

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
PERIMETER CENTER
9960 MAYLAND DRIVE
RICHMOND, VIRGINIA 23233**

**VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS
Tentative AGENDA**

**THURSDAY, FEBRUARY 6, 2020, 9:00 A.M.
2nd FLOOR, BOARD ROOM 3**

- I. CALL TO ORDER**
- II. EMERGENCY EVACUATION PROCEDURES**
- III. APPROVAL OF AGENDA**
a. Board Agenda, November 7, 2019
- IV. INTRODUCTION OF BOARD MEMBER**
- V. APPROVAL OF MINUTES**
a. Board Meeting Minutes, November 7, 2019
- VI. PUBLIC COMMENT PERIOD – Five minute public comment, per person, on those items not included on the agenda with the exception of any open disciplinary or application files**
- VII. CASE FILES ***
a. File Number 2019-02302, Peter Tjeerd Anspach (HI)
Consent Order (Cranor)
b. File Number 2020-00616, Elizabeth Mary Tilley (HI)
Licensing—IFF by Eldridge
- VIII. REGULATIONS**
a. Regulatory Action Update
b. Consider Exempt Actions to Amend Trade/Fictitious Name Requirements
i. Asbestos Licensing Regulations
ii. Virginia Lead-Based Paint Activities Regulations
- IX. OTHER BUSINESS**
a. Other Board Business
i. Discuss Meaning of “Direct Supervision” as it applies to 18VAC 15-40-32, Qualifications for Licensure
ii. Discussion of Home Inspector Experience Gained as a Licensee in Another State
iii. Discussion of Definition of Solid Fuel Appliance
iv. Discussion of Abatement Projects that Require a Project Monitor
v. EPA Rule Change of the Dust-Lead Standards
vi. 2020 Legislative Update
vii. Board Financial Statements
viii. Outreach Update
- X. FUTURE MEETING DATES**
a. May 14, 2020
b. August 20, 2020
c. November 5, 2020
- XI. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS**

XII. ADJOURN

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-0362 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.

* 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*.

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Materials contained in this agenda
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are proposed topics for discussion and are not to be construed as regulation or official Board position.

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

INTRODUCTION OF **BOARD MEMBER**

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on November 7, 2019, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Richmond, Virginia 23233.

The following members of the Board were present:

Sandra Baynes	Gene E. Magruder, Vice-Chair
John E. Cranor	David P. Rushton
James E. Haltigan	Patrick Studley
Galappa Madhusudhan	

Board members Chadwick Bowman, Joe France, Peter Palmer, and Rick Holtz were not present at the meeting.

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

Mary Broz-Vaughan, Director
Trisha L. Henshaw, Executive Director
Shannon Webster, Director of Examinations
Paul G. Saunders III, Board Administrator
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Administrative Assistant

Joshua Laws from the Office of the Attorney General was present.

Mr. Magruder, finding a quorum of the Board present, called the meeting to order at 9:02 a.m. **Call to Order**

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

Ms. Baynes moved to approve the agenda as presented. Mr. Rushton seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley. **Approval of Agenda**

Mr. Cranor moved to approve the minutes of the August 15, 2019, Board meeting as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley. **Approval of Minutes**

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. Cranor recused himself from the meeting for discussion and deliberation of File Number 2019-01320.

In the matter of **File Number 2019-01320, Norval Shawn Gibson**, the Board members reviewed the record which consisted of the Report of Findings, evidence, and the Presiding Officer's Summary and Recommendation. Mr. Studley moved to find Mr. Gibson in violation of 18 VAC 15-30-810 as outlined in Count 1. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Haltigan, Madhusudhan, Magruder, Rushton, and Studley. Ms. Baynes then moved to accept the sanction as presented, which imposed a monetary penalty of \$1,000.00, and revocation of Mr. Gibson's lead abatement worker license. Mr. Madhusudhan seconded the motion which was unanimously approved by: Baynes, Haltigan, Madhusudhan, Magruder, Rushton, and Studley.

Recusal of Board Member
File Number 2019-01320, Norval Shawn Gibson

Mr. Cranor returned to the meeting.

Return of Board Member

Mr. Rushton recused himself from the meeting for discussion and deliberation of File Number 2019-03133.

Recusal of Board Member

In the matter of **File Number 2019-03133, Clifton Jennings Carico**, 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 2019-03133, Clifton Jennings Carico

The Board reviewed a comment submitted in writing by Mr. Carico stating his experience and training as a home inspector. Mr. Carico thanked the Board for their time and asked that they consider approving his application based on the home inspections and training he completed prior to July 1, 2017.

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

Mr. Rushton returned to the meeting.

