



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

MINUTES
of
BOARD MEETING
Held on November 16, 2016
[Approved: January 18, 2017]

Meeting Location: Massachusetts Department of Environmental Protection
Western Regional Office
436 Dwight Street
Springfield, MA 01103

Prepared by: L. Williamson

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting held on October 19, 2016
 3. Renewal Dockets #1, #2 and #3
 4. List of Action Items for LSP Board
 5. Draft Continuing Education Regulation revisions
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1. **Call to Order:** Maria Pinaud called the meeting to order at approximately 1:34 p.m. Also present were David Austin, Gail Batchelder, Kathleen Campbell, John Guswa, Robert Rein, and James Smith. Board members absent were Kirk Franklin, Debra Listerneck, and Farooq Siddique. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present was Wendy Rundle, Executive Director of the LSP Association (LSPA).
 2. **Announcements:** No announcements were made.
 3. **Agenda:** The Board members agreed to follow the draft agenda.
 4. **Minutes of Meeting Held on October 19, 2016:** The members present reviewed the draft minutes of the meeting of the Board held on October 19, 2016. **A motion was made and seconded to approve the October 19, 2016 minutes as written. The motion passed unanimously, with Dr. Guswa 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

Have completed all requirements for renewal:

	LSP #	First	Middle	Last
1	7730	Anne	L	Leifer
2	5481	Michael	J	Elliot
3	2563	Frank	B	Postma
4	3984	James	D	Doherty
5	8744	Kathleen	G	Murphy
6	1203	Michael	R	Kulbersh

A motion was made and seconded to renew the licenses of the LSPs on Renewal Docket #1 for the three-year period ending on the date indicated. The motion was approved unanimously.

Renewal Docket #2

Renewal Date: October 30, 2016

New Renewal Date: January 28, 2017

Have requested a 90-day extension:

	LSP #	First	Middle	Last
1	9536	Marylou		Armstrong
2	3635	Thomas	B	Hevner, Jr.

A motion was made and seconded to grant the LSPs on Renewal Docket #2 a 90-day extension. The motion was approved unanimously.

Renewal Docket #3

Old Renewal Date: July 30, 2016

New Renewal Date: July 30, 2019

Completed requirements within 90-day extension:

	LSP #	First	Middle	Last
1	7496	Valerie	A	Miller
2	6645	Katherine		Fogarty
3	8848	Jedd	S	Steinglass

A motion was made and seconded to renew the licenses of the LSPs on Renewal Docket #3 for the three-year period ending on the date indicated. The motion was approved unanimously.

6. Other Licensing-Related Matters:

A. Appeals Status Report: None.

B. Scheduling of Existing ARPs: The following Board members were assigned to Application Review Panel #283: Mr. Austin, Ms. Pinaud, and Mr. Smith.

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 November 8, 2016.

7. Examinations:

A. Exam Challenges Report: Dr. Guswa reported that, to date, the new exams have been taken by a total of thirty-six individuals. He stated that twenty-six applicants have taken exam #1, and ten have taken exam #2. Dr. Guswa stated that of those thirty-six, seven individuals have submitted exam challenges, totaling fifty-four questions. He stated that the Exam Challenge Committee has recommended that five of the questions be modified prior to being included on future exams. Dr. Guswa reported that all but two of the challenges were denied. Mr. Smith asked what happens to the five questions that were flagged by the Committee. Dr. Guswa responded that some component of either the questions or the answers will need to be modified, including a grammatical change, adding additional details to make a question clearer, changing the keyed response, etc. He stated one question was challenged by three separate applicants, and the rest were mainly single questions. Mr. Austin asked if the two challenges that were allowed resulted in the applicants passing the exam. Ms. Coles-Roby responded that they did not.

Ms. Coles-Roby informed the Board that she received an email from one of the exam challengers after he was notified that his challenges had been denied. She read the email to the Board which stated that he was surprised to hear that all of his challenges were denied and asked if the Board could provide any explanation. The email also asked if there was a reason why the exam could not be offered again this year. The Board suggested that Ms. Coles-Roby respond to the email by stating that the

challenges were reviewed by two independent sets of technical experts who unanimously agreed that the answers were incorrect. The Board also suggested that Ms. Coles-Roby re-state to the individual that the Board is only required by regulation to offer the exam once per year, which it has done.

- B. Exam Committee Report:** Ms. Coles-Roby stated that the Exam Committee had a conference call on November 1, 2016. She stated that Dr. Guswa has generously agreed to stay on the Committee until the third exam is complete. Ms. Coles-Roby stated that the Committee will need to modify the five questions the Exam Challenge Committee has flagged, and she will be emailing the Committee members to arrange a date for the next meeting.
- C. Exam Dates – April-May 2017:** Ms. Coles-Roby stated that the exam will be offered in April and May 2017, and then likely again in November 2017.

