

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on February 5, 2015, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 4, Richmond, Virginia 23233.

The following members of the Board were present:

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

Brian Koepf (arrived 9:08 a.m.)  
Gene Magruder  
Reginald Marston, III  
Kenneth Nash  
Walter Nixon  
Peter Palmer, Vice Chair

Board member Frederick Molter, IV was not present at the meeting.

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

Jay W. DeBoer, Director  
Nick Christner, Deputy Director for Licensing, Investigations and Compliance  
Mark N. Courtney, Senior Director for Regulatory and Public Affairs  
Trisha L. Henshaw, Executive Director  
Thomas K. Perry, Board Administrator  
Amy Goobic, 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 9:00 a.m.

**Call to Order**

Ms. Henshaw advised the Board of the emergency evacuation procedures.

**Emergency  
Evacuation  
Procedures**

Mr. Palmer moved to approve the agenda as amended. Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer. Board members Becker, Holtz 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 Agenda**

Mr. Marston moved that the Board approve the minutes of the November 6, 2014, Board meeting. Mr. Magruder seconded the

**Approval of  
Minutes**

motion which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer. Board members Becker, Holtz 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 opened the floor for public comment. Mr. Tim Cundiff, with WACO, Inc. was present to address the Board. Mr. Cundiff addressed the possibility of sending renewal notices to both the licensee and the licensee's employer to insure a renewal notice is received.

**Public Comment  
Period**

In the matter of **File Number 2015-00539, Sherron Whaley, Jr.**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Magruder moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Whaley's application for an asbestos supervisor license. Mr. Marston seconded the motion which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer. Board members Becker, Holtz 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.

**File Number 2015-  
00539, Sherron  
Whaley, Jr.**

In the matter of **File Number 2015-01332, Johnie Hood**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Hood was present for the meeting but did not address the Board. Mr. Fritz moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Hood's application for an asbestos supervisor license. Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer. Board members Becker, Holtz 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.

**File Number 2015-  
01332, Johnie Hood**

In the matter of **File Number 2015-01277, Arthur F. Miller**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Magruder moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Miller's application for a home inspector certification. Mr. Fincher seconded the motion which was unanimously approved by:

**File Number 2015-  
01277, Arthur F.  
Miller**

Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Nixon, and Palmer. Board members Becker, Holtz 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 the presiding officer, Mr. Marston was not present for the discussion or vote.

Mr. Koepf arrived at 9:08 a.m.

**Arrival of Board  
Member**

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

**Update on  
Regulatory Review  
Processes**

The proposed fee amendments to the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and Certified Home Inspector Regulations are each in the final stage currently undergoing review by the Governor's office.

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 are each in the final stage currently undergoing review by the Governor's office.

The proposed amendment to the Lead-Based Paint Activities Regulations to correct language for renewal of accredited lead training programs are in the fast-track stage currently undergoing review by the Governor's office.

The Lead-Based Paint Activities Regulations (Lead Renewal Change) are in the final stage currently undergoing review by the Governor's office.

The proposed amendment to the Lead-Based Paint Activities Regulations removing the exam fee cap was approved by the Governor's office December 24, 2014, and will be published in the Virginia Register February 9, 2015, for a 60-day comment period.

The proposed amendment to the Certified Home Inspector Regulations removing the requirement that initial training courses have to be taken in a classroom setting are in the final stage currently undergoing review by the Governor's office.

The proposed Lead-Based Paint Renovation, Repair, and Painting Program Regulations (Initial Promulgation) have been re-filed and

are in the proposed stage currently undergoing review by the Governor's office.

Ms. Henshaw informed the Board that there will be a Public Hearing February 26, 2015, regarding an amendment to 18VAC15-30-161.C, which will provide for the establishment of examination fees for the lead exams by a third party vendor through the competitive negotiation process pursuant to the Virginia Public Procurement Act. Ms. Henshaw stated that previous Board action removed the exam fee cap but the Governor's office had concerns with the fee increasing too much. The exam fee cap was changed from \$75 to \$150, which is the maximum cost of the exam in the current contract. This amount may need to be reviewed in the future. The current contract is for three years, with two, one year extensions possible. Negotiations for a 2019 contract will begin in 2018. Ms. Henshaw informed the Board that currently the Board is absorbing the cost difference in a graduated rate.

