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**Minutes**

**AMUSEMENT ADVISORY BOARD**  
**Division of Occupational Licensure**  
**Video Conference Call Meeting**

**February 28, 2023, 9:30 AM**

1. Meeting called to order by the Chair at 9:34 AM, followed by roll call, the Chair asked that members identify themselves and whom they represent:

• Richard Baldacci, Chair (Designee of the DOL Commissioner)	✓ present	<input type="checkbox"/> absent
• Robert Perkins, Traveling Amusement Device Representative	✓ present	<input type="checkbox"/> absent
• Eugene Dean, Traveling Amusement Device Representative	✓ present	<input type="checkbox"/> absent
• Wayne Darling, Kart Industry Representative	✓ present	<input type="checkbox"/> absent
• Brenda Johnson, Permanent Amusement Device Representative	✓ present	<input type="checkbox"/> absent
• Jeff Bissonette, Permanent Amusement Device Representative	✓ present	<input type="checkbox"/> absent
• David Holmes, OPSI Building Inspector	<input type="checkbox"/> present	✓ absent
• Brian Logan, OPSI Engineering Inspector	✓ present	<input type="checkbox"/> absent
• John Naff, Local Building Inspector	✓ present	<input type="checkbox"/> absent
• Mike Neuzil, American Society for Testing & Materials (ASTM) Representative	<input type="checkbox"/> present	✓ absent
• Paul Cavanaugh, New England Association of Amusement Parks & Attractions (NEAAPA) Representative	✓ present	<input type="checkbox"/> absent
• Ryon Yemm, Amusement Industry Manufacturers & Suppliers (AIMS) Representative	<input type="checkbox"/> present	✓ absent
• Larry Fisher, Board of Fire Prevention (BFPR) Representative	<input type="checkbox"/> present	✓ absent
• Rich Klajnscek, Challenge Course Owner/Industry Representative	✓ present	<input type="checkbox"/> absent
• Bill Zimmermann, Climbing Wall Owner/Industry Representative	<input type="checkbox"/> present	✓ absent
• Vacant, Third Party Inspector	<input type="checkbox"/> present	✓ absent

Pursuant to St. 2021, c. 20, § 20, An Act Relative to Extending Certain COVID-19 Measures, all board members and staff appeared by videoconference. Public access was provided via videoconference or telephone connection. The Chair informed the Bureau members of the following meeting protocols in order to comply with the Open Meeting Laws:

- Meeting is conducted by the Chair and speakers must be recognized in order to address the Board.
- Meeting is a public meeting, not a public hearing.
- Anyone not speaking is to be kept on mute.



- All votes require a roll call by the Board members.
- All speakers must identify themselves by name.

**2. Minutes:** The draft minutes from the January 23, 2023 Board meeting were reviewed. Motion to approve the minutes made by Brian Logan, seconded by Wayne Darling; motion passed by a majority roll call vote. (Robert Perkins, Eugene Dean, Wayne Darling, Brenda Johnson, Jeff Bissonette, Brian Logan, John Naff, Paul Cavanaugh, Rich Klajnscek, and Richard Baldacci. David Holmes, Mike Neuzil, Ryon Yemm, Larry Fisher, and Bill Zimmerman were not present.)

### **3. Review of Draft 520 CMR 5.00**

The following topics were discussed:

#### **Standards Adopted**

Under the “Scope” of 520 CMR 5.01.1, Paul Cavanaugh raised concerns over conflicts between the regulations and their adopted standards. Board Counsel, Charles Kilb, acknowledged the statutory ambiguity does not address conflicts, but stated that proposed regulations address matter of conflicts by giving the Commissioner flexibility to resolve issues.

Under the “Standards Adopted” section of 520 CMR 5.01.3, Mr. Cavanaugh raised concerns over the use of retroactive applications for safety and how the discretion should be authorized by the manufacturer. Brian Logan questioned whether language can be in place to accept standards at the time of manufacture. Board Counsel stated that the proposed regulations have the mechanisms in place to address the matter. John Naff noted that buildings are built in accordance to the building code in effect at time of construction, but repairs are brought to compliance with the code in effect at the time of repair.

