

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

September 12, 2016 Meeting Minutes

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

Board Members:

Present

Jorge Berkowitz
Philip Brilliant
Lawra Dodge
Joseph Fallon
Joann Held
Jeffrey Hoffman arrived at 4:07 PM
Christopher Motta
Mark Pedersen
Kathi Stetser
Peter Strom
Ira Whitman

Absent

Constantine Tsentas

Others Present:

Board Executive Director Janine MacGregor
Board Staff Dana Haymes
DAG Nielsen Lewis

Proceedings:

- **Meeting called to Order at 4:05 PM by Chairman Pedersen**
- **Roll Call**
- **Approval of the Minutes of August 15, 2016**

Motion to approve the minutes by Ira Whitman.

Motion seconded by Christopher Motta.

Roll Call Vote:

Jorge Berkowitz:	Abstain
Philip Brilliant:	Yes
Lawra Dodge:	Abstain
Joseph Fallon:	Yes
Joann Held:	Abstain
Jeffrey Hoffman:	Yes
Christopher Motta:	Abstain
Kathi Stetser:	Yes
Peter Strom:	Abstain
Connie Tsentas:	Absent
Ira Whitman:	Yes
Mark Pedersen:	Yes

Motion by Ira Whitman to table the Motion until the next meeting since there is not a quorum for this vote.

The Motion to table the Motion was seconded by Phil Brilliant.

All present voted Yes.

The Motion to table the Motion until the next meeting was carried.

- **Chairman's Report:**

As of Monday, Chairman Pedersen will be out of the office for six weeks. Joann Held will be acting as Chairman in Chairman Pedersen's absence. Chairman Pedersen requests that the Board continue working on proposed language for SRRA 2.0.

- **Executive Director's Report:**

Executive Director Janine MacGregor advised that she has compiled comments from Board Members for SRRA 2.0. Ms. MacGregor will send the compilation to Board Members for their review.

Ms. MacGregor has been in discussions with the Massachusetts Board to arrange a meeting to discuss the complaint process and other Board matters. She will provide an update at the next Board meeting.

- **Report of the Ad-Hoc Committee on Board Operations: Joann Held**

Joann Held noted that additional recommendations are being made by Board Members. She would like to move forward with the issues that are currently being considered rather than adding new issues at this time.

With respect to the concept of “professional judgment”, Janine MacGregor noted that she has prepared a proposed definition, along with citations from various documents that use the term. She will distribute the proposed definition to the entire Board for review.

- **Report of the Ad-Hoc Committee on Discharge Notification: Joann Held**

Joann Held reported that the Committee has prepared a draft document. The document was distributed to Board members, and the Committee has received feedback. The Committee will meet to discuss the proposed revisions soon.

- **Report of the Professional Conduct Committee: Jorge Berkowitz**

Jorge Berkowitz asked to be recused from 003-2016 and 004-2016.

DAG Lewis noted that the By-Laws require a letter requesting recusal. Chairman Pedersen noted that staff can prepare a form letter that Board Members can use.

Jorge Berkowitz noted that on September 6, 2016 the Board issued a Notice of Civil Administrative Penalty Assessment to LSRP John Johnnidis with respect to Complaint 004-2014.

Jorge Berkowitz made a motion to go into closed session to discuss Complaint 007-2016.

Jeff Hoffman seconded the motion.

All present voted Yes.

The Motion was carried.

Closed session commenced at 4:33 PM.

Ira Whitman stated that the subject of the complaint came to him to discuss the complaint. Ira Whitman recused himself from the rest of the closed session.

Jorge Berkowitz summarized the facts of the complaint and the Board's investigation.

A straw poll of those present was held.

Closed session ended at 4:46 PM.

Motion by Chairman Pedersen to go back to open session.

Jorge Berkowitz seconded the Motion.

All present voted Yes.

The Motion was carried.

Jorge Berkowitz made a Motion to dismiss Complaint 007-2016.

Phil Brilliant seconded the Motion.

Roll Call Vote:

Jorge Berkowitz: Yes

Philip Brilliant: Yes

Lawra Dodge: Yes

Joseph Fallon: Yes

Joann Held: Yes

Jeffrey Hoffman: Yes

Christopher Motta: Yes

Kathi Stetser: Yes

Peter Strom: Yes

Connie Tsentas: Absent

Ira Whitman: Recused

Mark Pedersen: Yes

The Motion was carried.

- **Report of the Audit Committee: Philip Brilliant**

Phil Brilliant reported that the names of five LSRPs were drawn for the September 2016 audit and an Audit Review Team will be assembled.

No audits were reported as completed.

The Audit Committee met on August 15, 2016 along with Board Staff. The audit process and audit questionnaire form and instructions were reviewed. The Audit Committee proposes the following changes to the audit process:

- a. Board Staff will no longer send packages of the LSRP NJEMS reports and questionnaire to the Audit Review Team in advance of completion of the file review. All documents will be saved to One-Drive and the Audit Review Team will be notified when all staff work is complete, at which time they will commence their review. This change will take effect with the June 2016 audit.
- b. Questions and requests for documentation of OSHA training and continuing education will be removed from the Audit Questionnaire.
- c. The Audit Questionnaire form and instructions will be modified for clarity.

