



Oregon Health Licensing Agency
Environmental Health Registration Board

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9 am, Friday, May 6, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Michael Kucinski, Chair
Jeffrey Hampton, Vice-Chair
Paul Cieslak
Caroline Gross-Regan
David Bussen

STAFF PRESENT

Randy Everitt, Director
Katherine Lozano, Assistant Attorney General
Kraig Bohot, Public Information Officer
Samie Patnode, Policy Analyst
Michael Simpson, Budget and Statistical Analyst
Nancy Sellers, Senior Policy Analyst
Sinnamon Harris, Board Specialist

MEMBERS ABSENT:

Jeff Freund

GUESTS PRESENT:

Holly Skogley

*This meeting was live video streamed.

Call to Order

Michael Kucinski, Chair, called the meeting of the Environmental Health Registration Board to order at 10:03 am, Friday, May 6, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called.

1. Approval of Agenda

MOTION:

Jeffrey Hampton made a motion with a second by Dr. Cieslak to approve the agenda. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Dr. Cieslak made a motion with a second by Jeffrey Hampton to approve the minutes for February 4, 2011 as amended with the correction of Gail Shibley's name on page six. Motion passed unanimously.

3. Reports

◆ Directors Report

Randy Everitt, Director, explained that some key staff members were out of the office attending an event in Eugene today. Sylvie McMillan, Fiscal Services and Licensing Manager, David Sparks Regulatory Operations Manager, and Cerynthia Murphy, Qualification Analyst, will have other staff members present for them today.

◆ Outreach and Communications

Kraig Bohot, Public Information Officer, presented an overview of public information activities at OHLA which included:

- *Licensing Line*;
- Print Publications;
- OHLA Web Site;
- Media Relations;
- Presentations;
- Public Record Requests;
- Application Forms; and
- *Central Issues*.

He also explained where the links are for the sign-up process to automatically receive *Central Issues* or *Licensing Line*.

◆ Statistical Report

Michael Simpson, Budget and Statistical Analyst, presented an overview of statistics related to the board. Statistics included were licensing, examination and regulatory statistics, active license trends, and complaints, and website statistics. Simpson presented some additional statistics regarding inactive and expired status by age group. Simpson explained the difference between the terms “inactive” and “expired” status. “Expired” registrants have been “inactive” for more than three years. “Inactive” registrants range from one-day late in renewing to three years. Dr. Cieslak inquired if statistical information regarding active status EHS and WWS registrants by gender and age could also be added to the statistic information presented at board meetings. Simpson stated he would glad to gather that information and present it at the next board meeting.

◆ 2010-2011 Budget

Simpson reviewed the statement of cash flow for the period between 7/01/2009 through 3/21/2011 and the projected for the period between 7/01/2009 through the end of the biennium 6/30/2011.

Simpson explained the drop in revenue was the result of moving from two-year to one-year registrations. Everitt said the board will gradually move into the black within the next two bienniums. Simpson confirmed that at this stage it will not be necessary to consider any fee increase. The agency is reviewing a potential cost allocation model that builds upon the cost allocation model concept introduced in October, 2010. The model will be introduced to the board at a future board meeting once the Department of Administrative Services (DAS) Budget and Management Division (BAM) analysts have reviewed and approved the model.

◆ **Regulatory Operations Division Report**

Simpson reported for David Sparks, Regulatory Operations Manager, on enforcement activity. The current regulatory reporting period was February 1, 2011, through April 29, 2011. The agency had not received any complaints during this time period.

Katherine Lozano, Assistant Attorney General, answered a question by Jeffery Hampton regarding any adjustments made to the investigative protocols. She said there was a minor adjustment of when the subject of the investigation is notified. Either the interview with the subject may take first or the request for records may take first. It will depend upon the facts of case. The agency may need to review the records first before asking the subject of the investigation any questions.

◆ **Education and Examination Committee Update**

Sinnamon Harris, Board Specialist presented a memorandum regarding “Environmental Health Specialist Soil Science Course Requirements” from Cerynthia Murphy, Qualification Analyst. Below is the memorandum:

To: Environmental Health Registration Board
Cc: Randall Everitt, Director
From: Cerynthia Murphy, Qualification Analyst
Date: 04-27-2011
Re: Environmental Health Specialist Soil Science Course Requirements

During the February 4, 2011 board meeting, board members discussed what percentage of credits is required in soil science to obtain a Bachelors of Science Degree.

