

MINUTES
South Carolina Board of Environmental Certification
Board Meeting
10:00 a.m., January 24, 2017
Synergy Business Park
Kingstree Building, Room 105
110 Centerview Drive
Columbia, South Carolina

Meeting Called to Order

Chairman, Elizabeth Williams, of Sumter, called the regular scheduled meeting of the South Carolina Environmental Certification Board to order at 10:00 a.m. Other members participating in the meeting Included: Charles Cortez, of Pelzer; Robert G. Davis, Jr., of Hilton Head; Doug Kinard, of Prosperity; Ken Rentiers, of Columbia; Jimmy Rodgers, of Greenwood; Stacy Taylor, of Columbia; Phillip Thompson-King, of Columbia; and Sidney K. Tuck, of Spartanburg

Staff members participating during the meeting included: Molly Price, Administrator; Meredith Buttler, Program Assistant; Erin Baldwin, Office of Disciplinary Counsel; Hardwick Stuart, Office of Advice Counsel, and Todd Bond, Office of Investigative Enforcement.

Mrs. Williams announced that public notice of this meeting was properly posted at the S.C. Board of Environmental Certification Office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Section 40-23-40

Mrs. Williams announced the purpose of this board is to protect the general public through the regulation of persons engaged in occupations appointed by the legislature for regulation by the board. These occupations are referred to in Chapter 23 collectively as Environmental Systems Operators.

Introduction of Board Members and Others

Board members and Board staff introduced themselves.

Approval of Excused Absences

There were no Board absences.

Approval of the September 6, 2016 Minutes

MOTION

Ken Rentiers made a motion the board approve the minutes of the September 6, 2016 meeting. Mr. Tuck seconded the motion which carried unanimously.

Chairman's Remarks-Elizabeth Williams

Mrs. Williams welcomed Meredith Buttler to the Board as the new program assistant. Mrs. Williams has been in contact with Mrs. Buttler over the past several months and has appreciated her help with various items including travel to the ABC Conference held in month in Florida.

Mrs. Williams stated that a recap of the conference is slated to be discussed later in the meeting, but overall it was a good conference.

Administrator's Remarks-Molly Price

Mrs. Price reminded the board members when making a motion, to make sure the motion is clear, and that they speak loud enough to be heard by the court reporter and staff member who is taking the minutes.

Mrs. Price reported the board's current account balance as of December 2016 is \$447,279.56. She stated the board has 8,921 active licensees.

Mrs. Price reported that staff will begin working on the Spring 2017 Newsletter soon and hopes to drop on May 1, 2017. She encouraged Board members to review the previous newsletter and contact the office if they would like anything included in the upcoming newsletter. The final approval will come from the LLR Director's office. Deadline of May 1 is due to upcoming renewals. The newsletter will serve as another reminder for licensees to renew.

Mrs. Price informed the board that it is a Continuing Education Audit year. The audit will take place in the fall and audit procedures will be an agenda item for Board discussion at the May 9th meeting.

Mrs. Price reminded the board that the Statement of Economic Interest forms are due by all board members. Deadline is March 30, 2017 and all board members must files or else there will be penalties laid against them by the Ethics Commission. Ms. Buttler sent out the 2016 travel statement on January 23, 2017. If a Board member did not receive one or the report is incorrect, they are encouraged to contact the Board office.

Mrs. Price stated that the next Board meeting is scheduled for May 9, 2017 at the Kingstree Building. It will be during renewal season so there will be lots of items to discuss.

Mrs. Price welcomed Mrs. Buttler to the board staff and is very thankful for her coming aboard in the wake of Ms. Garner's retirement.

Advisory Opinions, If Needed, Office of Advice Counsel

No advisory opinions were given during this meeting.

OIE Report-Office of Investigations and Enforcements

Todd Bond presented the OIE status report. He stated there were a total of 15 complaints received from 1/1/2016 through 12/30/2016, currently there are 3 active investigations, and 12 closed case. No presentation from the IRC at this time.