The Audit Committee will be working on criteria for the Audit Review Team to follow when conducting audits. The criteria will provide guidance on what the Audit Review Team should refer to the Professional Conduct Committee and what requires additional information from LSRPs. The criteria will be based upon the estimated 350 audits completed or ongoing and the lessons learned, issues observed, outcomes and required teaching moments.

Motion by Phil Brilliant to make the proposed changes to the audit procedure and audit questionnaire form and instructions.

Motion seconded by Jorge Berkowitz.

Roll Call Vote:

Jorge Berkowitz: Yes

Philip Brilliant: Yes

Lawra Dodge: Yes

Joseph Fallon: Yes
Joann Held: Yes
Jeffrey Hoffman: Yes
Christopher Motta: Yes
Kathi Stetser: Yes
Peter Strom: Yes
Connie Tsentas: Absent
Ira Whitman: Yes
Mark Pedersen: Yes

The Motion was carried.

- **Report of the Continuing Education Committee: Lawra Dodge**

Motion by Lawra Dodge to accept recommendation of Continuing Education Committee to approve applications for continuing education credit as follows:

Application of LSRP Stephen Posten for approval of continuing education credit for attending the 10th International Conference on Remediation of Chlorinated and Recalcitrant Compounds provided by Battelle – recommended for approval of 14 Technical CECs.

Application of Alpha Analytical, Inc. for approval of continuing education credit for “NJ Data Package Review Program” – recommended for approval of 2.5 Technical and .5 Regulatory CECs.

Application of Northeast Waste Management Officials Association for approval of continuing education credit for “Monitored Natural Attenuation: Appropriate Tool or Easy Way Out?” – recommended for approval of 5.5 Technical CECs.

Motion seconded by Joann Held.

Roll Call Vote:

Jorge Berkowitz: Yes to all

Philip Brilliant: Yes to all

Lawra Dodge: Yes to all

Joseph Fallon: Yes to all, except Abstain with respect to the application of Stephen Posten

Joann Held: Yes to all

Jeffrey Hoffman: Yes to all

Christopher Motta: Yes to all

Kathi Stetser: Yes to all

Peter Strom: Yes to all

Connie Tsentas: Absent

Ira Whitman: Yes to all

Mark Pedersen: Yes to all

The Motion was carried.

- **Report of the Finance Committee: Joseph Fallon**

Joseph Fallon introduced the draft 2017 budget.

The Finance Committee does not wish to raise the annual fee, however, the trend is that baseline expenses are exceeding incoming revenue, creating a deficit.

Mr. Fallon requests that Board Members review the budget and provide comments to him.

- **Report of the Licensure Committee: Ira Whitman**

The Request for Proposals for the IT Contract is still being reviewed by the Department of Treasury. No date has been set for it to be issued.

The extension of the existing exam contract is in place. The committee is still considering whether to have Caviart develop the new exam.

Modifications to the request for proposal for the new exam contract have been made enabling the new contractor to administer the latest exam prepared by Caviart. The contract was changed from a 3-year to a 2-year contract, plus extensions, to enable the

Board to consider using newer exam technologies. Changes have delayed the bid opening from September 7 to September 14, 2016.

- **Report of the Outreach Committee: Christopher Motta**

The committee is working on a guide to hiring an LSRP that will be useful for homeowners and small businesses. The guide includes suggestions for provisions that should be included in a contract with the LSRP.

- **Ongoing Business:**

None.

- **New Business:**

Phil Brilliant noted that several companies are advertising themselves as having LSRPs on staff. Many of these companies do not have an LSRP on staff, but the company has an agreement of some type with the LSRP. It's still happening, to the point that individual LSRPs are issuing RAOs on the letterheads of several different companies. There should be more transparency so it is clear to those viewing the RAO who the LSRP issuing the RAO was working for, and how they may be contacted should issues arise in the future. LSRPs should issue RAOs on their own letterhead, not on the letterheads of several different companies. The public needs to know who the LSRP represents and how to find him. The Board will consider the issue and Board staff will also discuss with the Department whether the Department considers this a problem.

Joann Held reported that Janine MacGregor has been requesting that Board Members provide input with respect to SRRA 2.0. Janine MacGregor prepared a document that summarizes everything collected so far. The document will be provided to all Board Members for their review. This will be addressed under the ongoing business part of the agenda next month.

- **Next Meeting Date:**

October 17, 2016 at 4:00 PM.

- **Public Comments:**

Rodger Ferguson, LSRP. Mr. Ferguson asked the number of the complaint that the NOCAPA issued on September 6, 2016 is associated with. Board staff responded 004-2014. Regarding the budget, Mr. Ferguson suggests that the Board consider the cost charged per examination. Permanent funding for the Board is appropriate.

The meeting adjourned at 6:07 PM.