

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL MINUTES

November 15, 2010

4:00 p.m. Public Hearing Room, DEP, Trenton

Board Members:

Present: Chairman Dave Sweeney Jorge Berkowitz, Philip Brilliant, Lawra Dodge, Joann Held, Christopher Motta, Karl Muessig, Michael Pisauro, Constantine Tsentas, Ira Whitman

Absent: Richard Dewling

Others Present: DEP Commissioner Bob Martin for opening remarks, Board Liaison Karen Hershey, Board Counsel DAG Kimberly Hahn

Proceedings:

- Meeting called to Order by the Chair at 4:00 P.M.
- Statement by the Chair that adequate notice of the meeting was provided pursuant to the Open Public Meetings Act.
- Opening remarks and charge to the Board from DEP Commissioner Bob Martin, which included a statement of strong support for the LSRP program from him and on behalf of the Governor's office. Commissioner Martin stated firmly that he will not compromise environmental standards in implementing this program.
- Introductions by the Chair: pending member Ben Alter, legal counsel DAG Kimberly Hahn.
- Motion for Board to meet twice a month for six months in the Public Hearing room in Trenton; seconded and passed (unanimous).
- Motion to establish committee to review and develop bylaws; seconded and passed (unanimous). Bylaws committee members: Tsentas, Whitman, Pisauro, Brilliant, Dodge (Chair).
- Budget: As of October 5, 2010, there was about \$502,000 in the Licensing Board budget. These monies were derived from licensing and application fees for at least 411 temporary LSRPs. There was brief discussion regarding the budget and use of DEP staff. Chairman Sweeney indicated that it was the intent of the Department for budgetary reasons to use dedicated staff to service the Board.

- The second item discussed was the cost associated to develop a request for proposals for development of the licensing exam. Several members of the Board pointed out that, according to the statute, the Board has responsibility for developing and administering the exam. There was discussion with respect to the Board having input into the exam development. It was pointed out that there ought not be any appearance of conflict given that there are temporary LSRPs on the Board who will need to take the exam. However, perhaps the Board could review the proposals once they are received. Chairman Sweeney suggested tabling the discussion until the next meeting at which time he would try to have Tony Farro (who is currently on medical leave) give a presentation on the RFP development.
- During the budget discussion the question was raised as to whether the Board (or Department for that matter) has the ability to extend the temporary licensing period, since the examination would need to be based on rules and guidance which do not yet formally exist. Ms. Hahn agreed to look into this issue as well.
- Powers and duties of the Board: Chairman Sweeney read the section of the SRRA that outlines the powers and duties of the Licensing Board and suggested that within those powers are the need for a number of standing committees of the Board.
- There was then a discussion regarding the development of rules for LSRPs. Dr. Berkowitz inquired whether the Board wished to consider enactment of emergency rules, outside the Administrative Procedures Act (similar to what was done to start the LSRP program) in order that the Board could act on disciplinary issues that may arise prior to formal rulemaking. Discussion of the matter followed. Mr. Whitman cautioned that he felt that no disciplinary action should be taken until a full rule is in effect.
- Ms. Hershey also suggested that someone look into what the APA says about emergency rules. Ms. Hahn agreed to look into the APA requirements for emergency rules.
- A question arose regarding confidentiality of disciplinary meetings vis-a-vis the OPM Act. Counsel (K. Hahn) advised that under circumstances where a disciplinary hearing was needed, the Board must pass a resolution to hold a closed session for the purpose.
- Other issues discussed pertaining to powers and duties of the Board included the ability to extend the temporary licensing period beyond three years and the statutory requirement for the Board to audit at least 10% of all LSRPs. Ms. Hahn agreed to get clarification of both of these issues for the next meeting. Mr. Motta suggested committees be considered for discipline and the licensing examination.

- One final powers of the Board issue, raised by Dr. Berkowitz, was the possibility of banking of continuing education units (CEUs) for current Temporary LSRPs. Chairman Sweeney stated that the Board could take that under consideration but also raised the issue of the need for a Training and Continuing Education Committee. This item was tabled for discussion at the next meeting.
- Motion to establish committee to evaluate rulemaking strategy; seconded and passed (unanimous). Rules committee members: Pisauro, Brilliant, Berkowitz, Sweeney, Held (Chair).
- Annual Fees for Temporary Licenses: The issue of expiring licenses was raised and whether the annual fee should remain at \$900 per year.
- There was some discussion concerning the comparability to licensing fees for other professionals and other states. It was noted by most that the \$900 fee was substantially higher than what is known for other professions and states. It was also noted that there is no benchmark for the NJ LSRP program, given that it is really only now beginning and there is no information regarding the cost to develop and administer the examination. The Board requested information on the basis for developing the \$900 fee for discussion at the next meeting.
- Chairman Sweeney made note of the fact that a number of LSRPs with licenses expiring in October and November have already made inquiries of the Department regarding renewal. A possible procedure regarding renewal each quarter on the subsequent 20th of the month (e.g., licenses expiring in October, November and December would be due on January 20) was noted, but no substantive discussion of the matter was held.
- Public Comment: Chairman Sweeney opened the floor to comments from the audience.
- Mr. Harvey Klein of Garden State Labs and ELAC made a statement that the LSRP program is truly revolutionary for the State of New Jersey.
- Mr. Nick DeRose of Langan Engineering stated that it is important to have stakeholder input in the development of rules.
- Mr. Ted Toskos of Mactec added his agreement with Mr. DeRose on the stakeholder input issue and added that if stakeholder input is not considered in the development of emergency rules it could give the program a “black eye.”
- Other Business: Chairman Sweeney announced that the Licensing Board had received two letters from the LSRP Association. The first letter concerned suggestions for possible continuing education requirements and courses. Continuing education was planned as a discussion item for the next Board

meeting. The second letter was an introduction of the LSRPA Licensing Board Liaison Committee to the Board, which Mr. Sweeney read aloud.

- Phil Brilliant inquired about the possibility of posting Board minutes and other items on the Department webpage. Chairman Sweeney indicated that it was the intent of the Department to have a separate page dedicated to Licensing Board activities.
- Motion to adjourn; seconded and passed unanimously at 5:37 PM.