Rich Klajnscek stated that the ASTM standards should be referred correctly in the regulations as “ASTM International”. Jeff Bissonette added that doing so would promote clarity and minimize confusion.

#### **Ride Operator**

Under the definition of “Ride Operator” in 520 CMR 5.01.2, Mr. Cavanaugh questioned whether a “Ride Operator” can be 16 years old and whether a CORI criminal background check can be performed on a minor. Board Counsel stated that a CORI criminal background check can be done on someone under the age of 16, but would look into the matter if consent further. Wayne Darling expressed the difficulties of getting 18 year olds from the work force. Mr. Naff added they did not see issues with the age as it relates to the CORI criminal background check.

#### **Amusement Advisory Board**

Under the “Amusement Advisory Board” section in 520 CMR 5.02.2, Mr. Cavanaugh raised concern over the creation of the Board at the Commissioner’s discretion. Mr. Cavanaugh expressed concern over the potential to eliminate the Board altogether and/or a lack of representation from other industry members. Mr. Logan questioned the Board’s task and who authorizes it. Board Counsel stated that the proposed language would allow for flexibility as the current language requires the full membership of the Board and the intent is not to exclude industries. Board Counsel added that the Amusement Advisory Board is an advisory board with no approval or veto authority. The Board has the ability to provide input to the Commissioner, but the regulation is at the discretion of the Commissioner.

#### **Owner’s Responsibility**

Under “Owner’s Responsibility” in section 520 CMR 5.04, Mr. Cavanaugh questioned what is an “operation” as it relates the operation on an amusement device resulting in a Minor Injury/Illness. Mr. Logan stated that, as an inspector, any form of participation, from entering the queue line to exiting the queue line is under their oversight.

Under the same section, Mr. Cavanaugh questioned linking a shutdown to medical treatment and not a Serious Injury. Mr. Logan stated that the determining factor should be whether the injury requires transportation to a medical facility by EMS. Mr. Darling questioned whether an injury occurred, but no medical transportation was required. Board Counsel stated that Serious Injury medical treatment is attributed to a ride defect/malfunction.

### **Incomplete Applications**

Under section 520 CMR 5.06, Mr. Cavanaugh questioned whether an application can be appealable if there is a dispute and whether a license suspension while under an investigation in determining a violation is too broad. Board Counsel stated that the proposed language is used by other boards and that a denied application and an incomplete application do not have the same rights. Board Counsel explained that a denied application has the right to appeal. As for investigations, Board Counsel, noted that, if invoked, the investigation must be justified through a hearings process.

Mr. Logan questioned whether the Board should be concerned about enforcement of CORI criminal backgrounds on employees of companies seeking licensure. Board Counsel stated that the OPSI does not need to see the information associated with an employee’s CORI criminal background check and that the information is at the discretion of the company seeking licensure. Audits, however, are in place to ensure that these CORI criminal background checks are being performed.

At the conclusion of the discussion, Board Counsel informed the Board members that the proposed regulations were in a draft status and not for enforcement. Following the meeting, further changes would be made to reflect the topics discussed and a final draft of the regulations will be produced for public hearing. Board Counsel added that any further comments should be provided to OPSI Staff before the close of business on March 24, 2023.

## **4. Discuss Board Member Questions**

- No discussion on Board members’ questions.

## **5. Matters not reasonably anticipated 48 hours in advance of meeting**

- No discussion on matters not reasonably anticipated 48 hours in advance of the meeting.

## **6. Motion to adjourn made by John Naff, seconded by Brian Logan; motion passed by a unanimous roll call vote at 11:05 AM (Robert Perkins, Eugene Dean, Wayne Darling, Brenda Johnson, Jeff Bissonette, Brian Logan, John Naff, Paul Cavanaugh, Rich Klajnscek, and Richard Baldacci).**

### **List of Documents/Exhibits Used at this Meeting**

- a. Draft minutes from the Amusement Advisory Board meeting on January 23, 2023
- b. Draft 520 CMR 5.00 - Proposed Regulations