OGC Report-Office of Disciplinary Counsel-Erin Baldwin

Erin Baldwin presented the OGC Report. In 2016, ODC closed two cases that did not need to be brought before the board.

Application Hearing

These application hearings were recorded by a certified court reporter in the event a verbatim transcript is necessary. All persons testifying were sworn in by the court report.

Elizabeth Williams, Board Chair, called the Application Hearings to order.

a. Jeffrey Allen West: Physical/Chemical Wastewater

Mr. West appeared before the board to answer questions regarding his application and previous Cease and Desist Order. He waived his right to legal counsel. He brought copies of his resume before the board to show what he has been doing over the last several years. Mr. West stated that he had been working at Hitachi Electronic Devices, USA when it closed facilities in 2010. Mr. West moved out of state for employment and was not working in wastewater, therefore allowed his license to lapse. Upon being hired at Valeant Pharmaceuticals, Mr. West applied for his Physical/Chemical license again as a back-up for the plants one practicing Physical/Chemical Licensee. The license is not needed for his job but he would like to acquire it in case there is a need in the future. Mr. West apologies for not completing the Continuing Education requirements in 2011, but his focus was finding work out of state. Regarding his failure to answer 'yes' to application question regarding revoked licenses, Mr. West stated that he interpreted the question as the revoking of licenses from other states and not previously held state licenses.

Executive Session

MOTION

Charles Cortez, III made a motion the board enter into executive session to seek legal advice regarding Mr. West's application. Ken Rentiers seconded the motion which carried unanimously.

Return to Public Session

MOTION

Robert G. Davis made a motion the board return to public session. Charles Cortez seconded the motion which carried unanimously.

Chairman, Elizabeth Williams, noted for the record that no votes or actions were taken while in executive session.

MOTION

Jeffrey A. West – Physical/Chemical Wastewater Application

Mr. Davis made a motion the Board approves Mr. West's request for a reinstatement of 'D' level Physical/Chemical Wastewater Operator contingent upon passing of 'D' exam. Mr. Thompson-King seconded the motion which carried unanimously.

Unfinished Business

a. Review of ABC Examinations

Several Board members stated they had problems accessing the ABC online exams. Mr. Cortez noted there were several questions on the exam that he felt Distribution operators did not need to know, they are mostly regarding well and water treatment questions. Mr. Stuart raised the concern that since this is a test the discussion of actual questions need to be done in private to protect the test. Mrs. Price reminded the Board that before they vote to move into an Executive Session to discuss the tests, that during the ABC Conference that both she and Chair, Mrs. Williams, attending earlier this month, ABC has developed new exams. Discussion regarding the new exams will take place later in the meeting but proposed saving the exam review until after the new exams come out and then having the board compare the new exam questions with the old. Mrs. Williams proposed an executive session to discuss issues to take to ABC. Mr. Rogers noted that there were several items in the Well Driller exams that the Board did not add and needed to be changed. Mr. Cortez commented that the Bottled Water test looked good. Ms. Williams asked the Board if they would like to table the item since the exams are about the change and move on with the agenda. Board agreed.

b. AMP/ABC Post Examination Survey

Mrs. Williams stated that this agenda item had been brought to the Board in January 2016. In light of the low pass rates and feedback regarding the exams, Mrs. Williams would like to see a survey of 5-7 questions developed to determine how the operators are preparing and are they preparing adequately. Mrs. Williams and Mrs. Price spoke to an AMP representative while in Fort Lauderdale at the ABC Conference who reported that AMP will provide the construct for the survey for a set-up fee then yearly maintenance fee. Mrs. Price proseed to do the survey for no more than two years and that they cost to the board would be worth the information gleaned. She suggested having the survey coincide with the new exams release. The Board would be responsible for creating the survey questions. Mrs. Price asked the Board for a motion to approve the spending for the creation and implementation of the survey. A Board Committee would not be needed to create the questions, but Board members are welcomed to submit questions to Board staff. Discussion of the finalized survey questions will be brought before the board at the May 9, 2017 meeting.

