



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING
Held on October 19, 2016
[Approved: November 16, 2016]

Meeting Location: Massachusetts Department of Environmental Protection
Central Regional Office
8 New Bond Street
Worcester, MA 01606

Prepared by: L. Williamson

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting held on September 21, 2016
 3. Renewal Dockets #1 and #2
 4. List of Action Items for LSP Board
 5. Petition for Waiver, dated September 30, 2016
1. **Call to Order:** Maria Pinaud called the meeting to order at approximately 1:30 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, Debra Listernick, Robert Rein, Farooq Siddique, and James Smith. Board members absent were Kirk Franklin and John Guswa. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present were Wendy Rundle (Executive Director of the LSP Association), Wesley Stimpson (WES Associates), and Rebecca Woolley (MassDEP). Craig Paradis (applicant) entered at 2:00 p.m.
 2. **Announcements:** Ms. Coles-Roby reported that she had been contacted by Erik Gessert of the Colorado Division of Oil and Public Safety. Colorado is in the process of developing a consultant-based program similar to Massachusetts and Mr. Gessert has requested a conference call with the Board to obtain additional information on Relevant Professional Experience. Ms. Coles-Roby stated that the Board needs to establish a date for the call. The Board members agreed that the conference call should be set up for October 21, 2016 at 2:00 p.m.
 3. **Agenda:** No additions to the Agenda were proposed.
 4. **Minutes of Meeting Held on September 21, 2016:** The members present reviewed the draft minutes of the meeting of the Board held on September 21, 2016. **A motion was made and seconded to approve the September 21, 2016 minutes as written. The**

motion passed unanimously, with Ms. Campbell and Mr. Siddique abstaining.

5. **License Renewal Applications:** The staff presented the following License Renewal Dockets:

Renewal Docket #1
Renewal Date: October 30, 2016
New Renewal Date: October 30, 2019
Has completed all requirements for renewal:

| | LSP # | First | Middle | Last |
|---|--------------|--------------|---------------|-------------|
| 1 | 5736 | Brian | T | Butler |
| 2 | 4303 | David | C | Bennett |
| 3 | 8904 | David | B | Sherman |
| 4 | 1580 | Susan | A | Jason |
| 5 | 5830 | Kenneth | | McDermott |
| 6 | 5408 | Andrew | W | Bakinowski |

Renewal Docket #2
Renewal Date: July 30, 2016
New Renewal Date: July 30, 2019
Completed requirements within 90-day extension:

| | LSP # | First | Middle | Last |
|---|--------------|--------------|---------------|-------------|
| 1 | 2261 | Richard | J | Hughto |

Motions were made and seconded to renew the licenses of the LSPs on Renewal Dockets #1 and #2 for the three-year periods ending on the dates indicated. The motions were approved unanimously.

6. **Other Licensing-Related Matters:**

A. Petition for Waiver: The Board members reviewed and discussed the Petition for Waiver, dated September 30, 2016. The Petition requested an extension of the individual's eligibility to take the exam. Mr. Austin commented that the Board has received several similar Petitions recently, all of which the Board has denied. Ms. Listernick stated that the individual should be informed that the Board has offered the exam once per year, as is required by the regulations. **A motion was made and seconded that the Petition for Waiver be denied. The motion was approved unanimously.**

B. Appeals Status Report: None.

C. Inactive Status Report: The staff reported that the following LSPs are currently on Inactive Status:

| LSP Number | License Status Date | License Status | Last Name | First Name |
|------------|---------------------|----------------|-------------|------------|
| 7613 | July 22, 2015 | Inactive | Warren | Robert |
| 9451 | February 12, 2016 | Inactive | Zirbel | Martha |
| 8501 | January 22, 2015 | Inactive | Taliadouros | Kleo |

D. Total Number of Active LSPs: As reported in the Agenda, the total number of Active LSPs was 531 as of October 11, 2016.

7. Examinations:

A. Exam Challenges: Mr. Siddique stated that he will send Ms. Coles-Roby the spreadsheet that summarizes the Exam Challenge Committee’s recommendations for the one remaining set of challenges. Dr. Batchelder suggested that the Board reconsider the exam challenge process and requested the topic be added to next month’s meeting agenda. She stated that it may be beneficial to review and revise the policy prior to the next exam offering. Dr. Batchelder stated that other jurisdictions do not allow applicants to review all the questions that they answered incorrectly, as the Board does. She reported that Connecticut allows their applicants to write their comments about the questions in the margins of the exam, which are then reviewed by the Board. Dr. Batchelder stated that the exam challenge procedures are a Board policy, and are not contained within the regulations. She stated that the Board has the ability make changes to its policies at any time as long as advanced warning is provided. Ms. Pinaud suggested that the Board members look at the current policy and provide recommendations on revisions. Ms. Listernick asked how applicants are informed of their ability to challenge exam questions and the associated guidelines. Ms. Coles-Roby responded that the information is contained in the letter that is issued to applicants who do not pass the exam. Mr. Smith asked if copies of the letter could be provided to the Board members for review. Mr. Austin suggested that it may be beneficial to have the Exam Committee review the letter first. The Board members agreed the letter should be forwarded to the Exam Committee for review and comment.

B. Exam Committee Report: Ms. Coles-Roby stated that the Exam Committee has a conference call scheduled for November 1, 2016 at 2:00 p.m. to discuss a plan of action for completing the third version of the exam.

