

# POLYGRAPH EXAMINERS ADVISORY BOARD

## MINUTES OF MEETING

MAY 15, 2003

The Polygraph Examiners Advisory Board met on Thursday, May 15, 2003 at the Department of Professional and Occupational Regulation, 3600 West Broad Street, 5<sup>th</sup> Floor, Richmond, Virginia. The following Board members were present:

Gary M. Jenkins  
Denise Likens  
Paul K. Minor  
A. W. Omohundro

Barry M. Colvert, Constance Y. Daniels and Thomas H. Roberts were absent from the meeting.

Staff present for all or part of the meeting was:

Louise Fontaine Ware, Director  
Sandra Whitley Ryals, Chief Deputy Director  
Karen O'Neal, Director of Regulatory Programs  
Eric L. Olson, Executive Director  
James Guffey, Deputy Director for Enforcement  
Tonie Robinson, Continuing Education and Examinations  
Sheila Watkins, Administrative Assistant

Mr. Jenkins called the meeting to order at 10:06 AM.

Call to Order

Ms. Likens offered a motion to approve the agenda. Mr. Omohundro seconded the motion which was unanimously approved by members: Jenkins, Minor, Likens and Omohundro.

Approval of Agenda

Ms. Likens offered a motion to approve the minutes from the December 10, 2002, meeting as written. Mr. Omohundro seconded the motion which was unanimously approved by members: Likens, Jenkins, Minor and Omohundro.

Approval of Minutes

Public Comment Period: The following persons spoke:

Public Comment Period

1. Mr. Don Cahill addressed the Board and stated he wanted to reinforce the need for better technology. In 1998 the Chief of

Police of Prince William County did a study on Voice Stress Analysis Test. It allowed a phone interview to be a cost savings of \$ 10,000.00 on one case alone. Wants to advocate using the VSA for house arrest. Encourages the Polygraph Board to be proactive.

2. Mr. Ames shared his opinion with the Board. He indicated that the Voice Stress System contained in CD Rom uses current police equipment and current Microsoft software. He feels it measures one for one against the current Polygraph. There is training for phase I and phase II for more complex situations. The training program is in English, Arabic and Spanish. The Voice Stress System is now being used in Florida. Mr. Ames brought materials to hand out.

3. Mr. Bill Chittenden, President of the Polygraph Association wants the Voice Stress Analyzer licensed in Virginia. He brought a handout to be reviewed by the Board. Fairfax County police department does not use the Voice Stress Analyzer System.

4. Mr. Charles Holsback of the City of Richmond Police Department stated he'd done some research through Dog pile and it has not supported the new device yet. The polygraph exam is now used in his department. Has concerns about the Voice Stress equipment and whether or not it will give false positives. He hasn't been able to find evidence to substantiate the system's accuracy rate.

5. Lt. Jim Eckinrode of the Richmond Police Department wants to know how soon the information will be available for use. Can the new system be used July 1, 2003? Will a decision be available from the Board by July 1, 2003?

Ms. Ryals, who represented the agency at many of the hearings involving legislation, addressed the Board on the history and provisions of House Bill #2812 and Senate Bill # 1296. Copies of the bills were provided to the Board and the persons in attendance at the meeting. Ms. Ryals emphasized that the final version of the bill provided the authority to approve alternative truth verification equipment with the Director of DPOR and that the provisions of the amended section of the Code will sunset on July 1, 2005.

**Review of  
Statutory  
Amendments  
(HB 2812 and  
SB 1296**

Ms. Ware asked if there were any other questions. She shared her thoughts with the Board and present public that the Voice Stress Analyzer use be reviewed and a study be conducted by the BPOR. This will give the department and the Polygraph Advisory Board a

chance to review the report and consider it before a decision is made. Upon a motion by Mr. Minor seconded by Ms. Likens a study request will be made of BPOR, Board For Professional and Occupational Regulations. The vote was unanimous with votes cast by: Likens, Minor, Jenkins and Omohundro.

