence of the required general liability insurance at least 15 days prior to resuming work and receive acceptance from the Board prior to resuming work;
3. Hughes agrees and acknowledges that the waiver of the general liability insurance requirement is valid for the current certification cycle only and will not carry over upon certification renewal; and
4. If Hughes fails to abide by any terms outlined in the agreement for continued certification, he agrees and acknowledges that his certification shall automatically be suspended until such time he comes into full compliance.

Ms. Becker seconded the motion which was approved by majority vote, members voting 'Yes' were: Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Member voting 'No' was Atwood. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Regarding **File Number 2012-01276, John Fearer**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Fearer was not present. Ms. Becker moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Fearer's mold inspector application. Mr. Fincher seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

File Number 2012-01276 – John Fearer

The Board recessed for a break from 9:55 a.m. and reconvened at 10:06 a.m.

Break

Jeff Waite, Budget Director, provided the Board a handout on analysis of fee structure and financial position for the Asbestos, Lead, Mold, and Home Inspectors Programs to consider. Mr. Palmer made a motion that Board staff submit a Notice of Intended Regulatory Action (NOIRA) to adjust fees for all regulations affected. Ms. Daniels seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Fee Increase – Jeff Waite, DPOR Budget Director

The Board suggested staff provide statistics on the number of initial applications, renewal applications and the regulant population for the Board to consider at its next meeting.

Mr. Dixon was able to appear at the Board's meeting before adjournment and provided the legislative update which consisted of an overview of the Governor's Commission on Government Reform and Restructuring and how it may impact the Boards.

Legislative Update

The Board passed a motion to delegate to Board staff the nondiscretionary authority to approve mold license initial and renewal applications where applicants have misdemeanor convictions other than those involving lying, cheating or stealing or any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time for appeal having elapsed. Mr. Palmer made a motion and Mr. Koepf seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Adoption of Staff Recommendation Regarding Mold Criminal Convictions

The Board adopted a policy stating that a mold management plan or mold remediation protocol is not required prior to a mold remediation. Further, the definition of mold inspection includes the development of a mold management plan and mold remediation protocol, therefore, only a licensed mold inspector may develop a mold management plan and mold remediation protocol. The definition of mold remediation does not include the development of a mold management plan and mold remediation protocol, therefore, a licensed mold remediator shall not develop either or use the terms to describe any work performed by or offered to be performed by a mold remediator. Mr. Fincher made a motion and Ms. Becker seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Adoption of Staff Recommendation Regarding Definitions of Mold Inspection and Mold Remediation (§54.1-500 and 18 VAC 15-60-20)

Mr. Fincher made a motion to adopt the guidance document prepared by staff, regarding 18 VAC 15-60-20 concerning the definitions of mold inspection and mold remediation. Ms. Blevins seconded the motion which was unanimously approved by members: Atwood, Blevins, Chapman, Cronan, Daniels, Fincher, Koepf, Loving, Marston, and Palmer. Board members Colleen Becker, Rick Holtz and Kenneth 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.

Adoption of Mold Guidance Document

Mr. Dick updated the Board on the progress of the regulatory activity and the Board took no action.

Update on Regulatory Activity

The following meeting dates have been scheduled:

- May 10, 2012
- August 23, 2012
- November 8, 2012

Future Meeting Dates

Mr. Cronan 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 11:33 a.m.

Adjournment

Keith F. Cronan, Chair

Gordon Dixon, Secretary

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