

NEW JERSEY SITE REMEDIATION PROFESSIONAL LICENSING BOARD

FINAL

October 4, 2021 Meeting Minutes

4:00 PM

Meeting held via Microsoft Teams

Until further notice, the open public meetings of the Board will be held via Microsoft Teams.

To participate by phone, use the following:

Toll free number: 1-(856) 338-7074 and Conference ID: 906475949

Or connect via the link on the Board Website www.nj.gov/l srpboard

Board Members:

Present

Phil Brilliant
Lawra Dodge
Joann Held
Jeffrey Hoffman
Mark Pedersen
Michael Renzulli
Kathi Stetser
Peter Strom
Ira Whitman

Absent

Jorge Berkowitz

Others Present

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

Members of the Public that were present:

Candace Baker, Ken Haduch, Malena Gordon-Ramos, Phillip Kunkle, Marlene Lindhardt, David Morris, Rayna Laiosa, Rocco, Randy Shuler, Charles Stebbins, Wahid Khan, William Call, Alex

Saltzman, Rebecca Hollender, David Carlson, Mark Pietrucha, Kruti Oza, Sonya Ward, Margaret Carmeli

Proceedings

- Meeting called to Order at 4:05 PM by Chairperson Mark Pedersen
- Mark Pedersen read the Statement of Adequate Public Notice of the meeting required by the Open Public Meetings Act.
- Roll Call:

Jorge Berkowitz - Absent
 Phil Brilliant - Present
 Lawra Dodge - Present
 Joann Held - Present
 Jeffrey Hoffman - Present
 Mark Pedersen - Present
 Michael Renzulli - Present
 Kathi Stetser - Present
 Peter Strom - Present
 Ira Whitman - Present

A quorum of the Board was in attendance.

- **Approval of the Board Meeting Minutes**
 - Motion by Mark Pedersen to approve the September 13, 2021 Board Meeting Minutes.

Motion seconded by Ira Whitman.

Roll Call Vote:

Jorge Berkowitz - Absent
 Phil Brilliant - Yes
 Lawra Dodge - Yes
 Joann Held - Yes
 Jeffrey Hoffman - Yes
 Michael Renzulli - Yes
 Kathi Stetser - Absent from vote due to technical difficulties
 Peter Strom - Yes
 Ira Whitman - Yes
 Mark Pedersen - Yes

The Motion to approve the minutes was carried.

- **Chairperson's Report**

No report.

- **Executive Director's Report**

All Board Members please review the calendar for 2022 in preparation for the vote later in the meeting under New Business.

Committee Reports

- **Audit Committee – Jorge Berkowitz**

Dana Haymes reported for Jorge Berkowitz

6 LSRPs were selected for October 2021 audits

The Audit Committee completed audits of the following LSRPs, with no additional action required:

Selected July 7, 2021:

Mark Hudock, 574440

Michela Afflito, 591240

Selected August 2, 2021:

Nicholas Huszar, 621518

Christine Stokes, 668247

William O'Brien, 629378

Since 2012, the Board has completed a total of 619 audits. Of the 619, 593 audits have been reported as completed and concluded, 3 audits were deferred due to retirement, and 23 audits were referred as complaints.

593 Audits completed by year (based on the date reported as complete):

2012 – 37

2013 – 58

2014 – 53

2015 – 53

2016 – 49

2017 – 48
2018 – 78
2019 – 62
2020 – 89
2021 – 66

23 audits referred as complaints:

2017 – 1
2018 – 2
2019 – 5
2020 – 8
2021 – 7

Outcomes of the complaints:

2017-001 – NOCAPA - \$1000

2018-003 – Dismissed
2018-004 – Pending

2019-006 – BDOS \$600
2019-009 – BDOS \$600
2019-011 – BDOS \$400
2019-012 – BDOS \$200
2019-013 – BDOS \$400

2020-005 – BDOS \$400
2020-006 – BDOS \$1600
2020-007 - No Violation
2020-009 – BDOS \$400
2020-011 – BDOS \$2200
2020-012 – BDOS \$4000
2020-014 – No Violation
2020-015 – BDOS \$200