In reviewing several educational institutions, agency staff determined there are no minimum credit requirements in soil science to obtain a bachelor’s of science degree.

The Education and Examination Committee will be meeting to establish a list of specified course and credit requirements, using the current list of board-approved science courses, to ensure applicants are taking courses which provide an overall understanding of the basic components of environmental health to obtain registration.

The committee’s recommendations will be presented to the full board for approval. {End of the memorandum}.

Michael Kucinski spoke about the Education and Examination Committee’s progress in the review and revisions of the waste water examination. Kucinski said the committee had less than 50 more examination questions to review, source or rewrite. The committee had found that some of the waste water examination questions needed to be updated because of administrative rule changes.

◆ **Policy, Legislation & Administrative Rules**

-Policy and Legislation Update

Samie Patnode, Policy Analyst, informed the board that HB 2144, that would have allowed the board to write administrative rules regarding internships for environmental health specialist (EHS), died in committee. The board and the agency may choose to move forward again with the issue at a later date.

SB707 which would have required all septic systems, new and old, be reviewed, died in committee.

Jeffrey Hampton asked about annual legislative sessions and the ability for agencies to introduce legislative concepts. Nancy Sellers, Senior Policy Analyst, responded the process of submitting legislative concepts to the governor and the governor submitting them on the agency's behalf still remains in odd number years. In even-numbered years legislative committees and legislators will have the ability to submit bills. There may be some limits on how many bills also, but those details are still being worked out within the legislature. Sellers mentioned that there was no place to tuck-in the environmental health piece but Rep. Greenlick was aware of that fact and made a commitment to work with the agency during the next session.

-OHLA Temporary Administrative Rule

Patnode presented the temporary rule, OAR 331-020-0040(4), that would clarify what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of the agency, its boards or councils, and, OAR 331-010-0050, to allow authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status. Patnode noted the last was to acknowledge federal standards for authorization holders in active military status.

-Legislation and Rules Committee Update

Katharine Lozano, Assistant Attorney General (AAG), presented information to the board that upon further review of ORS 700 the agency found there were many inconsistencies between the statutory requirements and the current proposed administrative rules. Below are the areas that will need to be addressed in rule:

- a. Under ORS 700.035(1) to become an EHS trainee you are required to pass an examination. The board will be required to:
 1. Approve an examination
 2. Consider current EHS trainees and provide a reasonable amount of time for those trainees to take an examination.
- b. Under ORS 700.030(1)(b) graduate degrees must be in public or community health.
- c. Requirement by statute is no more than 2 years or its equivalent as a trainee. Currently, the administrative rules use 3840 hours as the 2 year equivalent. It is much more common to use 4,000 hours. The Legislation and Rules Committee recommended the 4,000 hours to the board as it would make the hours more consistent with other agencies. The public has not yet had a chance to comment on this potential change.
- d. ORS 700.052 no work experience requirement for reciprocity for either or waste water specialist (WWS).
- e. ORS 700.053 applicants for WWS registration must have bachelor degree with 45 soil science hours and work experience or a graduate degree in soil science and certification as a professional soil scientist.
- f. EHS trainees may not extend their trainee registration but rather renew up to three times if

- they meet requirements.
- g. Separate all EHS and WWS requirements.

MOTION:

Jeff Hampton made a motion with a second Dr. Cieslak to extend public comment period to May 20, 2011 to allow stakeholders time to provide input regarding the additions made to the proposed administrative rules. The motion passed unanimously.

MOTION:

Jeff Hampton asked to amend his original motion to extend the public comment period from June 1, 2011 through June 30, 2011 with a second by Dr. Cieslak. The motion passed unanimously.

The board decided to hold a telephonic conference for the Legislation and Rules Committee meeting on May 27, 2011, from 2 – 4 pm, to review all the revisions to the proposed administrative rules.

The board decided to hold another full board meeting on July 19, 2011, to adopt Environmental Health Registration Board permanent administrative rules.