MOTION

Charles Cortez, III made a motion to move forward with the development and implementation of the survey. Mr. Thompson-King seconded the motion which carried unanimously.

New Business

1. Adoption of new ABC Standardized Exams

Mrs. Williams reported that ABC unveiled the new standardized exams at the January conference in Fort Lauderdale. ABC presented at the conference the procedure by which they created the new exam. A national collection of top level operators were gathered to generate the new material and were trained by AMP on how to write exam questions. A new "Need To Know" sheet is being generated for the new exams and it will be weighted so as to give licensees a better understanding of what to focus on when studying for the exam. Mrs. Williams stated that it is very beneficial for the Board to utilize the ABC exams due to making reciprocity easier and attracting high level operator from other states into South Carolina.

Mrs. Williams stated that ABC is looking to roll out the new exams in May and there will be a month delay in determining the cut score. ABC has offered incentives for states who agree to be part of the Beta-testing group. Incentives include reduced registration to the 2018 ABC Conference and reduced membership due. Mrs. Williams stated that the incentive is more of a benefit to the state boards rather than the operator. The new standardized exams will be for Biological Wastewater Treatment, Water Distribution, and Water Treatment.

Mrs. Price stated that if the Board moves forward with this, a special eblast will be sent to licensees making them aware of the change, delayed score reporting, and testing window. Once we receive date confirmation from ABC, licensees will be given a two month warning.

Mr. Cortez asked if the Board would be allowed to review the new exams prior to the May 1 testing date. Molly and staff will contact ABC to see if this is possible. Mr. Kinard state that it appears that ABC is trying to improve the exams and in that regard the month delay to the licensees would be worth helping ABC test the new exams. Mr. Tuck pointed out that the new tests could help with reciprocity and attracting higher level operators to the state. Mr. Taylor questioned if the month delay truly has an impact on licensees beyond just not knowing what score they made. Mrs. Williams stated that it could regarding new licensees seeking employment but that it would be a very small percentage. Mr. Cortez stated that there may be some negative feedback from licensees regarding having prepared for the old test and now having to take the new test. To help alleviate this concern, Mrs. Price stated that the Board would not announce the new testing until the new "Needs To Know" has been posted.

MOTION

Charles Cortez, III made a motion to be adopting the new exams in May 1 - 31. Mr. Tuck seconded the motion and amended it to reflect a possible time change during 2017 by ABC of when the official beta-test would begin. The motion carried unanimously.

2. 2017 ABC Annual Meeting Report

Mrs. Williams reported that the conference was good with several good speakers. She reflected how differently each state treats reviewing of applications, counting of experience time, and investigations. Mr. Davis thanked Mr. Cortez for allowing him to go to the conference in his stead. Mrs. Price reported that she enjoyed the conference though some sections did not apply to the Board. It was good making contact with other water industry members.

3. Experience Verification clarification of “one year actual operating experience”

Ms. Williams stated that the question of interpretation of “one year actual operating experience” has come up recently due to board and staff turn-over and she wanted to seek clarification so that all parties were in agreement. As the law reads, it is one year with no hours associated with it. The item was previously discussed in the May 12, 2009 meeting and it was determined by the Board at the time that one year is one year. Mrs. Price stated that this hasn't been an issue and that staff have looked at the quality and quantity of the work when processing Experience Verification forms. If the staff has been unsure as to the quality of the work reported being sufficient for the license level, they have reached out to the appropriate board member for guidance.

The Board asked Mr. Stuart for his interpretation. He stated that as the law does not state “full time” and as long as the Board is focusing on the quality of experience and that quality is fulfilled in a part-time position can be counted.