2021-001 – BDOS \$400
2021-002 – BDOS \$400
2021-003 – Pending
2021-004 – BDOS \$400
2021-005 – Pending
2021-007 – Pending
2021-011 - Pending

- **Continuing Education – Lawra Dodge**

Lawra Dodge reported that the following Continuing Education Programs have been approved by the Continuing Education Committee to be offered both in-person and via AVLF:

TITLE	PROVIDER	DATE	CECs	PROPOSED COURSE #
Forty-Five Years After the Spill Act	GEI Consultants	October 25, 2021	1 Regulatory	2021-141

- **Ad Hoc Committee – Discharge Notifications – Phil Brilliant**

Phil Brilliant reported that the Committee has been taking a break, will resume meeting in early October.

- **Finance Committee – Michael Renzulli**

No report.

- **Licensure Committee – Kathi Stetser**

Kathi Stetser reported that a listserv was sent regarding the next examination on April 28, 2022. The exam is intended to be held in person. The application period opens on December 1, 2021 and extends through January 15, 2022. The application fee is \$300.00.

- **Outreach Committee – Peter Strom**

No report.

- **Rules Committee – Joann Held**

Joann Held reported that the Committee has been working on the Rules. The Committee is pursuing an aggressive schedule in order to propose amendments to the Rules early next year. There are a few additional recommendations today, and Joann will go over all recommendations for amendments to the Rules on October 18, 2021. On November 1, 2021, the Board will vote to convey the rules to the Division of Law for legal review.

Joann Held reported the following proposed amendments to the Rules:

Subchapter 1 – Section 1.3 – add definition of “retained.”

Subchapter 2 – Section 2.12 - Add category for surrender of license prior to expiration date of license. A surrendered license would not be able to be renewed.

Subchapter 4 – Redefine alternative verifiable learning format credits to only include types of continuing education programs in which there is no live interaction. The Rules Committee and Continuing Education Committee are still considering whether there should be a cap of 18 credits for credits taken in alternative verifiable learning format.

Subchapter 6 – Section 6.27 - Add language which would compel LSRPs to share reports and data with subsequent LSRPs when necessary to protect public health and safety and the environment.

Add the word “guidance” throughout the rules where “SRRA and any rule, regulation or order adopted or issued pursuant thereto” appears, except in Sections 2.13 and 2.14.

Specifically, add “guidance” to the following sections:

4.4, 5.1, 5.4, 6.8, 6.15, 6.16, 6.21, 6.22, 6.25, 7.1(a)1, 7.1(a)2, 7.2, 7.3, 7.5(e), 7.5(f)2, 7.5(f)3, 7.6, 7.7, 7.8, 7.9(a)2, 7.9(a)3, 7.10, 9.1

The word “guidance” already appears in Sections 2.1 and 6.3.

- **Professional Conduct Committee – Phil Brilliant**

Phil Brilliant reported that there will be no discussion of the Civil Administrative Penalty Process tonight, in order to allow time to review comments from DAGs Nielsen Lewis and Buffy Wilson.

- Motion by Phil Brilliant to enter closed session to discuss complaint received on June 7, 2021, which will be numbered 012-2021.

Motion seconded by Mark Pedersen.

All present voted yes.

The Motion was carried.

Open Session resumed at 5:30 PM.

- Motion by Phil Brilliant, in the matter of Complaint 012-2021, to dismiss the complaint without further investigation, because the complaint does not state factual allegations over which the Board has jurisdiction.

Motion seconded by Mark Pedersen.

Roll Call Vote:

Jorge Berkowitz	- Absent
Phil Brilliant	- Yes
Lawra Dodge	- Yes
Joann Held	- Yes

Jeffrey Hoffman - Yes
 Michael Renzulli - Yes
 Kathi Stetser - Yes
 Peter Strom - Yes
 Ira Whitman - Absent
 Mark Pedersen - Yes

The Motion was carried.

