

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on August 16, 2018, 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  
John E. Cranor  
Joe T. France  
Erich Fritz

James E. Haltigan  
Gene E. Magruder, Vice-Chair  
Peter D. Palmer, Chair  
David P. Rushton

Board members Chadwick Bowman, Rick Holtz, and Walter C. Nixon were not present at the meeting.

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

Jay W. DeBoer, Director  
Trisha L. Henshaw, Executive Director  
Paul G. Saunders, III, Board Administrator  
Tanya M. Pettus, Administrative Assistant

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

Mr. Palmer, finding a quorum of the Board present, called the meeting to order at 9:01 a.m. **Call to Order**

Ms. Henshaw advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

Mr. Magruder moved to approve the agenda as presented. Mr. Fritz seconded the motion which was unanimously approved by: Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton. **Approval of Agenda**

Mr. Fritz moved to approve the minutes of the May 17, 2018, Board meeting as presented. Mr. Magruder seconded the motion which was unanimously approved by: Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton. **Approval of Minutes**

Mr. Fritz moved to approve the minutes of the June 28, 2018, SB 627 Home Inspector Committee meeting as presented. Mr. Rushton seconded the motion which was unanimously approved by: Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

Ms. Baynes arrived at 9:02 a.m.

**Arrival of Board  
Member**

There were no members of the public present to address the Board on matters other than the case files to be presented.

**Public Comment  
Period**

Mr. Rushton recused himself from the meeting for discussion and deliberations on File Numbers 2018-02449 and 2018-02450.

**Recusal of Board  
Member**

In the matter of **File Number 2018-02449, Paul Garth Hinz**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

**File Number 2018-  
02449, Paul Garth  
Hinz**

Mr. Hinz was present to address the Board and stated that he did not intentionally provide incorrect information regarding disciplinary actions on his application. Mr. Hinz stated that he had difficulty verifying approved course credits online and that he participated in various message boards to obtain information. Mr. Hinz stated that he has been in the industry for 20 years and has acquired various education and equipment.

Mr. Haltigan moved to accept the recommendation of the Presiding Officer and deny Mr. Hinz's application for a home inspector license. Mr. Magruder seconded the motion. After discussion, the motion was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, and Palmer.

In the matter of **File Number 2018-02450, David Flake Boone, Jr.**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

**File Number 2018-  
02450, David Flake  
Boone, Jr.**

Mr. Boone was present to address the Board. Mr. Boone referenced sections of the United States Constitution and Code of Virginia pertaining to the safety and welfare of the general public. Mr. Boone stated he has been a licensed home inspector in West Virginia since May 2018, and holds a license in Virginia from the Contractors Board. Mr. Boone asked the Board to consider accepting his experience as a building inspector in Tazewell County, and the home inspections he has completed in West Virginia in order for him to meet home inspector licensing requirements.

Mr. Magruder moved to accept the recommendation of the Presiding Officer and deny Mr. Boone's application for a home inspector license. Mr. Haltigan seconded the motion. After lengthy discussion, the motion was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, and Palmer.

Mr. Rushton returned to the meeting.

**Return of Board Member**

Mr. Palmer recused himself from the meeting for discussion and deliberations on File Numbers 2018-02982, 2018-02983, and 2018-02550. Mr. Magruder, Vice-Chair, assumed the chair of the Board.

**Recusal of Board Member**

In the matter of **File Number 2018-02982, Stephen Phillip Nicholson**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

**File Number 2018-02982, Stephen Phillip Nicholson**

Mr. Nicholson was present to answer questions but did not address the Board.

Mr. Cranor moved to accept the recommendation of the Presiding Officer and deny Mr. Nicholson's application for an asbestos project monitor license. Mr. Fritz seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, and Rushton.

In the matter of **File Number 2018-02983, Stephen Phillip Nicholson**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

**File Number 2018-02982, Stephen Phillip Nicholson**

Mr. Nicholson was present to answer questions but did not address the Board.

Mr. Cranor moved to accept the recommendation of the Presiding Officer and approve Mr. Nicholson's application for an asbestos supervisor license. Mr. Fritz seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, and Rushton.

In the matter of **File Number 2018-02550, Timothy Neil Smith, Jr.**, the Board members reviewed the record which consisted of the

**File Number 2018-02550, Timothy Neil**

application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Fritz moved to accept the recommendation of the Presiding Officer and deny Mr. Smith's application for an asbestos project monitor license with a request for waiver. Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, and Rushton.

