

**BOARD FOR BRANCH PILOTS
MEETING AGENDA
MARCH 15, 2022 at 10:30 a.m.
Virginia Port Authority Board Room
Norfolk, Virginia**

1. Call to Order
2. Safety Evacuation Instructions
3. Announcements
4. Approval of Agenda
5. Approval of Minutes
 - December 10, 2021, Board Meeting
 - February 14, 2022, Committee Meeting
6. Public Comment Period*
7. Exam Administrator's Report
8. 2023 Upgrade Schedule
9. Regulatory Review Committee Update
 - 18VAC45-20-40. Grounds for denial of licensure, denial of renewal, or discipline.
 - 18VAC45-20-50. Random Chemical Testing
10. Statement of Economic Interest Disclosure
11. Financial Statements
12. Other Business
13. Conflict of Interest Forms / Travel Vouchers
14. Adjourn

*Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the *Code of Virginia*.

*Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8514 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

- **Call to Order**
- **Safety Evacuation Instructions**
- **Announcements**

DRAFT AGENDA
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And are not to be construed as regulation or official board position
DRAFT AGENDA

**BOARD FOR BRANCH PILOTS MEETING
MINUTES**

The Virginia Board for Branch Pilots met on Friday, December 10, 2021, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Aaron Anseeuw
Captain E. Waightstill Avery
I. Vincent Behm, Jr
Captain J.W. Whiting Chisman, III
Michael W. Coleman
Captain January N. Collins
Patrick B. McDermott
Christine N. Piersall

Captain Robert H. Callis, III was not present for the meeting.

Staff present for all or part of the meeting were:

Mary Broz-Vaughan, Director
Tom Payne, Deputy Director
Kathleen R. Nosbisch, Executive Director
Amy Goobic, Executive Assistant

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

Members of the Audience included:

Mark Coberly, Manager, Maritime Law Department, Representative from Vandeventer Black and
Captain Chadwick Jamison, Virginia Pilots Association

Finding a quorum of the Board present, Ms. Piersall, President, called the **Call to Order** meeting to order at 10:31 a.m.

Tracy Freeman, of the Virginia Port Authority, advised the Board of the **Safety Evacuation Instructions** emergency evacuation procedures.

Ms. Piersall introduced Tom Payne, new Deputy Director at DPOR. Ms. Nosbisch welcomed Amy Goobic, Executive Assistant, who was filling in for Bonnie Davis. She also welcomed audience members Captain Chadwick Jamison and Mark Coberly. **Welcome and Introduction**

Captain Chisman moved to approve the agenda as presented. Mr. Anseeuw seconded the motion which was unanimously approved by Messrs., Mme. and **Approval of Agenda**

Captains: Anseeuw, Avery, Behm, Chisman, Coleman, Collins, McDermott, and Piersall.

Mr. Anseeuw moved to approve the minutes from the September 13, 2021 Board meeting as amended. Captain Collins seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Behm, Chisman, Coleman, Collins, McDermott, and Piersall.

Approval of Minutes

There were no public comments.

Public Comment Period

Ms. Nosbisch informed the Board that due to scheduling conflicts, the March 2022 Board meeting would be held March 15, previously scheduled for March 14. There were no comments on, or issues with the change in date.

Revision of 2022 Meeting Date

Captain Chisman informed the Board that Captain Milton Edmunds and Captain Nathaniel Green retired. Captain Chisman stated that Captain Edmunds was retiring having served as a pilot for over 50 years, and Captain Green for 40 years. Captain Chisman congratulated Captain Edmunds and Captain Green on their career accomplishments and wished them a happy retirement.

Branch Pilot Retirement

On September 22, 2021 Captain Dodson was ordered to the M/T JOHNNY TRAVELLER for a 0700 inbound transit from Cape Henry to Kinder Morgan South Hill Terminal on the Southern Branch of the Elizabeth River. The JOHNNY TRAVELER is a tanker 600 feet in length and 105 feet in breadth. On the morning of September 22 the weather was clear with a southerly wind of 15kts.

