



Oregon Health Licensing Agency
Environmental Health Registration Board



10 am, Friday, February 4, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Jeffrey Hampton, Vice-Chair
Paul Cieslak
Jeff Freund
Caroline Gross-Regan

MEMBERS ABSENT:

Michael Kucinski, Chair
David Bussen

STAFF PRESENT

Randy Everitt, Director
Sylvie McMillan, Fiscal Services and Licensing Manager
David Sparks, Regulatory Operations Manager
Kraig Bohot, Public Information Officer
Samie Patnode, Policy Analyst
Nancy Sellers, Senior Policy Analyst
Cerynthia Murphy, Qualification Analyst
Sinnamon Harris, Board Specialist

GUESTS PRESENT:

Holly Skogley
Jim Solvedt

*This meeting was live audio streamed.

Call to Order

Jeffrey Hampton, Vice-Chair, called the meeting of the Environmental Health Registration Board to order at 10:06 am, Friday, February 4, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called. The board did not have a quorum established. At 10:14 am Caroline Gross-Regan joined the meeting and a quorum was established.

1. Approval of Agenda

MOTION:

Caroline Gross-Regan made a motion with a second by Dr. Paul Cieslak to approve the agenda. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Dr. Paul Cieslak made a motion to approve the November 5, 2010, minutes with a second by Jeff Freund. Motion passed unanimously.

3. Reports

• Director's Report

Randy Everitt, Director, presented a letter from former Governor Ted Kulongoski addressed to the board expressing the former governor's sincere appreciation for the board's service and dedication during his administration.

Everitt described the new audiovisual broadcast of today's full board meeting to the members and how stakeholders would be able to gain access via their own computers. Everitt pointed out the system is still in its testing phase and in the near future a link will be available on the OHLA website for interested parties to log in to listen and see the board meetings live.

• Outreach and Communications

Kraig Bohot, Public Information Officer, presented an outline of his *Central Issues* publication revolving around environmental health regulation, including: DEQ Required Registration for Specific Classification Types (field inspectors), Required Registration for Other Professionals (nursing home food inspectors), Clarify the Scope of Practice for an Environmental Health and Waste Water Specialist, National Environmental Health Registration (NEHA) Credentialing 3 Tiers, and Clarifying DEQ New Onsite Residential Septic System Evaluation and DEQ Standards for Time of Transfer Evaluations for ATT Systems. Bohot mentioned the January 24, 2011, article posted online from the Statesman Journal entitled, "Inspections ensure, preserve cleanliness" by Dennis Thompson, Jr. would be included with the *Central Issues* publication. The article featured OHLA Inspector Trampus Schuck and spoke about the inspections of cosmetology facilities in a question/answer format. Bohot would email the draft publication to board members for review and requested the board members to respond with their feedback.

• Statistical Report

Sylvie McMillan, Fiscal Services and Licensing Manager, presented an overview of statistics related to the board. Statistics included were licensing, examination and regulatory statistics, active license trends, complaints, age diversity in practitioners, gender of licensees, and website traffic. Freund asked how many were in the retirement age bracket. The statistics of permanent environmental health specialists (EHS) and waste water specialist (WW) show 71 out of 190 registrants between the ages of 58 - 65 and nine between the ages of 66 -73. McMillan noted there was only one in the 18 - 25 age bracket. Everitt told the board that it will feel the impact of those retirees in a biennium from now. Everitt stated the agency is willing to work with the board to conduct outreach etc. in order to bring those numbers of active registrants up. McMillan presented the statistics for environmental health and waste water trainees and noted 32 will soon be registering.

• 2010-2011 Budget

McMillan reviewed the statement of cash flow for the period 7/01/09 – 12/31/10 with the board. McMillan pointed out where the cost allocation changed for the small board assessment rate on October 1, 2010, because the Regulatory Operations Division was removed from the indirect rate to direct costs. McMillan presented the statement of cash flow projections for the 7/01/09 – 6/30/2011 biennium.