C. Exam Dates: The next exam will be offered in April 2017.

8. Continuing Education Committee Report:

A-B. Report on Course and Conference Approval Requests: Mr. Siddique reported that the Committee met earlier in the day and made the following course recommendations to the Board:

- a. LSPA: What You Need to Know When Your Site is Part of a Lawsuit Or, the Role of the LSP in Litigation (1 Technical credit, November 15, 2016, Westborough, MA).

Committee Recommendation: **Deny. The course subject matter does not meet the definition of “Technical” per 309 CMR 3.09(1)**

A motion was made and seconded to accept the Continuing Education Committee’s recommendations. Mr. Austin opposed the motion. The motion passed at a vote of seven to one.

- C. **Other Business:** Ms. Coles-Roby reported that she received a question from an LSP regarding a 90-day extension. She stated that the LSP submitted a 90-day extension request in July 2016 and needed an additional six credits, of which 1.5 had to be DEP credits. Ms. Coles-Roby stated that the LSP indicated she was still in need of DEP credits and that she was signed up to take MassDEP’s Vapor Intrusion course on October 17, 2016 at the UMass Soils Conference; however, the Attendance Forms will not be issued until mid-November. The LSP’s 90-day extension expires at the end of October. Ms. Coles-Roby stated that the LSP is asking if the Board will accept some other form of proof of attendance so that her license will not expire at the end of October due to the delay in receiving the Attendance Form. The Board members agreed that it would not be appropriate to accept something other than the Board’s Attendance Form. Mr. Smith suggested that the Board grant the LSP a waiver to allow for additional time to submit the Attendance Form, contingent on her actually completing the course on October 17th and meeting all other license renewal requirements. The Board members agreed that a waiver would be appropriate if the course was completed prior to 90-day extension deadline and all other requirements have been met aside from submitting a copy of that one Attendance Form. The Board also agreed that if the LSP did not take the class and/or has not met the other renewal requirements the LSP’s license would be considered expired at the conclusion of the 90-day extension. **A motion was made and seconded to grant the LSP a 30-day extension to submit the Attendance Form for the October 17th course. The motion was approved unanimously.**

9. **Professional Conduct Committee:** The Board agreed to forego a Professional Conduct Committee report, because all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day.
10. **Personnel, Budget, and Fees:** Ms. Coles-Roby stated that interviews for the General Counsel position will be held in the next couple of weeks.
11. **Status of Board Member Replacements by Governor:** Ms. Coles-Roby stated that the packets have been submitted to the Governor’s office, but she has not heard anything back yet.
12. **Other Business:**

A. Action Items List: Dr. Batchelder stated that Ms. Pinaud, Ms. Coles-Roby, and she

had a conference call in September to begin their discussions on RPE. Mr. Siddique asked if there was any update on the exam software. Ms. Coles-Roby responded that she had emailed Victoria Phillips (MassDEP) for an update but had not heard back yet. She stated that everything hinges on money being available and the last time they met they spoke about potentially using SharePoint for the exam.

B. 309 CMR 3.09 Continuing Education Regulations- Proposed Amendments: Ms. Campbell stated that she would distribute the final version of the draft continuing education regulation revisions for next month's meeting.

C. MA LSP Board of Registration/New Jersey Site Remediation Board Meeting: Ms. Coles-Roby reported that Ms. Pinaud, Mr. Austin, Ms. Listernick, Mr. Rein, Dr. Batchelder, and she participated in a conference call on October 6, 2016 with the New Jersey Site Remediation Board. She stated that the New Jersey representatives included Janine MacGregor (Executive Director), Jorge Berkowitz (Professional Conduct Committee Chair), Peter Strom (Board member), Joann Held (Board member), and Dana Haymes (Board staff). Ms. Coles-Roby stated that New Jersey had requested the conference call to learn more about the Board's disciplinary process. She reported that New Jersey's Board randomly audits 10% of their licensees each year, amounting to about 60 audits per year. She stated that discipline is imposed based on the audits, and most of the cases thus far have been settled. Ms. Coles-Roby stated that the audit consists of the Board reviewing the DEP's notices of audit findings. Ms. Listernick stated that their Professional Conduct Committee conducts all the audits, as opposed to the entire Board. Ms. Pinaud stated that New Jersey's Board does not conduct their own technical audit, but relies on DEP's findings. Ms. Rundle questioned whether the 10% audited per year includes the entire LSRP population or just those that have been issued a notice of noncompliance by DEP. Ms. Coles-Roby stated that they audit 10% of all their licensees. Mr. Stimpson asked what forms of discipline they have imposed. Ms. Coles-Roby responded that they seem to issue a lot of administrative penalties, and have also imposed suspensions and required additional continuing education.

D. House Bill 695 - An Act Establishing a Department of Environmental Protection Appeals Board: Ms. Coles-Roby stated that she did not have any updated information for the Board.

E. House Bill 4188 - An Act Relative to State Oversight of Professional Licensing Boards: Ms. Coles-Roby stated that she did not have any updated information for the Board.

13. **Future Meetings:** The Board's next meeting will be on November 16, 2016, in the Western Regional Office of MassDEP. Ms. Coles-Roby noted that, with Dr. Guswa's impending retirement, it is important that everyone arrive on time for the meetings so the Board has a quorum.

14. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 2:20 p.m.