Return of Board Member

In the matter of **File Number 2020-00056, Steven Matthew Hurysz**, the Board members reviewed the record which consisted

File Number 2020-00056, Steven

of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

Matthew Hurysz

Mr. Hurysz was present to address the Board. Mr. Hurysz thanked the Board for their time and stated he was present to answer any questions the Board may have.

Mr. Haltigan moved to accept the recommendation of the Presiding Officer and approve Mr. Hurysz's application for a home inspector license. Mr. Cranor seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley.

In the matter of **File Number 2019-03095, Jorge Enrique Carillo**, 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 2019-03095, Jorge Enrique Carillo

Mr. Carillo was present to address the Board. Mr. Carillo thanked the Board for their time and stated he was present to answer any questions the Board may have.

Mr. Cranor moved to accept the recommendation of the Presiding Officer and approve Mr. Carillo's application for a home inspector license. Mr. Madhusudhan seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley.

In the matter of **File Number 2020-00421, Raymond William Feliciano**, 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 2020-00421, Raymond William Feliciano

Mr. Feliciano was present to address the Board. Mr. Feliciano thanked the Board for their time and consideration, and asked that they approve his application so that he may continue to better himself and have the credentials to train other employees.

Joe Vieni, Mr. Feliciano's employer, was also present to address the Board. Mr. Vieni stated he has known Mr. Feliciano for five years and that Mr. Feliciano truly cares about the work he does and the work of other employees on a job site.

Mr. Haltigan moved to accept the recommendation of the Presiding Officer and approve Mr. Feliciano's application for an asbestos supervisor license. Mr. Studley seconded the motion. Ms. Baynes disclosed that she has a client with the last name Feliciano, but does not know the applicant, and believes she can render a fair decision on his application file. The motion was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley.

Mr. Magruder re-opened the public comment period at the request of Mr. Rushton. **Public Comment Period**

Greg Patti of All-Pro Services was present to address the Board regarding his concerns about the required 25 ride-along inspections for home inspector license applicants. Mr. Patti stated he believes that some training providers are not requiring potential home inspector licensees to perform hands on tasks or inspections during ride-alongs. Mr. Patti expressed his concern that not all training providers and organizations have the same standards for training, and he feels there should be some accountability for licensed home inspectors and training providers offering ride-alongs.

Discussion was held on minimum competency for home inspector licensees.

Ms. Henshaw advised the Board and Mr. Patti that the subject would be discussed in greater detail under an agenda item later in the meeting.

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages. **Regulatory Action Update**

Final amendments to Asbestos Analytical Laboratory and Project Monitor regulations became effective on September 1, 2019.

A periodic review of Board regulations began on May 17, 2019. The Board voted to retain as is the Public Participation Guidelines Regulations, Asbestos Licensing Regulations, Virginia Lead-Based Paint Activities Regulations, and Home Inspector Regulations at the August 15, 2019, Board meeting.

The proposed Lead-Based Paint Renovation, Repair, and Painting Program regulations (Initial Promulgation) were approved by the Secretary of Commerce and Trade on October 28, 2019. The regulations are currently with the Governor's office for review.

Ms. Henshaw and Mr. Haughwout advised the Board that the temporary reduction in renewal fees for asbestos, lead, and home inspector licenses expiring before February 1, 2020, and for late renewals received on or before February 28, 2020, respectively, are expiring in 2020. Ms. Henshaw advised that due to legislation passed during the 2019 General Assembly session requiring the cash balance of the Board's funds to be placed in a reserve fund, there is a need to amend the current fee reduction after the expiration date. In addition, legislation was passed requiring DPOR to issue refunds to licensees beginning in July 2022, if the excess cash balance of the Board's funds exceeds \$100,000.00 or 20% of the Board's revenue. As currently projected, the Board can better maintain compliance with the Callahan Act (§ 54.1-113 of the Code of Virginia) if the current reduced fees are increased, but remain reduced from the amounts listed in the Board's regulations.

**Consider Exempt
Action Regarding
Fees**

Ms. Henshaw asked the Board to consider authorizing three exempt actions to amend the temporary fee reductions for asbestos, lead, and home inspector licenses expiring before February 1, 2020, and for late renewals received on or before February 28, 2020, on their respective scheduled expiration dates, allowing fees to increase from the current reduced amount, but remaining lower than the amounts listed in the Board's regulations. The proposed amended temporary fee reduction would remain in effect for one year for asbestos and lead licenses, and two years for home inspector licenses.