Based on inquiries from the public Ms. O'Neal provided a brief review on the requirement that the Board would be tasked with promulgating regulations in order to implement changes in the statute. Ms. O'Neal also provided information regarding the regulatory review process..

Mr. Olson informed those present of the existence of the Public Participation Guideline list that would provide for notification of hearings and other regulatory issues being considered by the Board. Members of the public were reminded to complete the information cards provided to them if they wanted to be included on the list. The next BPOR meeting date is June 2, 2003.

At 10:57 AM Mr. Omohundro stated:

**Closed Session**

"Mr. Chairman, I move that this meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation and/or briefings by staff members pertaining to examination issues within the jurisdiction of the Board as permitted by § 2.2-3711.A.11 of the Code of Virginia. The following non-members will be in attendance to reasonably aid the consideration of the topic: Eric Olson & Toni Robinson. This motion is made with respect to the matter identified as agenda item: 6. Examination Item Bank Review. " The motion was seconded by Ms. Likens. The vote to move to closed session passed unanimously with votes cast by Mr. Omohundro, Ms. Likens, Mr. Jenkins and Mr. Minor. At 11:36 AM on a motion by Mr. Omohundro, seconded by Ms. Likens the Board unanimously moved out of closed session with the following Certification of Closed Meeting:

"Whereas, the Polygraph Advisory Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, §2.2-3712 of the *Code of Virginia* requires a certification by the Polygraph Advisory Board that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, be it resolved that the Polygraph Advisory Board hereby certifies that, to the best of each member's knowledge, (i)

only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Polygraph Advisory Board.

Ayes: Mr. Omohundro, Mr. Jenkins, Mr. Minor, Ms. Likens

Nays: none

Absent during the meeting: Mr. Colvert, Mr. Roberts, Ms. Daniels

On a motion by Mr. Jenkins, seconded by Mr. Omohundro, the Board voted unanimously to schedule an examination workshop in the Charlottesville area to review and update the current examination data bank to be approved by the Board at a subsequent meeting. Members voting yes were: Mr. Omohundro, Mr. Jenkins, Ms. Likens and Mr. Minor.

The Board reviewed the application of Harrisburg Area Community College for their polygraph program to be approved as meeting the educational requirements set forth in the regulations. On a motion by Mr. Jenkins, seconded by Mr. Omohundro, the Board unanimously voted to approve the application. Members voting yes were: Mr. Omohundro, Mr. Jenkins, Ms. Likens and Mr. Minor.

**School Approval  
Review**

Mr. Olson updated the Board. As of July 1, 2003 the VA state Police stated we can not send fingerprint cards to them for verification of criminal records of applicants. We received a letter from the State Police stating we do not have the statutory authority to do so. Mr. Olson suggested that when we redo the regulations we request the applicant to provide a finger print background check to us as a part of our application process. Mr. Omohundro suggested we speak with the Police Department and see if we can get them to provide us with fingerprint information upon request.

**Change of  
Fingerprinting  
Authorization**

The next Polygraph Advisory Meeting will be Thursday, July 31, 2003 at 10 AM.

**Update of  
Schedule**

The next exam date will be June 18, 2003 and Mr. Omohundro will be present.

**Next Exam Date**

Conflict of Interest forms and travel vouchers were completed by all members present.

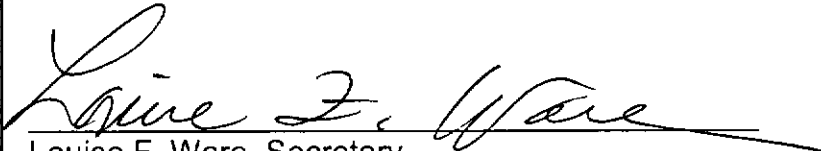
**Travel Vouchers  
& Conflict of**

Interest Forms

With no further business before the Board, Ms. Likens moved to adjourn the meeting at 12 Noon. Mr. Minor seconded the motion which was then unanimously approved by members: Jenkins, Likens, Minor, and Omohundro.

Adjourned at  
12 Noon

  
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Gary M. Jenkins, Chair

  
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Louise F. Ware, Secretary

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Custodian of Records