

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

THURSDAY, FEBRUARY 10, 2022, 9:00 A.M.
BOARD ROOM 3—SECOND FLOOR

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
PERIMETER CENTER—9960 MAYLAND DRIVE
RICHMOND, VA 23233

- I. CALL TO ORDER**
- II. EMERGENCY EVACUATION PROCEDURES**
- III. APPROVAL OF AGENDA**
- a. Board Agenda, February 10, 2022
- IV. APPROVAL OF MINUTES**
- a. Board Meeting Minutes, November 4, 2021
- V. INTRODUCTION OF NEWLY APPOINTED AGENCY DIRECTOR**
- VI. INTRODUCTION OF NEW BOARD MEMBERS**
- VII. 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**
- VIII. CASE FILES ***
- a. File Number 2021-02549, Timothy John Valaike (HI)
Consent Order (Rushton)
 - b. File Number 2021-01947, Royce Kapono Quitariano (HI)
Licensing—IFF by Eldridge
 - c. File Number 2021-02810, Ferdinand Nathaniel III (ASB)
Licensing—IFF by Haughwout
- IX. REGULATIONS**
- a. Regulatory Action Update
- X. OTHER BUSINESS**
- a. September 2021 Home Inspector CPE Audit Report
 - b. Consider Draft Guidance Document Regarding Course Completion Certificates for Asbestos and Lead Training Course Instructors
 - c. Discussion of §54.1-501.6. of the Code of Virginia
 - d. 2022 Legislative Update
 - e. Board Financial Statements
 - f. Outreach Update
 - g. Consideration of Resolutions for Service
 - h. Other Board Business
- XI. FUTURE MEETING DATES**
- a. May 12, 2022
 - b. August 18, 2022
 - c. November 10, 2022

XII. COMPLETE CONFLICT OF INTEREST FORMS

XIII. 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 are proposed only for discussion
and are not to be construed as regulation or official board position.
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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.

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on November 4, 2021, 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, Vice-Chair
John E. Cranor
James E. Haltigan
Gene E. Magruder, Chair

Peter D. Palmer
David P. Rushton
Patrick Studley
Paul D. Thomas

Board members Chadwick Bowman, Rick Holtz, Galappa Madhusudhan, and Louis Walker were not present at the meeting.

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

Mary Broz-Vaughan, Director
R. Thomas Payne, Deputy Director
Trisha L. Lindsey, Executive Director
Shannon Webster, Director of Examinations
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Board Administrator

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 9:29 a.m. **Call to Order**

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

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

Mr. Rushton moved to approve the minutes of the August 26, 2021, Board meeting as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas. **Approval of Minutes**

Ms. Lindsey introduced to the Board DPOR Deputy Director, Tom Payne. **Introduction of New DPOR Deputy**

Director

There were no members of the public present to address the Board.

**Public Comment
Period**

The Board members reviewed a written comment submitted by P. Wesley Hambrick, Jr., requesting that the Board continue the allowance for conducting training courses via electronic means for asbestos courses that do not require a hands-on component.

Mr. Cranor and Mr. Rushton recused themselves from the meeting for discussion and deliberations on File Number 2020-00507.

**Recusal of Board
Members**

In the matter of **File Number 2020-00507, Theodore Riddick, Jr.**, the Board members reviewed the record which consisted of the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference.

**File Number 2020-
00507, Theodore
Riddick, Jr.**

The Board considered each of the charged Violations under Counts 1 through 4. Mr. Palmer moved to accept the recommendation of the Presiding Officer and find Mr. Riddick in violation of 18 VAC 15-40-130.A. as outlined in Count 1, 18 VAC 15-40-130.B. as outlined in Count 2, 18 VAC15-40-160.C. as outlined in Count 4, and accept the finding of no violation in Count 3 as outlined in the Summary. Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Haltigan, Magruder, Palmer, Studley, and Thomas.