Ms. Baynes moved to accept the recommendation of staff and authorize an exempt action to allow the asbestos license renewal and late renewal temporary fee reductions to be amended on the scheduled expiration date. Ms. Baynes also moved to authorize an exempt action to allow the lead license renewal and late renewal temporary fee reductions to be amended on the scheduled expiration date. Amended asbestos and lead license fees will be effective for one year. In addition, Ms. Baynes moved to authorize an exempt action to allow the home inspector license renewal and late renewal temporary fee reductions to be amended on the scheduled expiration date. Amended home inspector license fees will be effective for two years. Mr. Rushton seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley.

Ms. Henshaw and Ms. Webster updated the Board on changes to the lead exam. Effective January 1, 2020, PSI will be proctoring

Lead Exam Update

lead exams for licensing applicants. Ms. Webster advised the Board that the cost of exams provided by PSI will be \$190.00 for the technical portion of the exam, and \$125.00 for the lead law portion of the exam, for a total of \$315.00 to sit for both portions.

Discussion was held on the cost breakdown of the current exam as compared to PSI's costs, the cost to employers who have employees sitting for the exam, and geographic locations of PSI testing sites.

Ms. Webster advised the Board that she is working with PSI to determine a process and cost structure for applicants who do not pass the exam and choose to retake it.

Ms. Henshaw asked the Board to consider the verification of ride-along inspections as a requirement for home inspector license applicants. Subsection 18VAC 15-40-32.C. currently states that home inspections completed under the direct supervision of a licensed home inspector (ride-alongs) must be verified by that individual who is properly licensed by the Board; however, there is currently no way to determine whether applicants actively participated in the ride-along inspection, or were given hands-on experience during the inspection. In addition, there is currently no requirement to provide a report or other written verification, other than a signature from the licensed home inspector verifying the applicant's experience of each home inspection in which the applicant participated. After discussion, the Board agreed by consensus to take up at its next meeting the following topics:

- the definition of direct supervision as it applies to potential applicants gaining experience; and
- minimum requirements for completing home inspections under the direct supervision of a home inspector pursuant to 18VAC 15-40-32.

Ms. Henshaw provided the Board with the most recent financial statements for review.

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

Mr. Rushton gave a brief overview of the Board Member Training Conference held October 3-4, 2019. Ms. Henshaw thanked Ms. Baynes for her participation on the Experienced Board Member Panel presented at the conference.

**Discussion of Ride-
Alongs to Satisfy
Experience
Requirements**

**Board Financial
Statements**

**Update on Outreach
Opportunities**

Mr. Magruder opened the floor for annual nominations of the Board Chair. Ms. Baynes moved to nominate Mr. Palmer. Mr. Haltigan seconded the motion, which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley. By acclamation, Mr. Palmer was named Board Chair.

Election of Officers

Ms. Henshaw opened the floor for annual nominations of Board Vice-Chair. Mr. Rushton moved to nominate Mr. Magruder. Mr. Magruder accepted the nomination. Mr. Madhusudhan seconded the motion, which was unanimously approved by: Baynes, Cranor, Haltigan, Madhusudhan, Magruder, Rushton, and Studley. By acclamation, Mr. Magruder was named Board Vice-Chair.

The following meeting dates have been scheduled:

- February 6, 2020
- May 14, 2020
- August 20, 2020

Future Meeting Dates

Mr. Magruder 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 10:26 a.m.

Adjourn

Peter D. Palmer, Chair

Mary Broz-Vaughan, Secretary

PUBLIC COMMENT PERIOD

Five minute public comment, per person, with the exception of any open disciplinary or application files.

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Virginia Board for Asbestos, Lead, and Home Inspectors

Update on Regulatory Actions (as of January 16, 2020)

Action: Asbestos Temporary Fee Reduction

Current Stage: Exempt Action

- Final amendment adopted by the Board on 11/7/19.
- Submitted to Registrar as exempt action on 11/22/19.
- Final amendment published on 12/23/19.

Next Step: Final

- Final regulation will become effective on 2/1/20.

Action: Lead Temporary Fee Reduction

Current Stage: Exempt Action

- Final amendment adopted by the Board on 11/7/19.
- Submitted to Registrar as exempt action on 11/22/19.
- Final amendment published on 12/23/19.

Next Step: Final

- Final regulation will become effective on 2/1/20.

Action: Home Inspector Temporary Fee Reduction

Current Stage: Exempt Action

- Final amendment adopted by the Board on 11/7/19.
- Submitted to Registrar as exempt action on 11/22/19.
- Final amendment published on 12/23/19.

Next Step: Final

- Final regulation will become effective on 2/1/20.

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Virginia Board for Asbestos, Lead, and Home Inspectors

Action: Lead-Based Paint Renovation, Repair, and Painting Program

Current Stage: Proposed

- Revised proposed regulations filed with Executive Branch for review on 4/24/14.
- Approved by Secretary of Commerce and Trade on 10/28/19.
- Currently with Governor's office for review.