Ms. Rundle stated that there have been discussions at LSPA about the new exams and people have expressed the thought that the old exams used to be scaled. Dr. Batchelder replied that the process of setting up the exam automatically scores it. She stated the Exam Committee rates every question and, once the exam is compiled, the psychometrician sets the passing score. She stated that the process has always been done this way. Dr. Guswa stated that most of the questions on the new exams are very similar to those on the old exams, and some of the same Committee members worked on both the old and new exams. Mr. Austin stated that the passing score is determined by what questions end up on the exam. Ms. Rundle stated that the perception is that the pass rate for the new exam is lower. Mr. Rein stated that the last time the exam was given, it so happens that the pass rate was lower, but that is not likely a function of the exam as it is those who took it. Mr. Austin stated that the Board has recently been seeing a lot of applications submitted by individuals who just meet the minimum RPE requirements; not applicants who are seasoned individuals. Ms. Coles-Roby stated that applicants need to spend more time studying the MCP and the guidance documents. She stated that she is seeing a failure by applicants to adequately prepare for the exam. Dr. Batchelder asked if most of the questions challenged were regulatory or technical in nature. Dr. Guswa replied that he has not done the numbers but there are a lot that are pure regulatory-based challenges. Ms. Campbell stated that she wonders if the mentoring piece is no longer happening. Ms. Pinaud suggested that the LSPA may want to consider putting together study groups for the exam. She stated that MassDEP used to host an exam prep course that was titled MCP 101. Mr. Rein stated that when he took the exam there were LSPA study sessions. Dr. Batchelder reported that EPOC recently organized study groups and Connecticut saw a higher passing rate for the last LEP exam. Ms. Rundle stated that it seems the message is that a lot of applicants are simply not ready to take the exam and she thinks it would be a good idea for the LSPA to facilitate study groups.

- 8. Continuing Education Committee:** Dr. Guswa reported that the Committee met earlier in the day and approved the draft Minutes as prepared. He indicated that no new courses were submitted for approval this month.

9. **Professional Conduct Committee:** Mr. Smith reported that a quasi-judicial session will follow today's Board meeting for 05C-07 and the CRT report for 11C-04 will be presented at next month's meeting.
10. **Personnel, Budget, and Fees:** Ms. Coles-Roby informed the Board that an individual has been assigned to assist her in getting the interviews for the General Counsel position scheduled, and they will be conducted in December.
11. **Other Business:**

A. Action Items List: The Board members acknowledged the Action Items List.

B. 309 CMR 3.09 Continuing Education Regulations – Proposed Amendments: Dr. Guswa stated that he had the following suggestions regarding the draft revisions:

- Under the definition of Board-Approved Course, remove the word “members”
- Under the definition of Eligible Course, change (c) to read “is relevant to waste site cleanup opinions...”
- Under the definition of Non-DEP Course, change the sentence “Regardless of the subject matter, it should at least be demonstrably relevant...” to “... the course should at least be demonstrably relevant...”
- Under 309 CMR 3.09(2)(a), change the sentence to “...e.g. licensee needed 2 credits, and took an 8 hour course...”
- Under 309 CMR 3.09(5)(b), replace the word “contiguous” with “continuous”
- Under 309 CMR 3.09(6)(b)(7)(a), clarify what is meant by “the established pass rate”
- Capitalize all words in the text that have been defined.

Ms. Coles-Roby stated that she had the following suggestions:

- Under the definition of Alternative Learning Format, change ALF to “ALF”
- Consider whether to use DEP or MassDEP
- Determine whether to use “licensee” or “LSP” and make it consistent throughout the text
- Under the definition of Eligible Course, make the font consistent
- Under the definition of Non-DEP Course, change “If a course is not called a DEP Course...” to “If a course is not a DEP Course...”
- Under 309 CMR 3.09(2)(a), find a clearer way to state the existing: “e.g. licensee needed 2 credits, and took 8 hour course, the licensee cannot carry forward the remaining 6 credits ”
- Under 309 CMR 3.09(3), consider limiting the amount of credits that can be earned through ALF courses.
- Under 309 CMR 3.09(8)(b), change “The Board may, as it sees fit...” to

“at its discretion”.

The Board members discussed whether the regulations should limit the number of credits that can be earned each renewal period by taking ALF courses. Ms. Campbell stated that the committee wanted the regulations to account for the future when it is possible that all courses will be ALF courses. Ms. Pinaud stated that the Board always has the ability to revise the regulations in the future. Ms. Campbell stated that the Board should not be so prescriptive of how LSPs earn their credits. Mr. Austin stated that he finds benefit in the in-person courses because of the interaction with fellow professionals. Dr. Batchelder stated that some of the most useful classes are often the ones that involve discussion and sharing of thoughts. Ms. Pinaud suggested the Board require at least 12 hours of in-person credits and allow the remainder to be ALF. The Board agreed to propose limiting ALF credits to no more than 24 per renewal period, and see what comments it receives on the issue.

Ms. Rundle stated that the LSPA has offered a few eight hour courses that were split between DEP credits and technical credits, and questions have come up over what to do when someone is late to the course or must leave early. She stated that this is not addressed in the regulations, and suggested the Board may want to consider it. The Board agreed that the type of credits awarded should be consistent with the portions of the course that the individual attended. Dr. Batchelder suggested that the Board could specify that when it approves a course.

C. Colorado Division of Oil and Public Safety/MA LSP Board Conference Call: Ms. Coles-Roby reported that the Board participated in a conference call with the Colorado Division of Oil and Public Safety on October 21, 2016. She stated that Colorado is looking to potentially model a program after the Massachusetts privatized program. Ms. Coles-Roby stated Colorado currently conducts the final sign off on sites, but they are in the process of determining whether to license individuals to sign off on all documents. She stated Colorado requires 16 continuing education credits every 2 years, 12 of which are earned at courses they run and the remaining 4 can be earned from approved course providers.

12. **Future Meetings:** The Board agreed that the December 21, 2016 meeting should be canceled due to conflicts with schedules. The next meeting will be held on January 18, 2017. Dr. Guswa will follow up with Mr. Franklin to determine whether the meeting will be held at the New Bedford Whaling Museum or at MassDEP’s Southeast Regional Office.
13. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 3:05 p.m.