

## **MINUTES OF THE JUNE 23, 2015 CONSTRUCTION CONTRACTORS BOARD MEETING**

The Construction Contractors Board (CCB) met on Tuesday, June 23, 2015, at Broadway Commons, Peru Room (306), 1300 Broadway St NE, Salem, Oregon.

### **Attendees:**

**Board Members present:** Board Chair Kimberly Wood, Vice-Chair Jim Patrick, Jerry Jones Jr., Simone Neall, Melvin Oden-Orr, and Sandi Warren.

**Excused Board Members:** Mariana Lindsay and Rob Yorke

**Staff:** Administrator James Denno, Administrative Services Manager Kimberlee Ayers, Communications/Education Manager Cheryl Martinis, Enforcement Manager Stan Jessup, Licensing Manager Laurie Hall, Administrative Assistant Brandy Richter, Board Secretary Catherine Dixon, Education Program Analyst Tori Garcia, and Assistant Attorney General Susan Bischoff.

**Guests:** Bonnie Sullivan, Kurt Bolser, and Jim Kitchin.

### **A. MEETING CALLED TO ORDER:**

Chair Wood called the meeting to order at 9:35 a.m.

### **B. APPROVAL OF AGENDA AND ORDER OF BUSINESS:**

**MOTION:** Jim Patrick moved to approve the June 23, 2015 agenda.  
Motion carried unanimously.

### **C. APPROVAL OF MINUTES:**

**MOTION:** Simone Neall moved to approve the April 28, 2015 meeting minutes.  
Motion carried unanimously; board member Jones abstained.

### **D. DATE OF NEXT REGULARLY SCHEDULED MEETING:**

The July 28, 2015, teleconferencing meeting was canceled to allow staff to focus on the move to the agency's new location. The agency will start moving after 5 p.m. July 31. The next board meeting is set for August 25, 2015, at the new location, 201 High St SE, 6<sup>th</sup> Floor, Salem.

Chair Wood asked that staff email an updated board member contact list to board members.  
**(Staff Action item 6-23-15. D)**

### **E. PUBLIC COMMENT:**

No public comment.

**F. AGENCY REPORTS:****1. Administrator's Report****a. New Board Members:**

Mr. Denno welcomed Jerry Jones Jr. to his first official meeting as a board member. Also attending the meeting was Kurt Bolser. Mr. Bolser's term begins July 1, 2015.

Mr. Denno presented board members Simone Neall and Melvin Oden-Orr with framed certificates signed by the Governor thanking them for their service as board members (also absent member Yorke).

**b. Legislative Session:**

Mr. Denno discussed the status of legislation. Restoration contractors (SB 574) and road flaggers (SB 596) legislation both passed. Both bills create new CCB light licenses, effective July 1, 2017.

He further reported that staff will bring the board a recommendation to introduce legislation in the 2016 session retaining the current dispute resolution process. Without legislation, the current law will "sunset" reinstating the old process which is more complex and more costly. The current process is working well.

**c. Enforcement Resources:**

The agency is working towards more efficient and consistent enforcement procedures/standards for field investigators.

**d. IT Status:**

Work continues on the new licensing system, as well as a new document storage and management system.

**2. Licensing Update**

Licensing Manager Laurie Hall reported on licensing statistics for May 2015.

Ms. Hall stated that she had clarified with the Department of Revenue that the CCB should not require business identification numbers (BIN) in cases where the Department of Revenue does not require the number. CCB had been requiring applicants to supply the number in some cases where it was not required by DOR.

She further reported that the remodel of the new building is on schedule and the agency's move is scheduled for August 1-2. The agency will be closed on August 3, 2015.

**3. Education Update**

Communications & Education Manager Cheryl Martinis introduced Program Analyst Tori Garcia, the agency's web and publications designer and outreach presenter. He also creates the video courses for continuing education.

**a. Update:**

Ms. Martinis reported that education staff completed the spring trade shows and conducting live classes; CCB trained approximately 400 contractors.

**b. Continuing Education Provider Issue:**

Ms. Martinis discussed the issue raised at the last board meeting regarding an education provider's printed Series A course. Another provider had expressed concern about the course quality and the length of time to complete it. In researching this she found the course provider used the American Institute of Architects standards for printed courses; 5,000 words equaling one hour of training. She found no justification for denying the course.

**c. Publications:**

Ms. Martinis reported that Tori refreshed CCB's logo. She also handed out a new publication designed for contractors to hand to consumers that combined some publications.

**4. Enforcement****a. Enforcement Status Report:**

Mr. Jessup discussed issues relating to home services warranty companies. There are now 13 licensed home warranty contractors in Oregon.