Next Step: Publication

- Will be submitted for publication in Virginia Register following Executive Branch approval.

Proposed topics for discussion and are not to be construed as regulation or official Board position.

Code of Virginia

Title 59.1. Trade and Commerce

Chapter 5. Transacting Business under Assumed Name

This section has more than one version with varying effective dates. Scroll down to see all versions.

§ 59.1-69. (Effective until January 1, 2020) Certificate required of person, partnership, limited liability company or corporation transacting business under assumed name

A. No person, partnership, limited liability company or corporation shall conduct or transact business in this Commonwealth under any assumed or fictitious name unless such person, partnership, limited liability company or corporation shall sign and acknowledge a certificate setting forth the name under which such business is to be conducted or transacted, and the names of each person, partnership, limited liability company or corporation owning the same, with their respective post-office and residence addresses (and, (i) when the partnership or limited liability company is a foreign limited partnership or limited liability company, the date of the certificate of registration to transact business in this Commonwealth issued to it by the State Corporation Commission, or (ii) when the corporation is a foreign corporation, the date of the certificate of authority to transact business in this Commonwealth issued to it by the State Corporation Commission), and file the same in the office of the clerk of the court in which deeds are recorded in the county or city wherein the business is to be conducted.

B. No person, partnership, limited liability company or corporation shall use an assumed or fictitious name in the conduct of its business to intentionally misrepresent the geographic origin or location of any such person or entity.

Code 1950, § 59-169; 1968, c. 439; 1987, c. 702; 1995, c. 168; 1996, c. 904.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 59.1-69. (Effective January 1, 2020) Certificate required of person transacting business under assumed name

A. As used in this chapter, unless the context requires a different meaning:

"Commission" means the State Corporation Commission.

"Person" has the meaning prescribed in § 1-230.

B. No person shall conduct or transact business in the Commonwealth under any assumed or fictitious name unless such person files in the office of the clerk of the Commission a certificate of assumed or fictitious name.

C. No person shall use an assumed or fictitious name in the conduct of the person's business to intentionally misrepresent the geographic origin or location of the person.

Code 1950, § 59-169; 1968, c. 439; 1987, c. 702; 1995, c. 168; 1996, c. 904; 2017, c. 594.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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Virginia Administrative Code
Title 18. Professional and Occupational Licensing
Agency 15. Virginia Board for Asbestos, Lead, and Home Inspectors
Chapter 20. Virginia Asbestos Licensing Regulations

18VAC15-20-33. General Qualifications for Licensure: Firms.

A. Each firm applying for a license shall meet the requirements of this section.

B. The applicant shall disclose the name under which the business entity conducts business and holds itself out to the public. The firm shall register trade or fictitious names, when applicable, with the State Corporation Commission or the clerk of the circuit court in the locality where the business is to be conducted in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia before submitting an application to the board.

C. The applicant shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. Applicants shall meet the additional requirements listed in this subsection for the firm's form of organization:

1. Corporations. Applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign corporation, shall have obtained a certificate of authority to conduct business in Virginia from the State Corporation Commission in accordance with requirements governing corporations pursuant to Title 13.1 of the Code of Virginia. Corporations shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

2. Limited liability companies. Applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign limited liability company, shall have obtained a certificate of registration to do business in Virginia from the State Corporation Commission in accordance with requirements governing limited liability companies pursuant to Title 13.1 of the Code of Virginia. Companies shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

3. Partnerships. Applicants shall have a written partnership agreement. The partnership agreement shall state that asbestos abatement services of the partnership shall be under the direction and control of the appropriate asbestos abatement licensee.

E. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall disclose the following information about the firm and its owners, officers, managers, members, and directors, as applicable:

1. All felony convictions;
2. All misdemeanor convictions involving lying, cheating, or stealing; and

3. Any conviction resulting from engaging in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

Any plea of nolo contendere or finding of guilt, regardless of adjudication or deferred adjudication, shall be considered a conviction for the purposes of this section. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

F. The applicant shall report (i) the suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action by any jurisdiction and (ii) whether the firm, owners, officers, managers, members, or directors have been the subject of discipline in any jurisdiction prior to applying for licensure and while the application is under review by the board. The board, at its discretion, may deny licensure to an applicant based on disciplinary action by any jurisdiction.

G. The board may deny the application of an applicant who is shown to have a substantial identity of interest with a person whose license or certificate has been revoked or not renewed by the board. A substantial identity of interest includes (i) a controlling financial interest by the individual or corporate principals of the person whose license or certificate has been revoked or has not been renewed or (ii) substantially identical owners, officers, managers, members, or directors, as applicable.