**Lead Exam Fee Cap  
Regulatory  
Amendment**

Mr. Perry provided a revised handout summarizing the asbestos and lead training course audits that have been conducted since the Board's last meeting. Four course approval audits have been conducted, which include one lead risk assessor refresher, one asbestos management planner initial, one asbestos project monitor refresher, and one asbestos supervisor refresher. Six additional audits have yet to be scheduled for new training course approval.

**Asbestos and Lead  
Training Course  
Audits**

Discussion was held on the training course certificates and whether the individual or the individual's employer retains the certificates. Mr. Magruder expressed concerns that certificates were not provided to employees of the Norfolk and Newport News shipyards. Ms. Becker stated that if an employee conducting asbestos activities on their employer's property, the company retains the training certificate, not the individual and the employee is exempt from licensure. An individual should be able to obtain copies of training certificates from the training provider on those instances.

Mr. Perry provided an update concerning the certified home inspectors continuing professional education (CPE) audit. Based on previous guidance from the Board, an audit was conducted on April 1, 2014 of 21 randomly selected Certified Home Inspectors whose certificates expired between October 31, 2013 and March 31, 2014. This number equates to 25 percent of the certificates expiring during this six-month period. Of the 20 responses received, 19 have passed and one needs to supply additional

**Update on Certified  
Home Inspector  
CPE Audits**

information. No response has been received from the remaining regulant; however, this certificate expired on March 31, 2014 and has not been renewed.

A new audit was conducted on October 1, 2014 of 14 randomly selected Certified Home Inspectors whose certificates expired between April 30, 2014 and September 30, 2014. This number equates to 25 percent of the certificates expiring during this six-month period. Of the 13 responses received, ten have passed and three need to supply additional information. No response has been received from the remaining regulant. The next audit will be conducted April 2015.

The board was provided with a memorandum from Mr. Perry requesting Board guidance on identification requirements for all applicants. Section 54.1-116 of the Code of Virginia requires every applicant for a license or a certificate to engage in a business, trade, profession or occupation issued by the Commonwealth to provide either his social security number or control number issued by the Department of Motor Vehicles. Board staff currently conducts a data search in public and proprietary records software to verify that the applicant's name matches the Social Security Number provided on the application. In December, DPOR was able to obtain access to the Department of Motor Vehicles' (DMV) Portal as an External User. The DMV Portal is utilized for identification of those applicants with either a Virginia Driver's license or a Virginia address.

**Identification**  
**Requirements for**  
**Applications**

Upon recommendation by Mr. Perry and discussion by the Board, Mr. Haltigan made a motion that the Board adopt a guidance document authorizing staff to request from the applicant a photocopy (front and back) of the Social Security card and a photocopy of a government-issued photo identification issued to the applicant in instances where the name cannot be matched with the Social Security Number or the Virginia Department of Motor Vehicle Control Number as supplied on the application utilizing either public and proprietary records software or the DMV Portal. Should there be any question regarding the validity of either the Social Security card to the government-issued photo identification submitted by the applicant, or if the applicant's name on these documents does not match the name on the application, the applicant may request an informal fact finding conference for the Board to further consider the application. Mr. Nixon seconded the motion which was unanimously approved by: Baynes, Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer.

Board members Becker, Holtz 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 was provided with a draft guidance document from Mr. Perry requesting clarification of the requirements for Asbestos Project Monitors who analyze PCM air samples onsite. Regulation 18 VAC 15-20-33 E.2.b (2) describes the entry requirements for the licensure of an asbestos analytical laboratory to perform onsite PCM analysis, and the qualifications of the onsite analyst who is analyzing the PCM air samples. Regulation 18 VAC 15-20-456 outlines the responsibilities of an Asbestos Project Monitor. Subsection D describes the accreditations the Asbestos Project Monitor must have to analyze PCM air samples on site, and indicates that they shall be employed by a licensed analytical laboratory. Upon review of Regulation 18 VAC 15-20-456.D, it is not clear if the requirements described apply to the Asbestos Project Monitor or the licensed Asbestos Analytical Laboratory. Additionally, the requirements in Regulation 18 VAC 15-20-456.D do not match the requirements found in Regulation 18 VAC 15-20-33 E.2.b (2).