Environmental Health Specialist Trainee Examination Discussion

Kucinski pointed out that there were two main issues: what to do, examination-wise, with the currently registered EHS trainees and what sort of examination for future EHS trainees. Keeping in mind that the examination is a requirement *before* an applicant can become an EHS trainee. Suggestions discussed where:

- a. Use food handler's test for trainee – approximate cost: \$10
- b. Have the Education and Examination Committee develop an examination
- c. Serve Safe certification – approximate cost: \$100
- d. Oregon Laws and Rules examination – cost: \$50 (already set in rule)

Everitt offered a test set up on iLearnOregon just for those approximately 29 EHS trainees already in the system and then the development of an examination for future trainees.

Kucinski asked if it was necessary to require that the 29 EHS trainees, who currently hold registrations, now take an examination. AAG Katharine Lozano stated those registrants currently hold registrations for which they have not qualified. It would be inconsistent with agency practice to *not* require an individual to meet qualifications where the agency had found, due to an oversight, an individual was granted a license that they had not initially met qualifications for.

AAG Katharine Lozano offered another option: approve the food handler's examination, for now, for both current and new EHS trainees and in the future, with financial stabilization, develop a more in-depth examination.

Kucinski stated another option would be to refer the examination discussion to the Education and Examination Committee.

MOTION:

Dr. Paul Cieslak made a motion with a second by Caroline Gross-Reagan to refer the EHS trainee examination discussion to the Education and Examination Committee to develop a recommendation to

the board. David Bussen, Caroline Gross-Reagan, Mike Kucinski, and Dr. Paul Cieslak voted aye and Jeffery Hampton voted nay. The motion passed.

EHS Trainee Candidate Discussion

Patnode advised the board regarding an email sent by Jeff Freund, absent board member, asking for clarification regarding an extension for an EHS trainee who had already reached his maximum of 3840 hours. The facts discussed were:

- a. The EHS trainee had six extensions already.
- b. The EHS trainee had reached his maximum of 3840 hours.
- c. The request for an extension for the trainee was made without the trainee having a supervisor available to continue his training.

AAG Katharine Lozano said that the EHS trainee could not lawfully obtain another extension nor train without supervision. He was already to the two-year or equivalent time limit of being an EHS trainee.

The agency will follow up with a letter to make sure the employer is clear about the administrative rules surrounding the training issues and to the supervisor to advise him that the EHS trainee may no longer work. At this time the name of the EHS trainee is unknown to the agency. The agency will gather information and clarification from Jeff Freund when he returns from vacation.

4. Items for Board Action

The board had begun the review of an issue statement to determine if two supervisors possessed equal qualification to that of registered environmental health specialist. It was determined that not enough information had been provided to the board. Everitt informed the board that the issue statement would be withdrawn at this time.

5. Public Comment

Holly Skogley remarked that she would adamantly oppose using the food handler's or Serve Safe examinations as the training does not encompass the duties and rules of an EHS. A person coming into the EHS field should have a broad perspective of what public health is. An examination on administrative rules and statutes would be more appropriate.

Skogley asked if there would be an effect on those EHS who have already gone through all the training but did not have an examination as an EHS trainee. AAG Katharine Lozano responded to Skogley's question and said it would not be consistent with the agency's policy to make those registered EHS take the examination.

Skogley asked about the possibility of collaborative rulemaking and how she would be able to track the meetings. AAG Katharine Lozano said the agency has pushed back any collaborative rulemaking while the agency concentrates on the fundamentals of the EHRB administrative rules. There will be public notice made if the agency moves forward with collaborative rulemaking.

6. Executive Session-Place Holder

The board did not enter into executive session.

7. Other Board Business/Board Interest

The board reviewed the names of current committee members. Kucinski stated that he would need to be replaced on the Legislation and Rules Committee. Caroline Gross-Reagan is the alternate for the

Legislation and Rules Committee. Gross-Reagan agreed to replace Kucinski as of August 1, 2011, on the Legislation and Rules Committee.

The meeting adjourned at approximately 12:53 pm.

Prepared by: Sinnamon Harris, Board Specialist