Review of Notification Letter – Captain Zachary Dodson – M/T JOHNNY TRAVELLER

After a routine transit inbound, the docking master boarded the vessel at Town Point, and after a pilot and master to docking master exchange, took the con at Town Point. The docking master ordered the tug SEACOAST to make fast on the starboard bow and the tug MAXWELL PAUL MORAN to make fast at the center lead aft. The docking maneuver at the Kinder Morgan Terminal was routine. Once the vessel was alongside the berth with forward spring lines ashore, the southerly wind conditions caused the vessel to begin sliding aft along the berth. To counteract this movement, at approximately 1025, the docking master gave the aft tug MAXWELL PAUL MORAN the command to work ahead half at a 45 degree angle to hold the ship ahead. Due to the proximity of the berth to the Norfolk Southern Railway Lift Bridge, the stern of the tug was approximately 75' from the southeastern fender system of the bridge opening. When the propeller wash from the tug contacted the fender system several beams and pilings were broken loose. This damage was immediately reported to the Coast Guard and upon returning to the Virginia Pilot office, Captain Dodson reported for drug and alcohol testing. The File Review Committee made a recommendation that the letter be filed and that the Board take no action, as there appears to be no violation of the

Board's regulations or statutes. Mr. Behm moved to accept the recommendation. Captain Collins seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Behm, Collins, McDermott, and Piersall.

Captain Avery stated that the members of the Board for Branch Pilots License Renewal Committee have reviewed the renewal applications for the 2022 calendar year and present the following report:

**Consideration of
Renewal of
Licenses
December 6 & 7,
2021**

E. Waightstill Avery; Christopher H. Behm; Charles I. Boggs, Jr.; Robert H. Callis, III; Julian Wythe Whiting Chisman, III; January N. Collins; William G. Diggs; Ernest W. Dodson, Jr.; Michael S. Eubanks; Mark S. Evans; Tazewell Fitzgerald; N. Turner Gray, Jr.; Herbert R. Green, III; Adam L. Halstead; Kevin D. Hartz; David H. Heath; C. Howard Hoffman; Richard Keith Hope; Charles A. Huffman; Chadwick M. Jamison; Jacob R. Johnson; Richard A. Lyons; Joseph R. McKnew; Dale Allen Meyer, Jr.; Ryan R. Nienstedt; Timothy D. Oksman; Frank M. Rabena, Jr.; Roy A. Rector, Jr.; Torrence A. Rogers; William G. Saunders, Jr.; Joseph M. Schacherer, III; G. Benjamin Schill, Jr.; Benjamin L. Speckhart; James South Trimble; David B. Ware; Gregory R. Willson; Jonathan D. Worth; and Clarence M. Young.

The members of the Board for Branch Pilots License Renewal Committee reviewed the renewal application paperwork and deemed the individuals qualified pursuant to § 54.1-906 of the *Code of Virginia*. Captain Avery moved to approve the renewal applications of the above-listed unlimited licensees. Mr. Coleman seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Behm, Chisman, Coleman, Collins, Host, McDermott, and Piersall. Captains Avery, Callis, Chisman, and Collins abstained from voting on their respective licenses. Mr. Behm abstained from voting on Christopher H. Behm's license. Ms. Piersall abstained from voting on Charles A. Huffman's license.

The following limited branch pilot license was also presented for renewal: Zachary Stewart Dodson.

The members of the Examination Administrators Committee reviewed the renewal application paperwork and deemed the individual qualified pursuant to § 54.1-906 of the *Code of Virginia*. Captain Avery moved to approve the renewal application of the above-listed limited licensee at the respective limitations as of December 31, 2021. Mr. Coleman seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Behm, Chisman, Coleman, Collins, Host, McDermott, and Piersall.

Board members reviewed the VPA Apprenticeship Training Program. Captain Chadwick Jamison provided a presentation on the apprenticeship program with recommended changes from the Apprenticeship Committee.

**Review of VPA
Apprenticeship
Training
Program**

Captain Jamison stated that as the Apprentice Committee, they are responsible for stewardship of the Virginia Board for Branch Pilots Apprenticeship Program. Each year they evaluate the duties, curriculum, and professional schooling apprentices will experience during their six years, to evaluate if all existing elements continue to work towards the objective of “providing the Commonwealth of Virginia with the most highly skilled, most experienced pilots available.” As shipping in the Lower Chesapeake Bay has evolved in the last decade, this has required modifying the operating area of Limited Branch Pilots. With the inclusion of Cape Charles in Initial Licensing, the State has expanded opportunities for apprentices to gain “extensive practice in handling all classes of vessels in a variety of weather conditions.” The Apprentice Committee is approaching the Board today seeking approval to add the York River to Initial Licensing. The Committee believes this to be a valuable addition to the apprenticeship, as it allows Unlicensed Apprentices and Limited Branch Pilots, to become acquainted with a new route about different vessels, in a variety of circumstances and conditions. By adding the York River to Initial Licensing, we are enhancing the Commonwealth’s goal of creating an “accomplished pilot.”