H. An applicant shall not knowingly make a materially false statement, submit falsified documents, or fail to disclose a material fact requested in connection with an application submitted to the board.

Statutory Authority

§§ 54.1-201 and 54.1-501 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 23, Issue 3, eff. December 1, 2006; Errata 23:5 VA.R. 791 November 13, 2006; amended, Virginia Register Volume 35, Issue 20, eff. September 1, 2019.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Asbestos Firm Licensure - Amend Trade or Fictitious Name Requirement

18VAC15-20-33. General qualifications for licensure: firms.

- A. Each firm applying for a license shall meet the requirements of this section.
- B. The applicant shall disclose the name under which the business entity conducts business and holds itself out to the public. The firm shall register trade or fictitious names, when applicable, with the State Corporation Commission ~~or the clerk of the circuit court in the locality where the business is to be conducted~~ in accordance with Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia before submitting an application to the board.
- C. The applicant shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.
- D. Applicants shall meet the additional requirements listed in this subsection for the firm's form of organization:
1. Corporations. Applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign corporation, shall have obtained a certificate of authority to conduct business in Virginia from the State Corporation Commission in accordance with requirements governing corporations pursuant to Title 13.1 of the Code of Virginia. Corporations shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.
 2. Limited liability companies. Applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign limited liability company, shall have obtained a certificate of registration to do business in Virginia from the State Corporation Commission in accordance with requirements governing limited liability companies pursuant to Title 13.1 of the Code of Virginia. Companies shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.
 3. Partnerships. Applicants shall have a written partnership agreement. The partnership agreement shall state that asbestos abatement services of the partnership shall be under the direction and control of the appropriate asbestos abatement licensee.

E. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall disclose the following information about the firm and its owners, officers, managers, members, and directors, as applicable:

1. All felony convictions;
2. All misdemeanor convictions involving lying, cheating, or stealing; and
3. Any conviction resulting from engaging in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

Any plea of nolo contendere or finding of guilt, regardless of adjudication or deferred adjudication, shall be considered a conviction for the purposes of this section. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

F. The applicant shall report (i) the suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action by any jurisdiction and (ii) whether the firm, owners, officers, managers, members, or directors have been the subject of discipline in any jurisdiction prior to applying for licensure and while the application is under review by the board. The board, at its discretion, may deny licensure to an applicant based on disciplinary action by any jurisdiction.

G. The board may deny the application of an applicant who is shown to have a substantial identity of interest with a person whose license or certificate has been revoked or not renewed by the board. A substantial identity of interest includes (i) a controlling financial interest by the individual or corporate principals of the person whose license or certificate has been revoked or has not been renewed or (ii) substantially identical owners, officers, managers, members, or directors, as applicable.

H. An applicant shall not knowingly make a materially false statement, submit falsified documents, or fail to disclose a material fact requested in connection with an application submitted to the board.

Statutory Authority

§§ 54.1-201 and 54.1-501 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 23, Issue 3, eff. December 1, 2006; Errata 23:5 VA.R. 791 November 13, 2006; amended, Virginia Register Volume 35, Issue 20, eff. September 1, 2019.

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Virginia Administrative Code

Title 18. Professional and Occupational Licensing

Agency 15. Virginia Board for Asbestos, Lead, and Home Inspectors

Chapter 30. Virginia Lead-Based Paint Activities Regulations

18VAC15-30-53. Qualifications for Licensure

A. General. Every business entity shall secure a license before transacting business.

B. Name. The business name shall be disclosed on the application. The name under which the entity conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Business entities shall register their trade or fictitious names with the State Corporation Commission or the clerk of court in the county or jurisdiction where the business is to be conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting their application to the board.

C. Address. The applicant shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. Form of organization. Applicants shall meet the additional requirements listed below for their business type:

1. Corporations. All applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign corporation, shall have obtained a certificate of authority to conduct business in Virginia from the State Corporation Commission in accordance with § 13.1-544.2 of the Code of Virginia. The corporation shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

2. Limited liability companies. All applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign limited liability company, shall have obtained a certificate of registration to do business in Virginia from the State Corporation Commission in accordance with § 13.1-1105 of the Code of Virginia. The company shall be in good standing with the State Corporation Commission at the time of application to the board and at all times when the license is in effect.

3. Partnerships. All applicants shall have a written partnership agreement. The partnership agreement shall state that all professional services of the partnership shall be under the direction and control of a licensed or certified professional.

4. Sole proprietorships. Sole proprietorships desiring to use an assumed or fictitious name, that is a name other than the individual's full name, shall have their assumed or fictitious name recorded by the clerk of the court of the county or jurisdiction wherein the business is to be conducted.