Ms. Baynes then moved to accept the recommended sanctions as presented in the Summary for the purpose of discussion. Mr. Studley seconded the motion. After discussion, Ms. Baynes moved to amend her previous motion, and moved to accept the recommended sanctions as amended, which imposed a monetary penalty of \$200.00 for violation of Count 1, and a monetary penalty of \$100.00 for violation of Count 4. For violation of Count 2, Mr. Riddick's home inspector license will be suspended until the Board receives satisfactory proof of completion of a Board-approved 35-hour pre-license education home inspector course. The above-referenced education hours will not count towards any education requirements, if applicable, for renewal, reinstatement, or activation of a license. Mr. Thomas seconded the amended motion which was approved by: Baynes, Haltigan, Magruder, Palmer, Studley, and Thomas.

Mr. Cranor returned to the meeting.

**Return of Board
Member**

Mr. Rushton remained recused for discussions and deliberations on

File Numbers 2020-02516 and 2021-01008.

In the matter of **File Number 2020-02516, Donald Lindsay Smith**, the Board members reviewed the record which consisted of the Notice of Prima Facie Case, Report of Findings, evidence, and the Recommendation. Mr. Palmer moved to accept the recommendation and find Mr. Smith in violation of 18VAC 15-40-155.3. as outlined in Count 1. Mr. Cranor seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Studley, and Thomas. Mr. Palmer then moved to impose a monetary penalty of \$50.00 as outlined in the Recommendation. Mr. Studley seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Studley, and Thomas.

File Number 2020-02516, Donald Lindsay Smith

In the matter of **File Number 2021-01008, Marc C. Leon**, the Board members reviewed the Consent Order. Mr. Leon admits to a violation of 18VAC 15-40-155.6 as outlined in Count 1, and consents to the imposition of a monetary penalty of \$750.00, and Board costs of \$150.00. Mr. Cranor moved to approve the Consent Order as presented. Mr. Thomas seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Studley, and Thomas.

File Number 2021-01008, Marc C. Leon

Mr. Rushton returned to the meeting.

Return of Board Member

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

Regulatory Action Update

A Notice of Intended Regulatory Action (NOIRA) for a general review of the Home Inspector Licensing Regulations was published in the Virginia Register on July 19, 2021, for a 30-day public comment period which ended on August 18, 2021. Mr. Haughwout advised that public comments and proposed regulatory amendments will be considered by the Board later in the meeting.

Final Lead-Based Paint Renovation, Repair, and Painting Program (RRP) Regulations (Initial Promulgation), as amended, were adopted by the Board on August 26, 2021. Final regulations are to be submitted for Executive Branch review.

Mr. Haughwout advised the Board that the temporary reduction in renewal and reinstatement fees for home inspector licenses will be expiring in 2022. As currently projected, the Board can better

Consider Exempt Action to Continue Temporary Fee

maintain compliance with the Callahan Act if reduced fees are extended through 2024.

Reduction for Home Inspectors

Mr. Rushton moved to authorize staff to file an exempt action to continue the temporary fee reductions for home inspector licenses expiring after February 1, 2022, and before February 1, 2024, and for reinstatement applications received on or after March 1, 2022, on or before February 29, 2024. Mr. Thomas seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

The Board reviewed public comments received on draft proposed amendments to the Home Inspector Licensing Regulations, as well as draft proposed responses to the comments. After review and discussion, Mr. Studley moved to adopt the draft proposed responses as written. Mr. Cranor seconded the motion. After discussion, the motion was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Home Inspector Licensing Regulations

The Board considered draft proposed amendments to the Home Inspector Licensing Regulations. Mr. Palmer moved to adopt the draft proposed amendments to the regulations as presented for the purpose of discussion. Mr. Thomas seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas. Discussion was held on entry requirements, continuing professional education subject matter, licensee responsibility, and prohibited acts. After discussion, Mr. Rushton moved to approve the Committee's recommended draft Home Inspector Licensing Regulations as amended, and authorize staff to file the amended regulations as proposed in order to proceed through the regulatory review process. Mr. Palmer seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Ms. Lindsey asked the Board to consider authorizing staff to file an exempt action to amend the Board's regulations to comport with recent legislation legalizing marijuana. The amendment would exclude marijuana-related misdemeanor convictions from the disclosure and reporting requirements in the regulations. Mr. Rushton moved to authorize staff to file an exempt action to amend the Board's regulations. Mr. Cranor seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Consider Exempt Action to Amend Home Inspector Licensing Regulations and Lead-Based Activities Regulations to Incorporate Changes Resulting from Recent Marijuana

Ms. Pettus provided an update of home inspector CPE audits conducted on twenty-five percent of eligible certified home inspectors beginning on September 23, 2021.