Caroline Gross-Regan asked what happens when the registrants retire. McMillan said the registration fees may go up if there aren't enough new registrants to replace those who retired.

Board members inquired how many registrants would be needed for the fees not to rise. "Who needs to be registered?" asked Dr. Paul Cieslak. Dr. Cieslak also asked to see an extra line on the statistics report presented that represents how many are not renewing or how many registrations expired.

- **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. The current regulatory reporting period was November 5, 2010 through January 31, 2011. The agency had received no complaints during this reporting period.

- **Education and Examination Committee Update**

Cerynthia Murphy, Qualification Analyst, stated the Education and Examination Committee has met four times so far to review the waste water examination and are about halfway through the 420 examination questions within the item bank. There will be at least three more meetings to go in order to complete the review. It has been a lot of work because the examination had not been reviewed since 1996.

Jeff Freund asked if the cost to maintain the waste water examination for nine registrants is worth the effort of the Examination Committee and agency staff. Freund asked if it is possible to specialize registration with environmental health such as a food inspector registration. Samie Patnode, Policy Analyst, stated that it is possible to have specialty certification; however, it would be a lengthy process to create scope of practice, qualification and examination standards as well as regulatory oversight. Patnode gave a brief history of the process and political circumstances which surrounded the creation of the waste water specialist registration in 1995.

- **Policy, Legislation and Administrative Rules**
-Legislative Overview

Nancy Sellers, Senior Policy Analyst, presented a memorandum outlining an overview of the legislative process and the role of the board member in this process.

Hierarchy of Law Governing State Agencies

- US and Oregon Constitutions
- Oregon Revised Statutes
 - *Oregon Laws*
 - *Budget Notes*
- Governor's Executive Orders/Agency Directives
- Oregon Administrative Rules
- Agency Policies
- Agency Practices

OHLA works closely with the Governor's Office, Department of Administrative Services, partner agencies, stakeholder groups and the Legislature to ensure that all bills, potential amendments and budgets that may impact the agency and its stakeholders are fully vetted and understood.

Sellers made it clear to the board that as OHLA board members they can be a great asset in the legislative process. The board members often play a dual role: both as agents of the state in their official capacity with OHLA, and as private citizens working in their individual professions. If a legislator, staffer or other agent of the Legislature contacts a board member directly regarding policies and legislation of the agency, please clarify with him or her that you are speaking as an individual, and not as a representative of the regulatory/advisory board of which you are a member.

Persons acting as agents of the executive branch of government – including agency management, employees and appointed board and council members – are not allowed to advocate for or against legislation, budgets or other legislative initiatives without the express permission of the Governor's Office.

Sellers reminded board members that if legislators or staffers are looking for an *official response*, please direct them to her or Samie Patnode, Policy Analyst, and they will follow-up promptly, and keep the board informed.

-House Bill 2144 Update

Samie Patnode, Policy Analyst, passed out copies of HB 2144 pointing out Section 356, line 19, on page 28, which would allow internships for the environmental health profession. Patnode said if the bill is passed out of the Legislature and the Governor signs the bill, then the agency and the Legislation and Rules Committee would be able to write rules implementing the internship standards. Patnode said an internship may be another route for bringing new people into the profession.

-Temporary Administrative Rules – March 1, 2011, One Year Registration

Patnode presented a brief overview of the temporary rules to be filed on March 1, 2011. On November 5, 2010, the board proposed going from a two-year renewal cycle to a one-year cycle in order to reduce the financial burden imposed on environmental health and waste water specialists including state and local governments with employees who are required to be registered and who incur the cost of renewal.

-Legislation and Rules Committee Update

Patnode gave a brief overview of the January, 7, and January 20, 2011, Legislation and Rules Committee meetings.

