

## TRADE EXPLORATION WORKGROUP

The Trade Exploration Workgroup met on **Monday, June 28, 2021**, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following Workgroup Members were present:

Jeff Hux, Board for Contractors  
Rudy Middleton, Board for Contractors  
David Owen, HBAV  
Jason Wheeler, Regional Council of Carpenters  
Destiny LeVere, AFL-CIO  
Patricia Morrison, DOLI-Apprenticeship  
Marta Fernandes, DOLI-Enforcement  
Jason Parker, Virginia State Building Construction Trade Council  
Courtney Baker, AGCVA  
Jason Ascher, Mid-Atlantic Pipe Trades Association  
Matt Roberts, Chesterfield County Public Schools  
Mary Broz-Vaughan, Director  
Shannon Webster, Director of Exams and Workforce Development

Workgroup Members absent were:  
Elizabeth Creamer, CCWA

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

Eric Olson, Executive Director  
Marjorie King, Board Administrator  
Mary Charity, Licensing Supervisor  
Stephanie Keuther, Administrative Assistant

**Chairman Hux** called the Tradesman Exploration Workgroup Meeting to order at 10:05 A.M.

**Call To Order**

**Approval of June 23, 2021 Draft Minutes**

**Approval of Minutes**

**Mr. Owen made a motion seconded by Mr. Middleton** to approve the Minutes of June 23, 2021.

**The motion was approved with a vote of 13-0-0. Ayes:** Hux, Owen, Middleton, Fernandes, Wheeler, Morrison, Ascher, Parker, LeVere, Baker, Roberts, Webster, and Broz-Vaughan. **Nays:** None **Abstain:** None. **Absent:** Creamer.

**Public Comment**

**Public Comment**

**Chairman Hux**, opened the public comment portion of the meeting. With no one wishing to come forward Mr. Hux closed the public comment.

**Summary of June 23, 2021 Meeting**

**Summary**

Executive Director, Eric Olson informed the Workgroup at its June 23, 2021 meeting, the workgroup identified 12 possible individual license and certification programs to bring forward for discussion. These included: Carpenters, Masons, Painters, Sheetrock Installers, Fire Sprinkler Installers, Roofers, Insulation Installers, Framers, Concrete/Cement Workers, Flooring Installers, Tilers, and Glaziers.

After discussion of each individual program and review of any national certification programs currently in place for these vocations, the workgroup recommended the list be reduced to the following and further discussion at the next meeting should be conducted to determine if they should be recommended for voluntary certification and subsequent exemption from the current Qualified Individual examination, if applicable.

- Carpenters
- Masons
- Sheetrock Installers
- Painters
- Glaziers

**Voluntary Certification (review of scope of construction trades regulated) – Completion of Discussion and Recommendations**

**Voluntary Certification Discussion**

Members of the Workgroup presented information of Apprenticeship Programs established for Carpenters, Masonry, Painting and Glazing.

**Mr. Lou Spencer made Public Comment to the Workgroup**

My name is Lou Spencer, I reside in Caret, Virginia. I am a licensed Master Plumber-Gasfitter,

Back Flow Device Worker, Master Heating Ventilation and Air Conditioning Mechanic in Virginia, the District of Columbia, Maryland, including WSSC. I maintain a Virginia Class A Contractor License.

I have worked in the construction industry for 40 years as a Helper, Apprentice, Journeyman, Site Supervisor, Project Manager and as a Construction Executive. I am a certified instructor of Apprentices and Journeymen, I worked as a part time instructor for about 10 years, and as a full time Training Director for 2 years.

I am currently employed with United Association (UA) Plumbers and Gasfitters Local Union No. 5. The Local Union, and its signatory Contractor partners, operate in Washington DC, southern Maryland, and all greater Northern Virginia. Our greater Northern Virginia territory is larger than our DC and southern Maryland territory combined.

We have 1,900 members and over 60 signatory contractors.

The Local Union, and its signatory Contractor partners are strong supporters of the Virginia Code, the Virginia Board of Contractors, and Virginia licensing rules and regulations. That said, we would like to see heightened consumer protection, contractor and tradesmen licensing and enforcement. In addition, we would like to see heightened enforcement of misclassified independent contractors who are employees according to the IRS definition of employees.

I have read the Statutes in the Code of Virginia pertaining to Contractors, Contractors Regulations, and Tradesmen Regulations, and Contractors Board Policies & Interpretations many times over the past many years.