Ms. Lindsey and Ms. Pettus advised the Board that staff has received multiple inquiries as to whether virtual or online platforms are acceptable methods of delivery for asbestos and lead courses in light of the expiration of waivers instituted during the height of the pandemic. As Executive Order 51 expired on June 30, 2021, but recommendations remain in place to help mitigate the spread of COVID-19, training providers are requesting clarification to ensure they remain in compliance with statutes and regulations.

Ms. Lindsey asked the Board to consider guidance adopted by the Board as authorized by the Order, allowing for hybrid delivery of asbestos initial courses wherein theoretical instruction was permitted to be conducted by electronic means, while any required hands-on instruction was to be performed in person. After lengthy discussion, Ms. Baynes moved to rescind the guidance on the hybrid delivery of asbestos initial courses, and further moved to table the topic until the February 2022 Board meeting. Mr. Thomas seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Ms. Webster advised the Board of the Virginia Federal Bonding Program, a program that essentially insures an employer against any loss due to larceny, theft, embezzling, or forgery for \$5,000.00 and six months at no cost to the employer when that employer chooses to hire an individual with a criminal history. The program aims to ensure reentry into the job market for individuals who have prior criminal convictions.

After discussion, Mr. Rushton moved to endorse the Virginia Federal Bonding Program. Mr. Palmer seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Ms. Lindsey provided the Board with the most recent financial statements for informational purposes.

Ms. Lindsey updated the Board on recent and upcoming virtual and in-person outreach opportunities.

Legislation

September 2021 Home Inspector Audit Report

Discuss Virtual Format for Asbestos and Lead Education

Discussion of Virginia Federal Bonding Program

Board Financial Statements

Outreach Update

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

Election of Officers

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

Ms. Lindsey advised the Board that a Board Member Training Conference is being tentatively planned for October 2022.

Other Business

Ms. Lindsey advised that the Secretary of the Commonwealth is looking to fill vacant seats on the Board, as well as to fill the seats of those whose terms have expired but who continue to serve on the Board. The Board members were invited to provide Ms. Lindsey with the names and contact information for any eligible individuals who may be interested in serving on the Board.

Staff has received certificates of completion for asbestos and lead refresher courses wherein the student, the training manager, and principal instructor are the same person. As the Board's regulations are silent on the matter, Ms. Pettus asked the Board to consider whether an instructor of an asbestos or lead course may sign his own certificate of completion signifying completion of required refresher training. After lengthy discussion, Mr. Palmer authorized staff to draft a guidance document requiring additional verification of an instructor's successful completion of asbestos and lead refresher training. Mr. Haltigan seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Palmer, Rushton, Studley, and Thomas.

Mr. Magruder reminded Board members to complete their conflict of interest forms.

Conflict of Interest Forms and Travel Vouchers

There being no further business, the meeting adjourned at 11:51 a.m. **Adjourn**

Gene E. Magruder, Chair

Demetrios J. Melis, Secretary

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INTRODUCTION OF NEWLY APPOINTED **AGENCY DIRECTOR**

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INTRODUCTION OF NEW

BOARD MEMBERS

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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 24, 2022)

Action: Home Inspector Regulations General Review

Current Stage: NOIRA

- NOIRA filed on 11/13/20. Executive Branch review completed and submitted to Registrar on 6/22/21.
- Published in Virginia Register on 7/19/21 for 30-day public comment period.
- Public comment period concluded on 8/18/21.
- Board reviewed and considered NOIRA stage public comments on 11/4/21.
- Board reviewed and considered committee recommendations, and adopted proposed regulatory text on 11/4/21.