Mr. Jessup reported that enforcement has placed CCB ads on Craigslist in Oregon, Tri-Cities, and Boise to raise awareness about hiring a licensed contractor and ask for tips on unlicensed activity.

He further reported that enforcement staff recently completed a sweep in the Eugene area. Mr. Jessup has reassigned field investigators to better cover the state. Two newly hired field investigators will cover Eastern Oregon, and the east side of Portland.

**b. Consent Agenda:**

Chair Wood declared a potential conflict of interest due to some prior involvement at her previous employer with the respondent in case #109206, Howard S Wright Constructors Limited Partnership and case #109207, Howard S Wright Constructors LP & Howard S Wright Construction & Co & HSW Builders LLC. However, she has no current involvement, and it does not affect her voting in any way.

**MOTION:** Jim Patrick moved to ratify actions taken by staff and approve consent agenda notices of intent and final orders issued.  
Motion carried unanimously.

**c. Repeat Violations With More Than \$1,000 Penalty Report:**

Mr. Jessup discussed the report on page 28 of the board packet showing the types of violations that result in higher penalties.

Board member Patrick, who requested the report, stated that we do not need the report for each board meeting, but that the data may be helpful once new IT systems are in place to make it easier to generate such reports.

**5. Administration/IT****a. Budget:**

Ms. Ayers reported that for March 2015 and April 2015 the actual revenue is above projections and the actual expenses are under projections. She noted that once the moving expenses come in, the ending balance of operating cash will go down.

**G. OLD BUSINESS:****1. Home Inspector Rule Adoption:**

Mr. Denno discussed the rulemaking hearing process and rule documents with board members. No testimony or written comments were received at the rulemaking hearing.

**MOTION:** Simone Neall moved to adopt OAR 812-008-0020, 812-008-0040, 812-008-0050, 812-008-0060, and 812-008-0110.

Motion carried unanimously.

*(Note: See Attachment A for the language of the adopted rules.)*

**H. NEW BUSINESS:****1. Future Legislation:**

Board members agreed to discuss potential legislation for the 2016 and 2017 sessions at a subsequent meeting.

**I. ADJOURNED:**

The meeting adjourned at 10:53 a.m.

## Attachment A

### 812-008-0020

#### Definitions

The following definitions apply to Division 8 of OAR chapter 812:

- (1) "Administrator" means the Administrator of the agency.
- (2) "Agency" means the Oregon Construction Contractors Board.
- (3) "Automatic safety controls" means the devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel, leaks, fire, freezing, or other unsafe conditions.
- (4) "Central air conditioning" means a system that uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.
- (5) "Certified individual" means an individual who successfully [~~passes~~] **passed** a test accredited by the agency **or who successfully passed the National Home Inspector Examination and who** completes the education required for renewal[;] and satisfies any other requirements established by OAR chapter 812.
- (6) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component. "Component" also includes, but is not limited to, the separate parts of an installed appliance or an electric or gas-powered system, including, but not limited to, a water heater, furnace or air conditioning unit.
- (7) "Conspicuous" as used in these regulations shall mean a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.
- (8) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.
- (9) "Dangerous or adverse situations" means situations that pose a threat of injury to the Oregon certified home inspector, or damage to the property.
- (10) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components or system used for the same purpose.
- (11) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.
- (12) "Energy audit" means evaluation or testing of components or systems with a focus on energy efficiency or renewable energy, which may lead to recommendations that improve energy efficiency or renewable energy generation. "Energy audit" also includes quality assurance review or verification of installed or retrofitted components or systems impacting energy efficiency or renewable energy generation.
- (13) "Enter" means to go into an area and observe all visible components.
- (14) "Forensic evaluation" means evaluation or testing of components or systems for purposes of envelope analysis, materials testing or failure due to water intrusion or other external causes.
- (15) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time.
- (16) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.
- (17) "Home performance testing" means evaluation or testing of components or systems for purposes of comfort, energy efficiency, safety or indoor air quality.
- (18) "Home inspection" means an inspection of substantially all of the components or systems as set forth in 812-008-0205 through 812-008-0214 for the purpose of determining the overall physical condition and habitability of the inspected structure at the time of inspection. A home inspection is not a re-inspection of isolated repairs made as part of a real estate transaction. A home inspection does not include energy audit, forensic evaluation or home performance testing.
- (19) "Installed" means attached or connected such that the installed item requires tools for removal.
- (20) "Normal operating controls" means homeowner-operated devices such as but not limited to thermostat, wall switch, or safety switch.
- (21) "Observe" means the act of making a visual examination.
- (22) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the water.
- (23) "On-site water supply quantity" means the water quantity based on the rate of flow of water.
- (24) "Operate" means to cause systems or equipment to function.