Discussion was held on whether the Potomac River license language should remain on several of the pilot’s licenses, as Virginia Branch Pilots no longer navigate the Potomac River. Ms. Piersall commented that the language should remain, as it is not a misstatement to have on the license as it has been earned. The Board agreed by consensus to keep the Potomac River language as it appears on the affected licenses.

Mr. Anseeuw moved to adopt the changes to the apprenticeship program to include the York River as stated in the modifications and renew the apprenticeship program for 2022. Mr. McDermott seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Behm, Chisman, Coleman, Collins, Host, McDermott, and Piersall.

Ms. Peay informed the Board that pursuant to § 54.1-100 of the *Code of Virginia*, a review had been conducted of the Board’s regulations and there were no conflicts in their regulations with the Constitution of the United States, the Constitution of Virginia, the laws of the United States, or the laws of the Commonwealth of Virginia.

Ms. Nobsch stated the financial statements were provided for informational purposes.

Discussion was held on the change in regulatory language required by SB 1406, related to misdemeanor marijuana-related convictions. Mr. Coleman expressed concern about the accuracy of the Virginia Regulatory Town Hall website description of the regulatory action, given that the Board did not take a vote on the matter at its September meeting. Ms. Broz-Vaughan apologized for the oversight and explained that exempt actions do not go through the

Review of Regulations Pursuant to §54.1-100 of the Code of Virginia

Financial Statements

Other Business

standard three-stage regulatory process when amendments are required to conform to statutory changes. Ms. Broz-Vaughan will confer with the Registrar of Regulations to determine the appropriate course of action. During this discussion, the question was asked which regulations are still in force. Ms. Peay confirmed that as the Board took no action, that the 2012 regulations are still in force.

Ms. Nosbisch congratulated Mr. Coleman for being included in the *Virginia Business* magazine 2021 Virginia 500 Power List for transportation.

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

**Conflict of
Interest Forms
and Travel
Vouchers**

The meeting adjourned at 12:13 p.m.

Adjourn

Christine Piersall, President

Mary Broz-Vaughan, Secretary

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**BOARD FOR BRANCH PILOTS
REGULATORY REVIEW COMMITTEE
MINUTES**

The Virginia Board for Branch Pilots Regulatory Review Committee met on Monday, February 14, 2022, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Aaron Anseeuw
Captain E. Waightstill Avery
Michael W. Coleman
Captain January N. Collins

Staff present for all or part of the meeting were:

Tom Payne, Deputy Director
Kathleen R. Nobsch, Executive Director

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

Members of the Audience included: Captain J.W. Whiting Chisman, III, and Mark Coberly, Manager, Maritime Law Department, Representative from Vandeventer Black.

The meeting was called to order at 10:30 a.m.

Call to Order

William Burket, Jr. of the Virginia Port Authority advised the Committee of the emergency evacuation procedures.

Safety Evacuation Instructions

Captain Avery moved to approve the agenda as presented. Mr. Anseeuw seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Coleman, and Collins.

Approval of Agenda

There were no public comments.

Public Comment Period

The Committee reviewed the response from Ms. Peay and Mr. Payne and the Code of Virginia 19.2-389.3 Marijuana Possession; Limits on Dissemination of Criminal History Record Information; Prohibited Practices by Employers, Educational Institutions, and State and Local Governments; Penalty provided by Mr. Coleman. Virginia law prohibits requiring disclosure of marijuana convictions although the Coast Guard license is a federal license and an individual would disclose marijuana convictions for this license. Summary to Board of changes will be sent to Ms. Peay for review prior to taking to the

Review of Letter from Counsel and Deputy Director and Potential Impact of Virginia Marijuana Disclosure Law on U.S. Coast Guard

full board. Discussion took place regarding state law trumps regulations and federal law trumps state law.

There was discussion and consensus at the meeting that there were no provisions in our existing regulations that were in direct conflict with state law, as amended.

Captain Avery moved to suggest to the Board amendment of 18VAC45-20-40.16 to include marijuana after alcohol. Mr. Anseeuw seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Coleman, and Collins.

Captain Avery moved to amend 18VAC45-20-50.C.4 to include marijuana after drug. Mr. Anseeuw seconded the motion which was unanimously approved by Messrs., Mme. and Captains: Anseeuw, Avery, Coleman, and Collins.