On January 7, 2011, the committee discussed and strategized the most appropriate way to begin the rulemaking process as it related to duties of an environmental health specialist. The committee asked Holly Skogley to be an invited subject matter expert regarding the food industry, since currently there is no county employees inspecting restaurants on the committee. The committee decided to wait to invite any other experts, such as Deputy Director of Oregon Department of Environmental Quality Joni Hammond, Susan Kendrick of the Department of Agriculture or someone from the Department of Human Services (DHS), until the committee could agree on a definition to use as a starting point for discussion with those individuals and agencies. The committee reviewed application requirements, examination information, training standards, and supervision requirements.

At the January 20, 2011, Legislation and Rules Committee meeting the committee continued to review duties of an environmental health specialist. Meetings have been scheduled to complete the process.

4. Items for Board Action

-Approve Proposed Administrative Rules

Patnode made changes to the proposed administrative rule document as instructed by the board during the meeting. She also recommended scheduling two more Legislation and Rules Committee meetings to continue to review administrative rules. A recommendation for proposed administrative rule fiscal impact was also included in the issue statement. Patnode asked for a motion to approve the proposed administrative rules regarding OAR Chapter 338 Divisions 005-030.

MOTION:

Jeff Freund made a motion to move forward with the rulemaking procedures with a second by Dr. Cieslak. The motion passed unanimously.

The board agreed on March 24, and April 18, 2011 for Legislation and Rules Committee dates.

5. Public Comment

Holly Skogley, REHS, representing Linn County, commented on HB 2144. She said she wished to point out to the board in the cosmetology section 37, line 4, page 21, OHLA is proposing to put cosmetology as one of the statutorily mandated inspections to be performed by OHLA. Skogley stated currently, under ORS 690, it is required that OHLA provides for those inspections of cosmetology facilities and HB 2144 would statutorily mandate that OHLA actually perform the inspections. Patnode explained that HB 2144, cosmetology section 37, line 4, page 21, is not changing what the agency currently does; it is just adding a fifth field-of-practice, cosmetology. Patnode clarified the change Skogley referred to was only relevant to Department of Education Private Career Schools, who contract with the agency for safety and infection control inspections.

Skogley commented that she had filed a complaint with OHLA Regulatory Operations Division regarding cosmetology facilities being inspected by unqualified personnel and during the report section of the board meeting that complaint did not appear.

Everitt addressed Skogley's question and stated he did not consider it a complaint but a policy issue as it is the agency's statutory mandate that we may provide for inspections. He stated once the Legislation and Rules Committee meet and define environmental specialist duties the agency will not engage in conversation regarding this issue.

Jim Solvedt, Environmental Health Supervisor of Polk County Environmental Health, representing Oregon Environmental Health Association (OEHA) commented that the concern of OEHA is that the examination has become very difficult for those people who have been specializing in specific areas, such as food safety for example, because they do not have the work experience in other areas. OEHA is trying to prevent specializing and is after a more generalized environmental health specialist so as to prevent hurting the public health in general. The counties prefer environmental health specialist because they have to be able to be cross-trained in other areas. It's a funding issue.

Cerynthia Murphy, Qualification Analyst, remarked at the last board meeting it was voted on to leave the waste water specialist and environmental health specialist as two separate entities. Based on history, duties, and education the board felt it should keep them separate. Currently, stated Murphy, the law allows an environmental health specialist to do the duties of a waste water specialist, but a waste water specialist cannot do the duties of an environmental health specialist. Murphy explained that during a

discussion at one of the Education and Examination Committee meetings, the waste water specialist felt that if environmental health specialists were going to continue to perform those duties of a waste water specialist they should be required to take the waste water examination.

6. Other Board Business/Board Interest

Dr. Cieslak asked Everitt if he had any feedback from Everitt's letter to Dr. Mel Kohn, Director of the Department of Human Services. Everitt said Dr. Kohn has referred him to his policy expert, Gail Shibley. Also Everitt had met with Deputy Director of Oregon Department of Environmental Quality Joni Hammond, and she is willing to meet with the board or Legislation and Rules Committee upon request.

7. Executive Session-Place Holder

The board did not enter into executive session.

The meeting adjourned at approximately 12:56 pm.

Prepared by: Sinnamon Harris, Board Specialist