E. Qualifications.

1. Lead contractor. Each applicant for lead contractor licensure shall:

a. Hold a valid Virginia contractor license with a lead specialty issued by the Virginia Board for Contractors and comply with the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.

b. Certify that:

(1) Only properly licensed lead abatement supervisors and workers will be employed to conduct lead-based paint activities;

(2) A licensed lead abatement supervisor is present at each job site during all work site preparation and during post-abatement cleanup, and shall be on site or available by telephone, pager or answering service and able to be present at the work site in no more than two hours when abatement activities are being conducted;

(3) The standards for conducting lead-based paint activities established in this chapter and standards established by the EPA and OSHA shall be followed at all times during the conduct of lead-based paint activities; and

(4) The company is in compliance with all other occupational and professional licenses and standards as required by Virginia statute and local ordinance to transact the business of a lead abatement contractor.

F. Conviction or guilt. Neither the firm nor the owners, officers or directors shall have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

G. Standards of conduct and practice. Applicants shall be in compliance with the standards of conduct and practice set forth in Part VIII (18VAC15-30-510 et seq.) and Part IX (18VAC15-30-760 et seq.) of this chapter at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

H. Standing. Both the firm and the owners, officers and directors shall be in good standing in every jurisdiction where licensed and the applicant shall not have had a license that was suspended, revoked or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure to any applicant based on disciplinary action by any jurisdiction.

I. Denial of license. The board may refuse to issue a license to any lead contractor applicant if the applicant or its owners, officers or directors have a financial interest in a lead contractor

whose lead license has been revoked, suspended or denied renewal in any jurisdiction.

Statutory Authority

§§ 54.1-201 and 54.1-501 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 23, Issue 3, eff. December 1, 2006.

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VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Lead Firm Licensure - Amend Trade or Fictitious Name Requirement

18VAC15-30-53. Qualifications for licensure - business entities.

A. General. Every business entity shall secure a license before transacting business.

B. Name. The business name shall be disclosed on the application. The name under which the entity conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Business entities shall register their trade or fictitious names with the State Corporation Commission ~~or the clerk of court in the county or jurisdiction where the business is to be conducted~~ in accordance with ~~§§ 59.1-69 through 59.1-76~~ Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia before submitting their application to the board.

C. Address. The applicant shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. Form of organization. Applicants shall meet the additional requirements listed below for their business type:

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(4) The company is in compliance with all other occupational and professional licenses and standards as required by Virginia statute and local ordinance to transact the business of a lead abatement contractor.

F. Conviction or guilt. Neither the firm nor the owners, officers or directors shall have been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing or of any violation while engaged in environmental remediation activity that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

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I. Denial of license. The board may refuse to issue a license to any lead contractor applicant if the applicant or its owners, officers or directors have a financial interest in a lead contractor whose lead license has been revoked, suspended or denied renewal in any jurisdiction.

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Department of Professional and Occupational Regulation

Virginia Board for Asbestos, Lead, and Home Inspectors

Guidance Document: Meaning of Direct Supervision

I. Background

To satisfy the experience requirement for a Home Inspector license, applicants shall submit verification of experience as defined in 18VAC15-40-32 A of the Board's regulations:

TABLE 1			
	Board-approved prelicense education course contact hours	Experience	Passed the board-approved examination
1.	35	Completion of 100 home inspections prior to July 1, 2017	Yes
2.	35	Completion of 50 home inspections under the direct supervision of a home inspector	Yes
3.	70	Completion of 50 home inspections prior to July 1, 2017	Yes
4.	70	Completion of 25 home inspections under the direct supervision of a home inspector	Yes

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	None	Verification of 10 years' experience as a home inspector prior to July 1, 2017, with a minimum of 250 home inspections completed during such time period	Yes
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Those verifying experience gained after July 1, 2017 (the effective date of licensure regulations) are required to verify either 25 or 50 home inspections completed under the direct supervision of a home inspector. 18VAC15-40-32 C stipulates that home inspections completed under the direct supervision of a home inspector must be provided by an individual who was properly licensed or certified by the board during the applicable time period.

II. Issue

The purpose for experience, among other qualifications for licensure, is to ensure those obtaining licensure as a home inspector are minimally competent to perform home inspections and do so in a manner that protects the health, safety, and welfare of the public. Direct supervision is not defined in § 54.1-500 of the Code of Virginia or the Board's regulations. As such, there is concern that those gaining experience for licensure under the "supervision" of a licensed home inspector are not being adequately trained and may not be exposed to critical components of a home inspection, including evaluating the readily accessible components of residential housing, preparation of the written evaluation (report), or understanding the scope and limitations of a home inspection contract.

