

Board for Professional and Occupational Regulation Meeting

MINUTES

The Board for Professional and Occupational Regulation met on Monday, March 1, 2004, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. The following members were present for all or part of the meeting:

Susan T. Ferguson, Vice-Chairman
Julie M. Clifford
Maxime A. Frias
Ronald Lushbaugh
Thomas J. Meany, Jr.
Leroy O. Pfeiffer, Sr.

Board members absent from the meeting were:

Keela Boose-Jackson
Raynard Jackson, Chairman

Also present for all or part of the meeting were:

Louise Fontaine Ware, Director
Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director for Regulatory Programs
Mark N. Courtney, Executive Director/Board Administrator for BPOR
Carol Mitchell, Dispute Resolution Manager
Judy Spiller, Executive Secretary

In the absence of the Chairman, Raynard Jackson, Vice-Chairman Susan T. Ferguson called the meeting to order at 10:17 a.m., noting that a quorum was present.

Call to Order

Mr. Pfeiffer moved to approve the agenda and Mr. Frias seconded the motion, which passed unanimously.

Agenda
Approval

Ms. Ferguson asked if there were any comments regarding the previous minutes of November 17, 2003. With no comments from the Board, Ms. Ferguson said she wished to comment regarding the use of the word "illegal" in the minutes when referring to the Voice Stress Analyzer (VSA). She preferred "unauthorized" or "unapproved" in place of "illegal," pursuant to the provisions of § 54.1-1805 of the *Code of Virginia*, effective to July 1, 2005. Ms. Ferguson moved to amend the minutes of the November 17, 2003, replacing "illegal" with "unapproved" or "unauthorized."

Minutes
Approval

Director Ware said it was her recollection that she had used the term "illegal" at

the previous meeting, and it is her opinion that use of VSA is illegal. Ms. O'Neal explained, as in board member training, that board members are told they cannot change history. Minutes should only be changed if they are not accurate.

After discussion, and second by Mr. Frias, the motion failed by a vote of 2-3 (Ferguson and Frias - yes) (Lushbaugh, Clifford, Meany - no) with one abstention (Pfeiffer).

Mr. Pfeiffer moved to accept the minutes as presented and Mr. Lushbaugh seconded the motion. The vote was 4-2, (Clifford, Lushbaugh, Meany, Pfeiffer – yes; Ferguson, Frias - no), and the motion passed.

There were no persons from the public wishing to speak.

**Public
Comment**

Director Ware reported that, to date, nothing had arisen in the General Assembly that would require a study by the BPOR Board.

**Louise Fontaine
Ware,
Director's
Report**

The APELSCIDLA Board adopted the recommendation of the BPOR photogrammetry study. The APELSCIDLA Board requested that a group of stakeholders hold at least three meetings to come to an agreement on how to implement the regulation of photogrammetry. Carol Mitchell, DPOR's Dispute Resolution Manager, is facilitating these meetings and she reported to BPOR later in the meeting.

The February 10, 2004, Science Blog, reported that DPOR conducted a study in November 2003 on the validity of VSA, emphasizing that there has never been a scientifically measured study on the validity of VSA.

Mr. Meany wondered why nothing regarding VSA legislation arose in the current General Assembly session. Ms. Ware said she had expected legislation regarding polygraph and the use of VSA to come up in this session of the General Assembly. Senator Harry B. Blevins and Delegate John Cosgrove were last session's patrons for the bill, but they did not introduce any related legislation for the 2004 session.

Ms. Ware also mentioned a study being conducted in England with banks and their use of VSA.

Chief Deputy Director Ryals reported that the current session of the General Assembly was about to come to a close. DPOR's agency bills fared well. HB716 – authorized the Department to consider information from public sources as the basis for written complaints against a regulant. It also extended the period of time that a complaint may be filed where the regulant has misrepresented, concealed or omitted information; and it provides that where

**Sandra Whitley
Ryals, Chief
Deputy Director**

criminal charges are brought against a regulant, an investigation may be initiated by the Department. This bill was sponsored by Delegate Steve Shannon.

HB857 – authorizes the Cemetery Board to petition the court to appoint a receiver to oversee the operation of a cemetery company in certain situations to protect the public. It also increases the amount that a new cemetery company must place in an irrevocable perpetual care trust fund from \$25,000 to \$50,000, and clarifies that the principal of the trust fund must be used for perpetual care unless other uses have been approved by the Board or court. The bill requires promulgation of regulations within 280 days. Delegate Chris Jones was the bill's patron.

HB319 – provides extension of documents issued by the Department of Motor Vehicles (DMV), the DMV Commissioner, or the Motor Vehicle Dealer board or for related businesses or professions for citizens of Virginia serving outside Virginia or the United States in the armed forces of the U. S. or the diplomatic service. Delegate Kirk Cox introduced this bill.

The Department tracked 43 bills.

Ms. O'Neal reported on the status of Fair Housing Certification program. Last year, the Fair Housing Board was created with an education-based certification program. The certification is voluntary, much like that for Property Owners Associations; and, like Property Owners Associations, DPOR has no enforcement authority over the participants. Education courses are being offered, and participants will need to re-certify every two years. Ms. Ferguson asked when the first courses would be given. Ms. O'Neal stated that any real estate provider can offer the training, so courses could be given at any time.

Karen O'Neal,
Deputy Director
for Regulatory
Programs

Carol Mitchell reported on the Photogrammetry Facilitation, the first of three meetings requested by the APELSCIDLA Board for the photogrammetry stakeholders. Represented at the meeting were 11 stakeholders. Ms. Mitchell said the meeting was very productive and another meeting will be held on March 31, 2004. Deputy Director for Administration and Finance Steve Arthur will be in attendance in March, to share his expertise in procurement. All members of the group will have input as to the language used for proposed legislation and licensure. A third meeting will be held in April. The stakeholders believe photogrammetrists will likely be licensed as a sub-category of land surveyors. Mr. Courtney said no examination is now available for photogrammetrists. Delegate Preston Bryant of Lynchburg was the patron for a photogrammetry bill about three years ago and he may again carry legislation next year.

Carol Mitchell,
Dispute
Resolution
Manager

Ms. Ferguson read the Resolution to Dana Martin for his service to the Board.

**Adoption of
Resolution for
Service – Dana
Martin**

Board for Professional and Occupational Regulation
Resolution to Dana Martin

WHEREAS, **Dana Martin** did faithfully and diligently serve as a member of the Virginia Board for Professional and Occupational Regulation from 2002 to 2003;

WHEREAS, **Dana Martin** did devote generously of his time, talent and leadership to the Board;

WHEREAS, **Dana Martin** did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Professional and Occupational Regulation 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 Virginia Board for Professional and Occupational Regulation this 1st day of March 2004, that **Dana Martin** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

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

To be signed by Chairman Raynard Jackson and Director Louise Ware

Mr. Pfeiffer moved to accept the resolution to Dana Martin and make it part of the minutes, Mr. Meany seconded the motion, and it carried unanimously.

Ms. Ferguson also read the certificates of recognition to James L. Guffey, CLEAR Member Achievement award for 2003; Bonnie Rhea Adams, CLEAR President-Elect for 2003; and Earnest Atkins, CLEAR Investigator of the year for 2003.

**Certificates of
Recognition**


There was no further business.

Other Business

Vice-Chairman Ferguson asked for a motion to adjourn the meeting. Mr. **Adjournment**

Pfeiffer so moved, and Mr. Lushbaugh seconded the motion. It passed unanimously. The meeting adjourned at 11:10 a.m.


Susan T. Ferguson, Vice-Chairman


Louise Fontaine Ware, Director

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