

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on November 19, 2015, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 4, Richmond, Virginia 23233.

The following members of the Board were present:

Sandra Baynes
Colleen Becker, Chair
Erich Fritz
James Haltigan
Rick Holtz

Brian Koepf
Gene Magruder
Reginald Marston, III
Kenneth Nash
Peter Palmer, Vice Chair

Board members Suzanne Blevins, Phillip Fincher, Frederick Molter, IV, 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
Mark N. Courtney, Senior Director for Regulatory and Public Affairs
Trisha L. Henshaw, Executive Director
Thomas K. Perry, Board Administrator
Tanya M. Pettus, Administrative Assistant

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

Ms. Becker, 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. Koepf seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Approval of Agenda

Mr. Marston moved to approve the minutes of the May 14, 2015, Board meeting;
the August 13, 2015, Home Inspectors Training Committee meeting;
and the November 12, 2015, Home Inspectors Training Committee

**Approval of
Minutes**

meeting.

Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Henshaw introduced the new Administrative Assistant, Tanya M. Pettus, to the Board. Ms. Henshaw also introduced Michelle Couch, Hearing Legal Services Officer, and Sarah Towell, Hearing Legal Services Officer, who were present to observe the meeting for training purposes.

There were no members of the public present for comment.

In the matter of **File Number 2014-01402, Billy J. Avery**, the Board members reviewed the Consent Order, which imposed Board costs in the amount of \$150.00 and the voluntary surrender of Mr. Avery's lead abatement supervisor license. In addition Mr. Avery agrees not to apply to the Board for any license in the future. Mr. Palmer moved to accept the terms of the Consent Order as presented. Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

In the matter of **File Number 2016-00028, Robert Clifton Young, Jr.**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. After discussion, Mr. Magruder moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Young's application for a home inspector certification. Mr. Koepf seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

In the matter of **File Number 2016-00581, Adam Jeffery Comeau**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's

Introduction of Staff

**Public Comment
Period**

**File Number 2014-
01402, Billy J. Avery**

**File Number 2016-
00028, Robert Clifton
Young, Jr.**

**File Number 2016-
00581, Adam Jeffery
Comeau**

Summary and Recommendation. Mr. Koepf moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Comeau's application for a home inspector certification. Mr. Marston seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

In the matter of **File Number 2016-00289, Jose Luis Reyes**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's Summary and Recommendation. After discussion, Mr. Marston moved to accept the summary and recommendation of the Presiding Officer and deny Mr. Reyes' application for an asbestos worker license. Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

File Number 2016-00289, Jose Luis Reyes

In the matter of **File Number 2016-00417, Garcia H. Francisco**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's Summary and Recommendation. Mr. Marston moved to accept the summary and recommendation of the Presiding Officer and deny Mr. Francisco's application for an asbestos worker license. Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

File Number 2016-00417, Garcia H. Francisco

In the matter of **File Number 2016-00418, Gloribel Oliva**, the Board members reviewed the application file, which consisted of the exhibits, and the Presiding Officer's Summary and Recommendation. Mr. Palmer moved to accept the summary and recommendation of the Presiding Officer and deny Ms. Oliva's application for an asbestos worker license. Mr. Fritz seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

File Number 2016-00418, Gloribel Oliva

Ms. Henshaw provided an update on the current status of the regulatory review processes for the Board's regulatory packages. The proposed amendment to the Lead-Based Paint Activities Regulations removing the exam fee cap was approved by the Governor's office, and no public comment was received on the amendment. The new exam fee will become effective January 1, 2016.

**Update on
Regulatory Review
Processes**

The proposed Lead-Based Paint Renovation, Repair, and Painting Program Regulations (Initial Promulgation) are currently undergoing review by the Governor's office. If approved, the regulations will be posted to the Virginia Register and a 60 day public comment period will commence, to include a public hearing.

Ms. Henshaw advised the Board there were no public comments on current regulations received during the periodic review period. Mr. Magruder moved to retain the current Board regulations and not commence a regulatory review process to amend the regulations. Mr. Palmer seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Henshaw advised the Board that draft regulatory amendments creating a home inspector training program and specialty for new residential building inspections was developed and recommended to the Board by the Home Inspector Training Committee, and was ready to be presented to the Board for approval. Ms. Henshaw advised the Board of the members on the Committee who worked to draft the amendments. Ms. Henshaw advised of the timeframe to approve the document, as after approval by the Board the amendments will then go through the Executive Branch review process in order to become effective in July 2016. The Board agreed by consensus to work through the remainder of the meeting agenda and review the draft as the last order of business.

**Report from Home
Inspector Training
Committee (HB
2103)**

Mr. Perry provided an update of the asbestos and lead training course audits that have been conducted since the Board's last meeting.