III. Policy

To ensure consistency in the application of the regulations and to serve as guidance to staff, Board staff recommends the following definition of "direct supervision" as it is used in 18VAC15-40-32:

"Direct supervision" means a licensed home inspector being physically present on the premises at all times while an unlicensed individual gaining experience pursuant to 18VAC15-40-32 conducts activities related to a home inspection as defined in § 54.1-500 of the Code of Virginia and such licensed home inspector is at all times responsible for the home inspection and its resulting report.

Discussion of Home Inspector
Experience Gained as a Licensee
in Another State

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Saunders, Paul <paul.saunders@dpor.virginia.gov>

Definition of Solid Fuel Appliance and a comment on Fireplace

John Cranor <[REDACTED]>
To: "Saunders, Paul (DPOR)" <Paul.Saunders@dpor.virginia.gov>

Tue, Oct 29, 2019 at 6:08 PM

The current definition as follows: "Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and that is built in conjunction with a chimney, or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

The Solid Fuel Burning Appliance definition sounds more like a "Fireplace"

The current definition of Fireplace as follows : "Fireplace" means an interior fire-resistant masonry permanent or prefabricated fixture that can be used to burn fuel and is either vented or unvented.

Not thrilled with the fireplace definition because it says "either vented or unvented" which to me means, it may be a gas appliance and under our Heating regulations it specifically says "but not heat exchangers, gas logs, built-in gas burning appliances," I think it conveys mixed signals ...or creates a confusion. I think some wording should be added to the "4.f. Fireplace" that is more in line with the Heating or remove the but not gas logs and built in gas appliance from the Heating. I favor the removal of the "but not gas logs and built in gas appliances. If a licensee don't want to inspect gas logs or appliances they can limit that in their contracts per regulations. Gas appliances should be inspected in my opinion. Sorry if that's confusing!

I really think this definitions got mangled way back when and I really think they should be edited.
I think the definition should be as follows:

"Solid Fuel Burning Appliance" means a chimney-connected device that burns solid fuel designed for purposes of heating, cooking or both. These appliances include wood stoves, fireplace wood burning inserts, wood pellet burning appliances or similar solid fuel burning devices.

John Cranor

Dave Violette; [REDACTED]

Patrick DiFlorio; [REDACTED]

December 11, 2019

Mr. Paul G. Saunders, III
Board Administrator, ALHI Board
DPOR
9960 Mayland Drive, Suite 400
Richmond, VA 23233-1485

RE: Request for clarification of 18VAC15-20-455.1.

Dear Mr. Saunders:

We are requesting a clarification from DPOR of the above noted section of the Asbestos Licensing Regulations. As printed, the section reads as follows:

18VAC15-20-455.1. Abatement projects that require a project monitor.

A project monitor is required on:

1. Asbestos projects performed in buildings that are occupied or intended to be occupied upon completion of the asbestos project exceeding 260 linear feet or 160 square feet or 35 cubic feet of asbestos-containing material; or
2. Whenever the building or property owner deems it necessary to monitor asbestos projects.

We always believed that the intended meaning of the section meant that the “or” at the end of Item 1 was to indicate that for those projects involving lesser quantities than the 260 lf, 160 sq ft, or 35 cu ft, if a building owner opted for monitoring then an asbestos project monitor would fulfill his or her duties and functions per the

requirements of all of the applicable portions of the Licensing Regulations. It has recently been brought to my attention, however, that at least one asbestos abatement contractor, when notifying property owners in the State of the monitoring requirements (per 18VAC15-20-451.E), has been using the “or” to nullify Item 1, implying that the building owner alone chooses whether to have a project monitored, regardless of the quantity of ACM removed.

We would be most appreciative of any definitive clarification you can provide. If the more loose interpretation put forth by the contractor is correct, we would see no need for Item 1.

Does the following accurately represent the intended requirements?

A project monitor is required on all asbestos projects performed in buildings that are occupied at the time of the project, or intended to be occupied upon completion of the asbestos project, for which the quantity of asbestos-containing material (ACM) to be removed exceeds either 260 linear feet, 160 square feet, or 35 cubic feet.

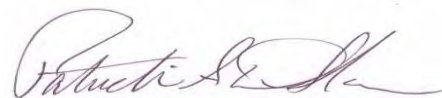
On projects for which the quantity of asbestos-containing material (ACM) to be removed does not exceed either 260 linear feet, 160 square feet, or 35 cubic feet, a project monitor shall be required whenever the building or property owner deems it necessary.

We really appreciate your help; please feel free to contact either of us should you have any questions.