**Clarification of  
Asbestos Project  
Monitor  
Responsibilities for  
On-Site Analysis of  
PCM Air Samples**

The draft guidance document prepared by staff provided clarification, that in addition to employment by a licensed Asbestos Analytical Laboratory, an Asbestos Project Monitor who analyzes PCM air samples on site shall be listed or shall have applied for listing in the Asbestos Analyst Registry (AAR) and have a performance rating of "acceptable" for the most recent Asbestos Analyst Testing (AAT) round, and have completed the NIOSH 582 training program or equivalent. The document further indicated that it should be made clear in Regulation 18 VAC 15-20-33 E.2.b (2) that onsite analysts who analyze PCM air samples shall be employed by a licensed Asbestos Analytical Laboratory.

After much discussion, Mr. Fincher made a motion that the Board adopt the draft guidance document as prepared by staff. Mr. Magruder seconded the motion which was unanimously approved by: Blevins, Fincher, Fritz, Haltigan, Magruder, Marston, Nixon, and Palmer. Board members Becker, Holtz 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. Baynes abstained from voting.

Discussion was held on the use of an interactive teleconferencing format for asbestos and lead training program. Ms. Henshaw stated

**Discussion of  
Interactive Video**

that the course must be submitted for approval in the same manner as other course formats, but requested any specific information the Board would recommend as the staff has not yet received a training program in this delivery method.

**Teleconferencing  
Format for Asbestos  
and Lead Training  
Program**

Mr. Perry attended a training session for a course utilizing this delivery method and reported that the instructor was at one location, with two remote locations. The instructor could see each location, and the remote locations could see and communicate with the instructor. Mr. Perry also stated that there was also an instructor at each remote location in the event there was a loss of transmission to continue the course, and to administer an exam at the conclusion of the session.

Ms. Henshaw stated that Mr. Perry reviewed the regulations to ensure that all course requirements were met. Mr. Perry added that an audit may be performed at any of the remote locations and that the teacher-student ratio would still be required. Discussion was held on any technology constraints and the need for a certified instructor at each site. Ms. Henshaw stated that it must be an interactive video format, and that there may need to be a requirement for a list of equipment used. Mr. Perry further added that the course would still need to meet with approval. He indicated that the training provider's approved training manager would be required to provide the following assurances in writing:

- The instruction will be an interactive video and audio presentation.
- The primary instructor will have the ability to broadcast PowerPoint presentations and recorded videos simultaneously to each location.
- Each site location will have an approved instructor available to continue the instructional presentation should transmission be lost or interrupted.
- Training programs requiring hands-on activities will have an approved instructor at each site location for those portions of the training program.
- Training course notifications shall list all site locations.
- Training course participant lists shall provide the training location for each course participant.
- The certification of completion provided to the course participant upon successful completion of the course shall indicate the training location for that particular course participant.

Mr. Perry stated that if he is unable to approve the course in this

format, it would come before the Board. Ms. Henshaw thanked the Board for the discussion and stated that they will proceed with the review.

Mr. Christner provided an update on the Environmental Protection Agency (EPA) audit of lead abatement contractor records. Mr. Christner informed the Board that the Department of Labor and Industry (DOLI) receives the initial notification of lead abatement projects, and with a Memorandum of Understanding (MOU) between the agencies, DOLI notifies DPOR about projects. Mr. Christner reiterated that this is a reminder that the inspection issue is coming and the matter of notification of projects will be further addressed later.

**Other Board  
Business**

Ms. Henshaw provided a handout of House Bill 2103, which is being considered by the General Assembly and would impact the home inspector certification. The bill has a delayed enactment of July 1, 2016 and will require the Board to develop a training program for home inspectors conducting new home inspections.

Ms. Henshaw reported that she attended the EPA Region 3 Lead Inspection Workshop in December held in Philadelphia, as well as the Asbestos Coordinators meeting held in Delaware. Virginia Department of Health will be hosting this year's workshop.

The following meeting dates have been scheduled:

- May 14, 2015
- August 6, 2015
- November 19, 2015

**Future Meeting  
Dates**

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 11:33 a.m.

**Adjourn**

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Colleen Becker, Chair

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Jay W. DeBoer, Secretary