One question that is on my mind today is this – is a person engaged in, or offering to engage in, contracting work in the Commonwealth required to obtain and maintain a contractor's license? The other question that is on my mind today is this – is a person engaged in, or offering to engage in, plumbing, gas fitting, HVAC contracting work in the Commonwealth required to obtain and maintain a contractor's license and have a licensed "designated employee" listed as "responsible management" and have a licensed "qualified individual" in each specialty the firm is engaged in? I believe this answer to both questions is yes; unfortunately, the current business model is that independent contractors (who are misclassified employees) are engaged in contracting work throughout Northern Virginia, and in many cases unlicensed in the specialty they are performing, including plumbing, gas fitting, HVAC.

Know this, my Local Union, and our affiliates, are ready and eager to assist the Board for Contractors, this Trade Exploration Work Group, and other agencies in the Commonwealth in strengthening and enforcing current and future Rules and Regulations for Contractors and Tradesmen and Consumer Protection and most importantly Occupational Safety.

I suggest this Trade Exploration Work Group consider the following for strengthening or enhancing licensing in Virginia:

- 1) At a minimum, there should be at least one, and depending on project size, enough additional Virginia licensed journeymen for each licensed trade on each job site requiring a long form type permit.
- 2) The Virginia Apprentice Council should not issue certificates of completion for licensed crafts unless the Apprentice processes a Virginia journeyman license in the craft, as a condition precedent to graduating. Passing the exam should be part of the criteria for graduating from the apprenticeship if a license exists for the craft. Some trades will have an issue with this, perhaps a compromise can be reached, perhaps upon the successful completion of the apprenticeship, the examination requirement be waived, a license could be issued upon approval of a properly submitted application.

We must proceed with caution; other jurisdictions may not reciprocate with Virginia if we waive examination for licensure.

- 3) That all independent contractors on a job site be required to possess a Virginia class A, B or C License, and act as "Responsible management".
- 4) The independent contractor shall name a designated employee who is in "Responsible Management".
- 5) AND every classification or specialty in which the independent contractor is performing, for example: Electrical, Mechanical, Plumbing, Gas fitting; the firm shall name a qualified individual who is licensed as a Master in the specialty being performed.

I want to thank the Board for Contractors and the Trade Exploration Work Group for permitting me to be part of this discussion. Thank you.

After discussion, Executive Director, Eric Olson shared with the workgroup data percentages from 2000 disciplinary cases for Cement and Masonry's adjudicated by the Board between 2003-2019. Mr. Olson also informed the Workgroup of the ten criteria's to be used in the determination of the proper degree of regulation, if any, of any profession or occupation.

- 1) Whether the practitioner, if unregulated, performs a service for individuals involving a hazard to public health, safety or welfare.
- 2) The opinion of a substantial portion of the people who do not practice the particular profession, trade or occupation on the need for regulation.
- 3) The number of states which have regulatory provisions similar to those proposed.
- 4) Whether there is sufficient demand for the service for which there is no regulated substitute and this service is required by a substantial portion of the population.
- 5) Whether the profession or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession or occupation, as evidenced by established and published codes of ethics.
- 6) Whether the profession or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that the practitioner has met minimum qualifications.
- 7) Whether the professional or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession or occupation.
- 8) Whether current laws which pertain to public health, safety and welfare generally are ineffective or inadequate.
- 9) Whether the characteristics of the profession or occupation make it impractical or impossible to prohibit those practices of the profession or occupation which are detrimental to the

public health, safety and welfare.

10) Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner.

**Recess**

**Chairman Hux, called a recess to the meeting at 11:50AM  
Chairman Hux, resumed the meeting at 12:10PM**

**Recess**

After discussion, the Workgroup determined carpenters, masons, sheetrock installers, painters, and glaziers should be recommended for voluntary certification and subsequent exemption from the current Qualified Individual examination.