(25) "Oregon certified home inspector" means a person certified pursuant to ORS chapter 701, chapter 814, 1997 Oregon Laws and OAR chapter 812.

(26) "Readily accessible panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted into place. This definition is limited to those panels within normal reach or from a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.

(27) "Representative number" for multiple identical components such as windows and electrical outlets means one such component per room; for multiple identical exterior components, one such component on each side of the building.

(28) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(29) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a homeowner should normally use to operate it or detached from a plug source. If its safety switch or circuit is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(30) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

(31) "Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

(32) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions. "System" also includes, but is not limited to, an installed appliance or an electric or gas-powered system, including but not limited to, a water heater, furnace or air conditioning unit.

(33) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(34) "Test" means a test administered by the agency.

(35) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 701.350 & 701.355

(2/98, 12/04, 6/06, 12/11 eff. 1/1/12, 7/15 eff. 10/1/15)

## **812-008-0040**

### **Application Requirements and Eligibility Requirements**

(1) An individual must submit the following to qualify for certification:

(a) An application on a form provided by the agency;

(b) The fee established in OAR 812-008-0110;

(c) If applicable, CCB number and name of employing licensee;

(d) Proof of minimum of 20 education points as set forth in sections (3) and (4) of this rule; [and]

(e) Evidence of successful passage of [agency's test] **the National Home Inspector Examination; and**

**(f) A signed statement that the individual has read and understands the home inspector standards of behavior, as set forth in OAR 812-008-0201, and the home inspector standards of practice, as set forth in OAR 812-008-0202 through 812-008-0214.**

(2) A business must do the following to qualify for a license:

(a) Become licensed with the agency as a residential general contractor, a residential specialty contractor or a home inspection services contractor;

(b) Have as an owner or employee one or more individuals who have obtained a certificate from the agency to undertake certified home inspections;

(c) Submit an application on a form prescribed by the agency; and

(d) Submit the fee as prescribed in OAR chapter 812.

(3) ~~[In order to qualify to take the test, an]~~ **An** individual applicant must provide the agency with acceptable documentation that the applicant has accumulated a minimum of 20 education points from the following choices:

(a) Ten points for a completed, 3-credit hour minimum class with a passing grade in home inspection at an accredited college or university [~~(10 points maximum)~~].

(b) One point for each completed 3-hour minimum class with a passing grade in construction, remodeling, engineering, architecture, building design, building technology, or real estate at an accredited college or university [~~(40 points maximum)~~].

(c) One point for each completed "ride-along" inspection performed under the direct supervision of an Oregon certified home inspector [~~(10 points maximum)~~].

(d) One point for each completed 3-hour minimum class with a passing grade in approved subject areas in OAR 812-008-0074(1) by approved education providers under 812-008-0074(2) that are not colleges or universities [~~(10 points maximum)~~].

(4) The individual applicant may substitute the following experiences for all or part of the education requirements in OAR 812-008-0040(3):

(a) Four points for each completed 12 months legally working as a home inspector in Oregon or another state or country [~~(16 points maximum)~~].

(b) Two points for each completed 12 months working or teaching at an accredited college or university, trade school or private business for monetary compensation in construction, remodeling, engineering, architecture, building design, building technology, real estate, or building inspections [~~(16 points maximum)~~].

(c) One-half point for each letter of recommendation from an Oregon-certified home inspector [~~(4 points maximum)~~].

(d) One point for each building codes certification issued by a government agency [~~(5 points maximum)~~].

Stat. Auth.: ORS 670.310, 701.235, 701.350 and 701.355

Stats. Implemented: ORS 701.081, 701.084, 701.350 and 701.355

(2/98, 5/99, temp. 6/99, 2/00, 6/00, 8/00, temp. 10/00, 12/00, 4/01, 9/01, temp. 10/01, 5/02, 12/06, 12/07, 2/08, 12/13 eff. 1/1/14, 7/15 eff. 10/1/15)

### **812-008-0050**

#### **[Testing] Examination Requirements**

~~(1) The agency shall provide a written test for certification of individuals.~~

~~(2) The test shall be divided into five sections and weighted as follows:~~

~~(a) 20 percent: Structure, roofing, site, exterior, and interior.~~

~~(b) 20 percent: Heating, cooling, insulation, ventilation, fireplaces and wood stoves.~~

~~(c) 20 percent: Electrical.~~

~~(d) 20 percent: Plumbing.~~

~~(e) 20 percent: Contracts, reports and standards.~~

~~(3) To be certified, applicants must successfully pass the test.~~

~~(4) Applicants shall schedule an appointment with the agency, or designated proctors throughout the state, to take the test after receipt of a letter of authorization from the agency and payment of the fee prescribed in Division 8.~~

~~(5) The passing score shall be 75 percent or higher based on 100 percent possible.~~