- **Ongoing Business**

None

- **New Business**

- Motion by Mark Pedersen to accept the proposed calendar of Board Meetings for 2022:

January 3
 January 18 (Tuesday)
 February 7
 February 22 (Tuesday)
 March 7 and 21
 April 4 and 18
 May 2 and 16
 June 6
 June 21 (Tuesday)
 July 11
 August 8
 September 12
 October 3 and 17
 November 7 and 21
 December 5 and 19

Motion seconded by Phil Brilliant.

Roll Call Vote:

Jorge Berkowitz - Absent
 Phil Brilliant - Yes
 Lawra Dodge - Yes
 Joann Held - Yes
 Jeffrey Hoffman - Yes
 Michael Renzulli - Yes
 Kathi Stetser - Yes
 Peter Strom - Yes
 Ira Whitman - Absent

Mark Pedersen - Yes

The Motion was carried.

- Motion by Mark Pedersen to authorize the Executive Director to spend up to \$100 for a commemorative plaque for any Board Member that retires or is honorably discharged from the Board.

Motion seconded by Joann Held.

Roll Call Vote:

Jorge Berkowitz	- Absent
Phil Brilliant	- Yes
Lawra Dodge	- Yes
Joann Held	- Yes
Jeffrey Hoffman	- Yes
Michael Renzulli	- Yes
Kathi Stetser	- Yes
Peter Strom	- Yes
Ira Whitman	- Yes
Mark Pedersen	- Yes

The Motion was carried.

- **Next Board Meeting**

The next scheduled Board Meeting will be October 18, 2021 at 4:00 pm via Microsoft Teams unless otherwise noted on the Board website. The main focus of the meeting will be reviewing all the proposals for amendments to the Board Rules.

- **Public Comments**

Marlene Lindhardt, LSRP. Marlene Lindhardt presented two comments on the proposed amendments to the Board Rules. She is concerned about requiring an LSRP to transfer data to another LSRP. LSRPs should make an OPRA request for documents, not request them from the prior LSRP. If the PRCR has draft data, they can pass it on. But if data is not final, it may not be validated, and LSRP may not want to pass it on for that reason. Also, how long in the past would this apply? It would be a lot of work for an LSRP to go through past data to respond to every request. With respect to guidance, a report may or may not comply with guidance because guidance may not always apply.

David Morris, LSRP. David Morris is concerned about LSRPs surrendering their licenses. Is that truly a neutral event, or would there be issues surrounding that? He is also concerned about sharing data. That raises a lot of business issues. With respect to violations published

on the Board website, the last nine violations were all timeframe issues. This is not great to read. He is also concerned about the outcome of the complaint in which an LSRP was not aware that he issued an RAO – that LSRP should have gotten a stronger penalty.

Rebecca Hollender, LSRP. Rebecca Hollender has the same concerns as Ms. Lindhardt. The rules should clarify what information must be shared, which should not include the LSRPs' professional judgement. How will the determination be made that something affects human health, safety and the environment, and who will make that determination? With respect to the addition of the word "guidance," it is ok in some places, but guidance is not regulation. LSRPs have to be free to use their professional judgment.

Candace Baker, LSRP. Candace Baker also has concerns about sharing information between LSRPs. The Board needs to clearly explain what must be shared. She is concerned that a new LSRP may ask for the previous LSRP's interpretation of data collected at a site. She doesn't want another LSRP to use that against the previous LSRP.

William Call, LSRP. William Call also has concerns about compelling an LSRP to turn over data to a subsequent LSRP. The ownership of data may be contractually governed. In some firms the LSRP owns the data, and in other circumstances the client may own the data. With respect to guidance, what does guidance encompass? Please leave the LSRP the flexibility to use the guidance that they feel is appropriate. Guidance is not a rule or regulation, it is not governed by the APA, so is this enforceable? In some cases the use of guidance is appropriate, in other cases it is not.

The Meeting adjourned at 5:57 pm.