**Asbestos and Lead
Training Course
Audits**

Mr. Perry provided an update on certified home inspectors continuing professional education (CPE) audits. The audits were conducted on a random group of individuals whose certifications

**Update on Certified
Home Inspector
CPE Audits**

had expired between April 30, 2015 and September 30, 2015. The audits covered 25% of individuals with expired home inspector certifications.

There was discussion on the selection of licensees and certificate holders to be audited. Mr. Perry and Ms. Henshaw explained the filtering process used to determine the auditees to the Board.

Ms. Henshaw advised the Board that former Board members may be needed on occasion to serve as presiding officers at informal fact-finding conferences. Former Board members that agree to serve in that capacity will be presented to the Board for approval and, if approved, the selected individual will be asked to sign a contract with the Department.

**Administrative
Hearing Process
Changes Resulting
from SB 927**

Ms. Henshaw advised the Board that, due to changes in the Administrative Processes Act as a result of the 2015 General Assembly session, the names of the Presiding Officer at informal fact-finding conferences will now appear on conference notices sent to respondents. As a result, respondents in cases may contact selected Presiding Officers to discuss their cases or circumstances. Ms. Henshaw advised the Board to direct any inquiries received from respondents to Board staff as any communication regarding the case by a Board member with a respondent outside of the informal fact-finding conference would be inappropriate and would result in such Board member being recused from participation in the adjudication of the case.

After discussion, Mr. Palmer made a motion to approve Keith Conan to serve as a Presiding Officer at informal fact-finding conferences for the Board as applicable to his profession. Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Henshaw requested that the Board provide the names of any other persons that the Board wishes to recommend for consideration to assist in the administrative hearing process. After discussion, Mr. Marston moved that Joe Crockett, Chris Chapman, and Joel Loving be considered to serve as Presiding Officers at informal fact-finding conferences conducted for the Board as applicable to their professions. Mr. Fritz seconded the motion. After discussion, Mr. Marston amended his motion to include Fred

Heppner along with Mr. Crockett, Mr. Chapman, and Mr. Loving to be considered to serve as Presiding Officers at informal fact finding conferences conducted for the Board as applicable their professions. Mr. Fritz seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

Ms. Henshaw opened the floor for annual nominations of the Board Chair. Mr. Magruder, Mr. Marston, and Ms. Baynes nominated Ms. Becker. Mr. Koepf moved to approve Ms. Becker's nomination as Board Chair. Mr. Marston seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. By acclamation, Ms. Becker was named Board Chair.

Election of Officers

Ms. Becker opened the floor for annual nominations of Board Vice-Chair. Mr. Marston moved that Mr. Palmer should remain Board Vice-Chair. Mr. Magruder seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. By acclamation, Mr. Palmer was named Board Vice-Chair.

Ms. Henshaw reminded the Board to complete the annual financial disclosure statement due on December 15, 2015.

Other Board Business

Mr. Courtney reminded Board members of the conflict of interest training that must be completed by members of the Board every two years. Upcoming training must be completed by December 30, 2015.

Ms. Henshaw updated the Board members on recent outreach opportunities she and staff have attended since the last Board meeting.

There was discussion regarding current requirements for asbestos and lead licensing as it pertains to related degrees and related work

experience. The Board agreed by consensus to research this further and explore options to be discussed at the next Board meeting in February 2016.

The Board recessed from 10:38 a.m. until 10:52 a.m.

Recess

Mr. Haltigan departed during recess.

Departure of Board Member

Discussion was held on the definition of “employee” as it relates to asbestos project monitoring licensing. Currently a person is considered an employee if it is implied, stated orally, or written. Ms. Becker stated the need for clarification of the term. The Board agreed by consensus to continue discussion on the matter at the next meeting in February 2016.

Other Board Business

Ms. Henshaw presented the Board with draft regulatory amendments for creating a home inspector training program and specialty for new residential building inspections as recommended by the Home Inspector Training Committee. After detailed review of the draft, Mr. Koepf moved to adopt the draft as amended. Mr. Marston seconded the motion which was unanimously approved by: Baynes, Fritz, Haltigan, Koepf, Magruder, Marston, and Palmer. Board members Becker, Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. By acclamation, Ms. Becker was named Board Chair.

Consider Adoption of Proposed Text for Regulatory Amendments Creating Home Inspector Training Program and Specialty for New Residential Building Inspections

The following meeting dates have been scheduled:

- February 11, 2016
- May 17, 2016
- August 18, 2016
- November 15, 2016

Future Meeting Dates

Ms. Henshaw requested that the Board members 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 11:47 a.m.

Adjourn

Colleen Becker, Chair

Jay W. DeBoer, Secretary

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