**Smith, Jr.**

Mr. Palmer returned to the meeting and resumed chair of the Board.

**Return of Board Member**

In the matter of **File Number 2018-02832, Coralia Estela Rodriguez**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Magruder moved to accept the recommendation of the Presiding Officer and deny Ms. Rodriguez's application for an asbestos worker license. Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

**File Number 2018-02832, Coralia Estela Rodriguez**

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**

Final amendments to Asbestos Analytical Laboratory and Project Monitor regulations were adopted on February 8, 2018. Final regulations are currently undergoing executive branch review.

The proposed Lead-Based Paint Renovation, Repair, and Painting Program regulations (Initial Promulgation) are currently undergoing review by the office of the Secretary of Commerce and Trade.

Mr. Saunders advised the Board of asbestos and lead training courses audited through July 17, 2018.

**Asbestos and Lead Training Course Audits**

Ms. Henshaw presented the Board with a draft report from the study conducted on Senate Bill 627, which proposed to prohibit home inspector contracts to contain any provision limiting their liability for damages arising from the acts of the home inspector or employees or agents of the home inspector. Ms. Henshaw advised the Board that a public comment period, including a public hearing,

**Report from SB 627 Study Committee and Review Draft Report**

was conducted as part of the study wherein 83 written comments were received. Twenty-five public comments were heard at the public hearing. Of the comments received, one participant was in favor of implementing SB 627. In addition, a Committee was formed to study general provisions related to limitations on contract liability, protections, and the potential adverse impacts on insurance rates and cost to consumers.

After review of the draft report, Mr. Rushton moved to adopt the following recommendation as written:

The Board concluded that issue of enforceability of liability limitations is best left to the courts, having found no evidence or justification, either anecdotally or through complaints filed, demonstrating such a prohibition on home inspectors is necessary.

Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

Ms. Henshaw advised the Board that staff had received an inquiry asking for clarification regarding non-licensed individuals who collect samples for asbestos testing. Discussion was held on the following topics:

- concerns over chain of custody;
- intent of the individual collecting the sample;
- a homeowner's legal ability to collect a sample from their home; and,
- the responsibility of the licensed asbestos inspector and analytical lab to decline samples from non-licensed individuals.

After discussion, the Board agreed by consensus that depending on the circumstances, a non-licensed individual collecting samples for asbestos testing could potentially be in violation of the Board's regulations depending upon the specific facts associated with the collection of the samples. The Board also agreed by consensus that an asbestos inspector is ultimately responsible for adhering to 18VAC15-20-459.1.

Ms. Henshaw advised the Board that staff had received an inquiry asking for clarification regarding whether a contractor can take air samples for their own documentation. Also, staff has received inquiries regarding a project monitor providing only the final air sampling, though the project monitor has not been on site for the

**Request for  
Clarification:  
Inspections**

**Request for  
Clarification: Project  
Monitors**

duration of the project.

After discussion, the Board agreed by consensus that a contractor is authorized to take air samples for their own documentation so long as the contractor does not state or suggest that the sample is for final clearance.

The Board also agreed by consensus that Board regulations allow for project monitors to provide only the final air sampling if they are contracted to do so. A project monitor who is not contractually obligated to remain on site for the duration of a project is not required to monitor daily work practices in order to provide the final air sampling.

Ms. Henshaw asked the Board to review its current guidance document pertaining to staff review of criminal convictions on asbestos and lead licensing applications. The current guidance document states that staff is authorized to approve applications with felonies and misdemeanors older than five years so long as the felony is not related to environmental remediation activities, and did not result in an incarceration where the release date is less than one year from the application date. After discussion, Mr. Cranor moved to authorize staff to continue approving applications with misdemeanors more than five years old and not related to environmental remediation activities, but amend the current policy to require all asbestos and lead licensing applications with felony convictions be reviewed in accordance with 54.1-204 and the Administrative Process Act (Chapter 40 of Title 2.2 of the Code of Virginia). Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

**Discuss Guidance Document for Reviewing Asbestos and Lead Applications with Convictions**

Board members considered the following resolution for former Board member Frederick Molter, IV:

**Consideration of Resolution for Service**

**Frederick Molter, IV**

WHEREAS, Frederick Molter, did faithfully and diligently serve as a member of the Virginia Board for Asbestos, Lead, and Home Inspectors from 2013 to 2018;  
WHEREAS, Frederick Molter, did devote generously of his time, talent and leadership to the Board;  
WHEREAS, Frederick Molter, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Asbestos, Lead, and Home Inspectors 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 Asbestos, Lead, and Home Inspectors this sixteenth day of August 2018, that Frederick Molter 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.