**A motion was made by Mr. Middleton and seconded by Mr. Parker to recommend carpenters, masons, sheetrock installers, painters, and glaziers for voluntary certification and subsequent exemption from the current Qualified Individual examination.**

**The motion was approved with a vote of 11-2-0. Ayes: Hux, Middleton, Fernandes, Wheeler, Morrison, Ascher, Parker, LeVere, Roberts, Webster, and Broz-Vaughan. Nays: Owen, and Baker Abstain: None. Absent: Creamer.**

**Scope of Occupational Licensing Enforcement – Discussion and Recommendations**

**After discussion a motion was made by Mr. Owen and seconded by Mr. Middleton that the Workgroup is satisfied with the current Scope of Occupational Licensing Enforcement.**

**The motion was approved with a vote of 9-4-0. Ayes: Hux, Owen, Middleton, Fernandes, Morrison, Baker, Roberts, Webster, and Broz-Vaughan. Nays: LeVere, Ascher, Parker, and Wheeler. Abstain: None. Absent: Creamer.**

Recommendations provided by the Workgroup were increased enforcement availability to localities and to earmark more funding for localities in order to revamp, share, and communicate information regarding licensed contractors and tradesman on a larger level. A subsequent recommendation was to increase funding for local Commonwealth Attorneys in order to increase their focus on prosecution of unlicensed contractors in their localities.

**Review of Efficacy of Current Occupational Licensing Laws – Discussion and Recommendations**

**After discussion a motion was made by Mr. Owen and seconded by Mr. Roberts that the Workgroup is satisfied with the current Efficacy of the Current Occupational Licensing Laws.**

**Scope of  
Occupational  
Licensing  
Enforcement –  
Discussion and  
Recommendations**

**Review of Efficacy of  
Current Occupational  
Licensing Laws –  
Discussion and  
Recommendations**

**The motion was approved with a vote of 13-0-0. Ayes:** Hux, Owen, Middleton, Fernandes, Wheeler, Morrison, Ascher, Parker, LeVere, Baker, Roberts, Webster, and Broz-Vaughan. **Nays:** None **Abstain:** None. **Absent:** Creamer.

No recommendations were given at this time.

**Review of Adequacy of Current Licensing Requirements – Discussion and Recommendations**

**Review of Adequacy of Current Licensing Requirements – Discussion and Recommendations**

After discussion a motion was made by Mr. Owen and seconded by Mr. Middleton that the Workgroup is satisfied with the current Adequacy of the Current Licensing Requirements.

**The motion was approved with a vote of 13-0-0. Ayes:** Hux, Owen, Middleton, Fernandes, Wheeler, Morrison, Ascher, Parker, LeVere, Baker, Roberts, Webster, and Broz-Vaughan. **Nays:** None **Abstain:** None. **Absent:** Creamer.

No recommendations were given at this time.

**Final Recommendations**

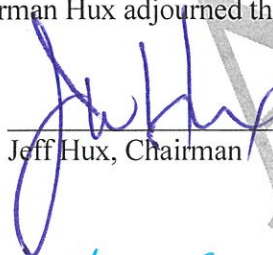
**Final Recommendations**

After discussion, the Workgroup recommended having a Recognition Program for companies that have a certain percentage of its employees licensed. This information would be posted on the DPOR website under the Contractor’s License information for consumers to view and could be used as an incentive for contractors to increase the number of licensed and certified individuals in their employ.

**Adjournment**

**Adjournment**

Chairman Hux adjourned the Trade Exploration Workgroup at 1:57PM

  
\_\_\_\_\_  
Jeff Hux, Chairman

Date 7-20-2021

  
\_\_\_\_\_  
Mary Broz-Vaughan, Director

Date 7/20/2021

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

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

1. Name Jeffrey W Hux  
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors  
(Name of Board)
4. Meeting/IFF Date: 06/28/2021
5. I have a personal interest in the following transaction:

\_\_\_\_\_  
(Agenda Item)

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:

\_\_\_\_\_

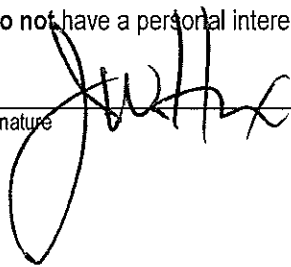
I am able to participate in this transaction fairly, objectively, and in the public interest.

or

I did not participate in the transaction.

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

Signature



June 28, 2021

Date

STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name E.G. "Rudy" Middleton  
(Name of Board Member)
2. Title: Board Member
3. Agency: DPOR/Board for Contractors  
(Name of Board)
4. Meeting/IFF Date: 06/28/2021
5. I have a personal interest in the following transaction:

(Agenda Item)

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.

E. L. Middleton III  
Signature

June 28, 2021  
Date