Sincerely,



Dave Violette
VA Licensed AB Project Monitor
#3309000282



Patrick DiFlorio
VA Licensed AB Project Monitor
#3309001236



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 26 2019

Ms. Trisha Henshaw, Executive Director
Board for Asbestos, Lead, and Home Inspectors
Department of Professional & Occupational Regulation
9960 Mayland Drive
Perimeter Center, Suite 400
Richmond, VA 23233



Dear Ms. Henshaw:

On June 21, 2019, the U.S. Environmental Protection Agency (EPA) finalized a rule revising the Dust-Lead Hazard Standards (DLHS) from 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for window sills, to 10 $\mu\text{g}/\text{ft}^2$ and 100 $\mu\text{g}/\text{ft}^2$, respectively. As a result of this revision, risk assessors will compare dust sampling results for floors and window sills to the new, lower DLHS from this rule. Sampling results above the new hazard standard will indicate that a dust-lead hazard is present on the surfaces tested. This revision does not affect the existing dust-lead clearance levels, which are being evaluated under a separate rulemaking. However, when updating their program in accordance with this DLHS revision, states may choose to lower the dust-lead clearance levels as well, since states may be more protective than EPA's standards. The DLHS revision will go into effect on January 6, 2020.

EPA is notifying states with EPA-authorized Lead-Based Paint (LBP) Activities programs that their programs will need to be revised if not already at least as protective as EPA's revised DLHS. EPA's revisions to the DLHS do not retroactively compel actions, but EPA notes that state and local LBP programs may require actions based on the revised DLHS. For further information, please see the following URL:

<https://www.epa.gov/lead/hazard-standards-lead-paint-dust-and-soil-tsca-section-403>

A state, territory or tribe with an EPA authorized LBP Activities program in effect before the effective date of this rule must demonstrate that its program is at least as protective as EPA's revised DLHS no later than January 6, 2022, which is two years after the effective date of this rule. A state, territory or tribe in the process of obtaining approval to operate an authorized program must, after the effective date of this rule, also demonstrate that it meets these requirements (*See* 40 CFR § 745.325(e)). EPA encourages states, territories, and tribes to work with EPA's regional office in demonstrating that its program is at least as protective as EPA's revised DLHS.

As has always been the case, if EPA concludes that a state, territory or tribe is not administering and enforcing an authorized program that is at least as protective as EPA's newly revised DLHS, EPA has the authority to initiate procedures for the withdrawal of that program (*See* 40 CFR § 745.324(i)). An action by EPA to withdraw authorization to administer and

enforce any of the delegated LBP Activities programs could have adverse consequences for the state, territory or tribe (i.e., loss of continuing program grant support from EPA, possible loss of eligibility for future grants from the U.S. Department of Housing and Urban Development, curtailment of the ability to serve its own constituency, etc.).

If you have any questions regarding this revision, please contact me, or your staff may contact Kyle Chelius at 215-814-3178.

Sincerely,



Fatima El Abdaoui, PhD, Chief
Chemicals Safety Program Branch
Land Chemicals Redevelopment Division

CC: W. Davis (DC DOEE)
J. Yowell (EPA HQ)



2020 LEGISLATIVE UPDATE

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Department of Professional and Occupational Regulation
Statement of Financial Activity

**Board for Asbestos, Lead, and Home Inspectors
954540**

2018-2020 Biennium

December 2019

	December 2019 Activity	Biennium-to-Date Comparison	
		July 2016 - December 2017	July 2018 - December 2019
Cash/Revenue Balance Brought Forward			357,153
Revenues	19,675	614,839	429,246
Cumulative Revenues			786,399
Cost Categories:			
Board Expenditures	1,926	48,201	55,490
Board Administration	8,042	115,996	147,509
Administration of Exams	217	3,175	4,322
Enforcement	417	4,373	7,276
Legal Services	0	2,474	2,347
Information Systems	2,471	80,344	109,773
Facilities and Support Services	3,816	53,455	70,023
Agency Administration	3,500	72,359	67,619
Other / Transfers	0	7,595	(5)
Total Expenses	20,387	387,973	464,355
Transfer To/(From) Cash Reserves	(712)	0	322,045
Ending Cash/Revenue Balance			0

Cash Reserve Beginning Balance	322,757	0	0
Change in Cash Reserve	(712)	0	322,045
Cash Reserve Ending Balance	322,045	0	322,045

Number of Regulants	
Current Month	6,313
Previous Biennium-to-Date	6,061

UPDATE ON OUTREACH OPPORTUNITIES

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FUTURE MEETING DATES

- a. May 14, 2020
- b. August 20, 2020
- c. November 5, 2020

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OTHER BUSINESS

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COMPLETE CONFLICT OF INTEREST
FORMS AND
TRAVEL VOUCHERS

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ADJOURN

Please return your document folders to Tanya Pettus.

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