~~(6) Applicants shall score 75 percent or higher on each of five sections of the test.~~

~~(7) Applicants shall not take the same test version on consecutive attempts.~~

~~(8) The agency will notify applicants by mail of their test scores on each section of the test.~~

~~(9) Applicants who fail one or more sections of the test need not retake test sections already passed except as provided in (10) below.~~

~~(10) Applicants shall pass all sections of the test within one year of the date the person first took the test or retake all sections of the test.~~

~~(11) Applicants shall complete the certification process within one year from the date the person passed all sections of the test or retake the entire test.~~

~~(12) Applicants shall show picture identification before taking the test.~~

~~(13) Applicants shall not be accompanied by another individual while taking the test unless it is a translator.~~

~~(14) Applicants needing a translator shall pay for translator.~~

~~(15) Applicants taking the test shall not leave the testing room.~~

~~(16) Applicants shall not retain notes or other materials during the test.~~

~~(17) Applicants who attempt and fail the first test may take all subsequent tests in no less than 30 days.~~

~~(18) Applicants shall not review test questions or answer sheets.]~~

**(1) Beginning October 1, 2015, home inspector applicants shall successfully pass the National Home Inspector Examination created and graded by the Examination Board of Professional Home Inspectors.**

**(2) National Home Inspector Examinations passed before October 1, 2015, may be used if the applicant applies for certification on or after October 1, 2015.**

**(3) The examination shall be administered at a test center in Oregon designated by the Examination Board of Professional Home Inspectors or in any other state that administers the National Home Inspector Examination.**

**(4) Successful applicants will submit their official score sheet to the agency. The agency may verify with the Examination Board of Professional Home Inspectors the validity of any official score sheet.**

**(5) Retesting after a failed examination will be administered in accordance with protocols of the Examination Board of Professional Home Inspectors.**

**(6) This requirement does not apply to any home inspector certified by the agency before October 1, 2015, whose certification is current and in good standing.**

Stat. Auth.: ORS 670.310, 701.235 & 701.350  
Stats. Implemented: ORS 701.350 & 701.355  
(2/98, 4/98, 10/98, 9/99, 9/01, 6/03, 2/04, 3/06, 7/15 eff. 10/1/15)

### **812-008-0060**

#### **Certification Issuance**

(1) The effective date of the certificate will be the date applicant meets all agency requirements, including but not limited the receipt of the fee required under OAR 812-008-0110~~[(4)]~~.

(2) A unique certification number will be assigned to each certificate.

(3) All certificates shall be issued in the name of the individual who passed the test.

(4) An application for certification may be withdrawn upon receipt of a written request to the agency at any time prior to the issuance of the certification.

(5) When granted, the certificate shall be mailed to the applicant.

(6) If denied, the agency shall state, in writing, the reasons for denial.

(7) A certificate shall be non-transferable and shall be effective for two years from date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.350

Stats. Implemented: ORS 701.350 & 701.355

(2/98, 8/00, 6/03, 12/07, 7/15 eff. 10/1/15)

### **812-008-0110**

#### **Prescribed Fees**

The following prescribed fees are established:

~~[(1) Application to become certified, \$50].~~

~~[(2) Test, first attempt, \$50.]~~

~~[(3) Test, each sitting to retake one or more sections, \$25.]~~

~~[(4) (1) Initial two-year Certification, \$150.~~

~~[(5) (2) Certification renewal (two years), \$150.~~

~~[(6) (3) Refunds:~~

(a) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

(b) Except as set forth in subsection ~~[(6)](3)(c)~~ of this rule, all fees are non-refundable and nontransferable.

(c) When an applicant withdraws their application for a certification or a certification renewal prior to issuance of a certification or certification renewal, or fails to complete the certification process, the agency may refund the certification fee but shall retain a processing fee of \$40.

(d) If the agency receives payment of any fees or penalty by check and the check is returned to the agency as an NSF check, the payer of the fees will be assessed an NSF charge of \$25 in addition to the required payment of the fees or penalty.

~~[(7) (4)(a) Any certified home inspector in the United States armed forces need not pay a renewal fee if such fee would be due during the certified home inspector's active duty service.~~

(b) A certified home inspector in the United States armed forces shall pay the next license renewal fee that will become due after the certified home inspector is discharged from active duty service.

(c) The agency may request that the certified home inspector provide documentation of active duty status and of discharge.

Stat. Auth.: ORS 293.445, 670.310, 701.235 & 701.350

Stats. Implemented: ORS 293.445, 701.350 & 701.355

(2/98, 6/99, 9/01, temp. 1/03, 6/03, 12/04, 12/05, 12/07, 11/09 eff. 1/1/10, 7/15 eff. 10/1/15)