Next Step: Proposed Stage/Executive Branch Review/Public Comment

- Submission of proposed regulatory text for Executive Branch review.
- Upon completion of Executive Branch review, publication of proposed regulation in Virginia Register, and 60-day public comment period. Comment period will include a public hearing.

Action: Initial Promulgation of Lead-Based Paint Renovation, Repair, and Painting Regulation

Current Stage: Final Regulation

- Final regulation, as amended, adopted by Board on 8/26/21.
- Final regulation submitted for Executive Branch review on 1/18/22.

Next Step: Executive Branch Review/Final Adoption

- Following completion of Executive Branch review, publication in Virginia Register, and final public comment.

Action: Home Inspector Regulations – Temporary Fee Reduction

Current Stage: Adopted (Exempt)

- Final amendments adopted by Board on 11/4/21.
- Submitted to Registrar on 1/3/22.
- Will be published in Virginia Register on 1/31/22.
- Amended regulation will become effective on 3/2/22.

Next Step: N/A

September 2021 Home Inspectors CPE Audit Report

Memo

To: ALHI Board Members
From: Tanya M. Pettus, Administrative Assistant
Date: February 10, 2022
Re: September 2021 Home Inspectors CPE Audit Report

This memo provides information regarding the September 2021 Home Inspectors CPE Audit Report.

September 23, 2021: The regulant population of home inspectors eligible for audit totaled 359 in Eagles. Five percent (25%) of the eligible regulant population was randomly selected, resulting in 85 regulants selected for audit. Note: Those ineligible for audit were manually excluded.

Initial letter and CPE audit form mailed to regulants selected for audit.

October 25, 2021: Due date of CPE audit form and required documentation.

November 1, 2021: Final notices mailed to non-responsive auditees.

November 15, 2021: Final due date of CPE audit form and required documentation.

Responses received as of December 15, 2021:

Total Received	80
Passed	79
Incomplete	1
Pending Review	0
Referred for Disciplinary Action	6
Surrendered	0
No Response	5

CONSIDER DRAFT GUIDANCE DOCUMENT
REGARDING COURSE COMPLETION
CERTIFICATES FOR ASBESTOS AND LEAD
TRAINING COURSE INSTRUCTORS

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DISCUSSION OF §54.1-501.6. OF THE
CODE OF VIRGINIA

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2022 LEGISLATIVE UPDATE

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Department of Professional and Occupational Regulation
Statement of Financial Activity
Board for Asbestos, Lead, and Home Inspectors
954540

2020-2022 Biennium

December 2021

	December 2021 Activity	Biennium-to-Date Comparison	
		July 2018 - December 2019	July 2020 - December 2021
Cash/Revenue Balance Brought Forward			9,163
Revenues	25,615	429,246	428,034
Cumulative Revenues			437,197
Cost Categories:			
Board Expenditures	2,534	55,490	58,533
Board Administration	6,860	147,509	127,207
Administration of Exams	282	4,322	5,717
Enforcement	540	7,276	8,413
Legal Services	0	2,347	1,610
Information Systems	1,515	109,773	87,565
Facilities and Support Services	3,533	70,023	67,540
Agency Administration	3,440	67,619	58,388
Other / Transfers	0	(5)	0
Total Expenses	18,703	464,355	414,973
Transfer To/(From) Cash Reserves	(484)	0	(23,960)
Ending Cash/Revenue Balance			46,185

Cash Reserve Beginning Balance	287,324	0	310,800
Change in Cash Reserve	(484)	0	(23,960)
Cash Reserve Ending Balance	286,840	0	286,840

Number of Regulants	
Current Month	5,792
Previous Biennium-to-Date	6,313

OUTREACH UPDATE

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CONSIDERATION OF RESOLUTIONS **FOR SERVICE**

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OTHER BUSINESS

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FUTURE MEETING DATES

- a. May 12, 2022
- b. August 18, 2022
- c. November 10, 2022

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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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