Mrs. Price stated that the issue came up during the training and transition from Theresa Garner's retirement and that the staff has adjusted to viewing the experience verification form in terms of quality and quantity instead of just quantity alone. Mrs. Williams then asked if it was need to ask for work time documentation and work experience explanation. Mrs. Price stated that the Operator of the Record signs the forms, attesting that everything reported on the form is correct. If in the future, the Board determines that the information stated was not true then it would turn into a disciplinary matter. Mr. Thompson-King finds that the current process is sufficient and does not believe further action need be taken. Should it become an issue in the future then have the board re-address the issue. Mr. Tuck noted that in addition to the actual operating experience, the board does allow college credit and apprenticeship programs to be substituted for work experience. Mrs. Price stated that research done by Mrs. Buttler into work experience interpretations in other states puts the Board's current practice in line with other states. Mrs. Williams asked for a consensus on answering licensee's question of “what is one year?” Consensus came back as it is one calendar year with the board looking at what the licensee is doing while they are working. Mrs. Price asked that Board members be open to helping Mrs. Buttler out if she contacts then to review an experience verification form.

4. Reinstatement – examination and experience requirements

Ms. Price noticed that during training of Ms. Buttler that the current policy from reinstating a lapsed license, that a licensee would have to reapply then retake the exams, starting at the D level and testing back up to last held license level. Ms. Price does not see the need for this policy and would like the board to approve that reinstated licensees be allowed to reapply and then retake the exam at their previously held license level.

MOTION

Phillip Thompson-King made a motion to allow reinstated licensees to reapply and then retake the exam at their previously held license level. Mr. Taylor seconded the motion which carried unanimously.

Election of Vice-chairman

Ms. Williams stated that she has enjoyed her time serving as board chair and would like to continue unless someone else would like to be chair. Mr. Rentiers echoed Ms. Williams' sentiments and would like to continue serving as Vice-Chair.

MOTION

Phillip Thompson-King made a motion to keep the same slate of officers. Mr. Taylor seconded the motion which carried unanimously.

Discussion Topics

There were no discussion topics at this meeting.

Committee Reports

There were no committee reports at this meeting.

Public Comments

Mr. John Young and Mr. Jim Matthews approached the Board. Mr. Young commented on the Board's discussion to allow reentry back into the field at previous level. He stated that this would help the field retaining and bring back higher level operators. Mr. Matthews thanked the board from their service. Mr. Matthews spoke to the issue of experience time referencing the May 12, 2009 board meeting. It is the third time this has come before the board. Mr. Matthews urged the board to focus on the quality of work and accommodate those who are required to work less than full time on certain systems to help with shortage of operators.

Mr. Matthews then brought four points before the Board regarding the exams.

1. Currently instructors are not allowed to help with the writing of the exams and he would like to see that changed as he feels they are among the most qualified people to write and evaluate the validity of the questions. Mr. Matthews understands the security of the exam in this matter.

2. Licensees are required to sign an affidavit stating that they will not divulge exam content with anyone. Mr. Matthews sees this as wrong and hinders licensees from taking the exam questions that they got wrong back to instructor for clarification and research into the correct answer. He feels they should be allowed to share questions with instructors in order to better prepare of the next examination.
3. There are certain questions on the exam that are deemed right by specific reference material but then contradicted by others. He would like to see a remedy for this.
4. His understanding is that the state is allowed to change up to 10% of the standardized examination and would like to see the "Need to Know" sections augmented to reflect the augmented exams.

Mr. Matthews agreed with the Board in that the number one reason for the low pass rate is failure by the licensee to prepare properly and encourages the Board to find a way to better teach that to licensees. Mr. Matthews thanked the board for listening to him and Mr. Young.

Adjournment

MOTION

There being no further business to be discussed at this time, Mr. Thompson-King made a motion the meeting be adjourned. Mr. Rentiers seconded the motion which carried unanimously.

The January 24, 2017 meeting of the S.C. Board of Environmental Certification adjourned at 11:31 p. m.

The next meeting of the S.C. Environmental Certification Board is scheduled for May 9, 2017, in room 108.