Mr. Magruder moved to adopt the resolution as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

Ms. Henshaw updated the Board on recent and upcoming outreach opportunities.

**Outreach Update**

Ms. Henshaw and Mr. DeBoer advised the Board that DPOR will no longer seek funds from the EPA through the lead grant.

Ms. Henshaw asked the Board to consider rescheduling its May 2019 meeting from May 30, 2019, to May 16, 2019, due to a scheduling conflict with another board. Mr. Magruder moved to reschedule the May 30, 2019, Board meeting to May 16, 2019. Mr. Fritz seconded the meeting which was unanimously approved by Baynes, Cranor, France, Fritz, Haltigan, Magruder, Palmer, and Rushton.

**Other Business**

The following meeting dates have been scheduled:

- November 8, 2018
- February 7, 2019
- May 16, 2019
- August 15, 2019

**Future Meeting Dates**

Mr. Palmer reminded Board members to 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 10:34

**Adjourn**

Virginia Board for Asbestos, Lead, and Home Inspectors  
August 16, 2018  
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a.m.



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Peter D. Palmer, Chair



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Jay W. DeBoer, Secretary



**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Sandra Baynes
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

N/A

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Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

N/A

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I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

N/A

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I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I do not have a personal interest in any transactions taken at this meeting.

Sandra Baynes  
Signature

8.16.2018  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: John E. Cranor
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

\_\_\_\_\_

Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

- \_\_\_\_\_
- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.

6.  I **do not** have a personal interested in any transactions taken at this meeting.

  
\_\_\_\_\_  
Signature

8-16-18  
\_\_\_\_\_  
Date

STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Joe T. France
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

Nature of Personal Interest Affected by Transaction: N/A

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction: N/A

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.

6.  I do not have a personal interested in any transactions taken at this meeting.

Signature

Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Erich Fritz
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

\_\_\_\_\_

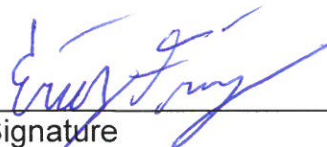
Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.
6.  I **do not** have a personal interested in any transactions taken at this meeting.

  
\_\_\_\_\_  
Signature

8/16/18  
\_\_\_\_\_  
Date

STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: James Haltigan  
2. Title: Board Member  
3. Agency: Board for Asbestos, Lead, & Home Inspectors  
4. Meeting/IFF Date: August 16, 2018

5. I have a personal interest in the following transaction:

Stephen Nicholson

Nature of Personal Interest Affected by Transaction: Contractor for  
Maple Ridge Group

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

SE MCO Services Inc

I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

6.  I do not have a personal interested in any transactions taken at this meeting.

James Haltigan  
Signature

8/16/18  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Gene Magruder
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

\_\_\_\_\_

Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

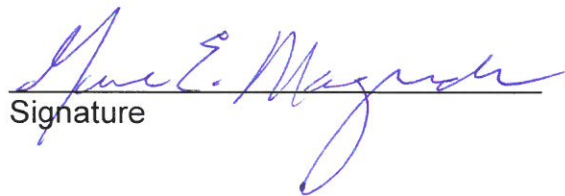
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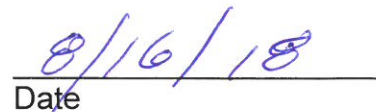
I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.

6.  I **do not** have a personal interested in any transactions taken at this meeting.

  
Signature

  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Peter D. Palmer
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

\_\_\_\_\_

Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.
6.  I **do not** have a personal interested in any transactions taken at this meeting.

  
\_\_\_\_\_  
Signature

8/16/2018  
Date

**STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government**

1. Name: David P. Rushton
2. Title: Board Member
3. Agency: Board for Asbestos, Lead, & Home Inspectors
4. Meeting/IFF Date: August 16, 2018
5. I have a personal interest in the following transaction:

\_\_\_\_\_

Nature of Personal Interest Affected by Transaction: \_\_\_\_\_

\_\_\_\_\_

I declare that I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

\_\_\_\_\_

- I am able to participate in this transaction fairly, objectively, and in the public interest.
- or
- I did not participate in the transaction.

6.  I do not have a personal interest in any transactions taken at this meeting.

  
Signature

  
Date