There was no other business.

Other Business

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

Conflict of Interest Forms / Travel Vouchers

The meeting adjourned at 11:14 a.m.

Adjourn

Michael Coleman, Chair

Demetrios J. Melis, Secretary

- **Public Comment**
- **Exam Administrators Report**

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2023 UPGRADE SCHEDULE

**DATES BELOW ARE WHEN APPRENTICES/LIMITED BRANCH PILOTS BECOME
ELIGIBLE FOR ORIGINAL OR LIMITED BRANCH LICENSE UPGRADE**

2023

| | | | |
|----------------------------------|--|--------------------------|-----------------------------|
| March 13 , 2023 (Monday) | 8:30 (EXAM) 10:30 (MEETING) | Dodson | Hotel |
| June 12, 2023 (Monday) | 10:30 (MEETING) | | |
| Sept. 14, 2023 (Thursday) | 8:30 (EXAM) | Dodson Capps Morse | Unlimited Alpha Alpha |
| Sept. 15, 2023 (Friday) | 10:30 (MEETING) | | |
| Dec. 4, 2023 (Monday) | 9:00-4:00 | | Renewals - Va. Pilot Assoc. |
| Dec. 5, 2023 (Tuesday) | 9:00-4:00 | | Renewals - Va. Pilot Assoc. |
| Dec. 11, 2023 (Monday) | 8:30 (EXAM) 10:30 (MEETING) | Capps Morse | Bravo Bravo |

12. Failing to send proof of any test required by subdivision 10 or 11 of this section to the president or vice president of the board with a copy to the board administrator within 48 hours of the administration of the test;
13. A positive finding as a result of, or on, any substance abuse or chemical test as a result of which the board believes there is a threat to the public health, safety, or welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;
14. Evidence of impaired performance in any instance in which the board believes there is a threat to the public health, safety, or welfare. Such a finding may result in summary suspension of the pilot's license in accordance with § 54.1-902 of the Code of Virginia;
15. Performing or attempting to perform any of the duties of his office or job while under the influence of illegal drugs;
16. Performing or attempting to perform any of the duties of his office or job while under the influence of alcohol, marijuana, or any medication (controlled substance or otherwise) to the extent that he was unfit for the performance of the duties of his office or job; and
17. Failing to comply with any of the provisions of 18VAC45-20-50.

Historical Notes:

Derived from VR535-01-01 §4.1, eff. November 30, 1989; amended, Virginia Register Volume 7, Issue 5, eff. January 3, 1991; Volume 10, Issue 20, eff. July 28, 1994; Volume 17, Issue 7, eff. February 1, 2001, Issue 21, eff. September 10, 2007; Volume 29, Issue 4, eff. December 1, 2012.

18VAC45-20-50. Random Chemical Testing

- A. All Virginia licensed branch pilots shall be subject to the random chemical testing as set forth in this chapter. Random chemical testing shall be conducted at an annual selection rate of not less than 30% and not more than 100% of total licensees. Licensees shall be responsible for all costs associated with random chemical testing. The chemical test shall be a comprehensive drug screen acceptable to the board that includes testing for controlled substances in Schedules I - V of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Only licensees on duty may be selected for random testing. A licensee selected for random chemical testing shall report for testing within two hours of notification. Failure to take a random chemical test is considered refusal to take the test.

B. Duties of licensee.

1. All licensees of this board shall enroll and participate in a random chemical testing program that meets the criteria of this chapter.
2. An on-duty licensee selected for random chemical testing shall report for testing within two hours of notification that he has been selected.
3. Licensees who receive a prescription for any medication from any health care provider shall have the following duties:
 - a. Give the health care provider a copy of the licensee's job description as a Virginia pilot;
 - b. Give the health care provider a complete list of medications used within the 30 days preceding the current visit;
 - c. Obtain a written statement from the health care provider stating if the new prescription is for a controlled substance (Schedules II - V of the Drug Control Act) and obtain a written statement from the health care provider as to the licensee's fitness to safely perform the duties found in the job description; and
 - d. If prescribed any medication containing a Schedule II - V controlled substance that is to be used within 12 hours of being on duty, make certain the MRO received by hand delivery or telefax each prescription written by any health care provider at the time such prescription is written along with a complete list of medications used by the licensee within the preceding 30 days.

C. The medical review officer shall:

1. Be completely familiar with all duties of a Virginia pilot.
2. Receive, evaluate and maintain records of all medications given to him by or on behalf of each Virginia pilot.
3. Receive, evaluate and maintain a record of each random chemical test taken by a Virginia pilot.
4. Any time the MRO finds the presence of a drug, marijuana, or alcohol that may impair the safe discharge of any duty of a Virginia pilot such that he is unfit to perform those duties, report his written findings to the licensee and president or vice president of the board and to the board's administrator.
5. Report in writing to the licensee, president or vice-president of the board, and the board's administrator of any delay or refusal by a licensee in reporting to testing or being tested.

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Board for Branch Pilots
954190**

2020-2022 Biennium

January 2022

| | January 2022 Activity | Biennium-to-Date Comparison | |
|---|--------------------------|-----------------------------|-----------------------------|
| | | July 2018 - January 2020 | July 2020 - January 2022 |
| Cash/Revenue Balance Brought Forward | | | 140 |
| Revenues | 180 | 5,460 | 5,040 |
| Cumulative Revenues | | | 5,180 |
| Cost Categories: | | | |
| Board Expenditures | 57 | 4,550 | 3,901 |
| Board Administration | 12 | 247 | 232 |
| Administration of Exams | 0 | 0 | 0 |
| Enforcement | 0 | 1 | 1 |
| Legal Services | 1 | 7 | 7 |
| Information Systems | 10 | 188 | 162 |
| Facilities and Support Services | 3 | 90 | 85 |
| Agency Administration | 6 | 113 | 107 |
| Other / Transfers | 0 | 0 | 0 |
| Total Expenses | 89 | 5,195 | 4,494 |
| Transfer To/(From) Cash Reserves | (352) | 0 | (3,102) |
| Ending Cash/Revenue Balance | | | 3,788 |

| | | | |
|---------------------------------------|--------|---|---------|
| Cash Reserve Beginning Balance | 18,455 | 0 | 21,205 |
| Change in Cash Reserve | (352) | 0 | (3,102) |
| Ending Cash Reserve Balance | 18,103 | 0 | 18,103 |

Number of Regulators

| | |
|---------------------------|----|
| Current Month | 39 |
| Previous Biennium-to-Date | 42 |

Department of Professional and Occupational Regulation

Supporting Statement of Year-to-Date Activity

Board for Branch Pilots - 954190

Fiscal Year 2022

| | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Fiscal YTD Charges | Planned Annual Charges | Current Balance | Projected Charges at 6/30 | Projected Variance Favorable (Unfavorable) | | |
|----------------------------------|-----------|-----------|------------|------------|-------------|------------|-----------|----------|----------|----------|----------|----------|--------------------|------------------------|-----------------|---------------------------|--|--------------|-------|
| | | | | | | | | | | | | | | | | | Amount | % | |
| Board Expenditures | 0 | 0 | 378 | 126 | -495 | 728 | 57 | 0 | 0 | 0 | 0 | 0 | 795 | 4,668 | 3,873 | 1,354 | 3,314 | 71.0% | |
| Board Administration | 19 | 13 | 12 | 12 | 12 | 12 | 12 | 0 | 0 | 0 | 0 | 0 | 91 | 196 | 105 | 143 | 53 | 27.2% | |
| Administration of Exams | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Enforcement | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 23.8% |
| Legal Services | 0 | 1 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 3 | 5 | 2 | 5 | 0 | -2.9% | |
| Information Systems | 5 | 14 | 8 | 9 | 8 | 3 | 10 | 0 | 0 | 0 | 0 | 0 | 58 | 112 | 54 | 96 | 16 | 14.1% | |
| Facilities / Support Svcs | 3 | 2 | 3 | 2 | 3 | 11 | 3 | 0 | 0 | 0 | 0 | 0 | 27 | 61 | 34 | 45 | 16 | 25.7% | |
| Agency Administration | 8 | 6 | 5 | 7 | 5 | 6 | 6 | 0 | 0 | 0 | 0 | 0 | 42 | 99 | 57 | 66 | 32 | 32.6% | |
| Other / Transfers | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Total Charges | 35 | 36 | 407 | 156 | -466 | 759 | 89 | 0 | 0 | 0 | 0 | 0 | 1,016 | 5,142 | 4,126 | 1,710 | 3,432 | 66.7% | |

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- **Statement of Economic Interest Disclosure**
- **Other Business**
- **Conflict of Interest Forms / Travel Vouchers**
- **Adjourn**

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