



State of Nevada
Board of Registered Environmental Health Specialists

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MINUTES OF PUBLIC MEETING
June 27, 2016

Members Present: Tony Macaluso, Larry Law, Bob Stulac, Drew Skeen, Erika Marquez
Members Absent: None
Staff Present: Loretta Ponton, Executive Director, Heather Hartley, Licensing Specialist
Henna Rasul, Sr. Deputy Attorney General
Public Present: Cindy L. Ulch, REHS; Briana Johnson, EHST; Michael Touhey, EHST;
Cara Evangelista, REHS; Brisa Soto, REHS; Miki Low, REHS; Robert
Fyda, REHS

PUBLIC WORKSHOP - LCB File No. R049-16

Loretta Ponton, Executive Director opened the Public Workshop at 10:05 a.m.

Ms. Ponton explained the purpose of the workshop was to solicit comments on proposed regulation LCB File No. R049-16. The proposed regulation makes changes to the procedures for application for and renewal of certificates of registration for registered environmental health specialists and trainees; interprets the term “basic science courses”; requires notification to the Board of name changes and directs correspondence be addressed to the Board, establishes fees, defines “environmental health sciences”; revises continuing education requirements and miscellaneous other provisions in the regulation.

Ms. Ponton stated that five written comments on the proposed regulations had been received which have been incorporated into the handout document “Public Workshop Recommended Changes”; one written comment was received after compilation of the document. Ms. Ponton read the public comment from Brian Northam.

Ms. Ponton stated she would summarize each section of the proposed regulation and public comments would be taken on each section. Ms. Cindy Ulch asked to make public comment before the staff summary.

Ms. Ulch introduced herself and asked if the Board intends to continue utilizing NEHA for compilation and documentation of continuing education; the answer was affirmative.

Ms. Ulch stated that she is opposed to the revision to require twelve (12) contact hours of continuing education annually instead of the current requirement of two (2) units every two years.

The State of Nevada has utilized FDA training as their main training resources for their REHS employees. The State must request the training from FDA. The FDA does not approve the request every year. The training is very comprehensive and more than provides the number of hours over a two-year period required under the current requirements. Moving to an annual CE requirement would place a hardship on the State REHS employees, especially those located in rural areas.

In addition, the definition of CEU as written does not align with the NEHA definition, when calculating contact hour as 50 minutes of participation, it calculates to 20 hours of classroom time every two years - the revision actually increases by 2 hours annually the required CE; NEHA definition of contact hour is 60 minutes of learning time. If utilizing NEHA, the definitions should align.

Comments were received on the utilization of NEHA records; how NEHA assigns contact hours and the option of accepting Southern Nevada Health District ABRA training report. Ms. Ulch stated a current NEHA report could be submitted annually which would show the training received during a two-year period. Mr. Macaluso stated that there are differences in the timing between NEHA and when a State registration is due for renewal that could cause administrative issues.

Cara Evangelista commented she is in the private sector, they also are challenged with obtaining continuing education and an increase in hours and/or a change to require CE's annually would cause hardships not only financially since their employers do not pay for their CE's, but also could impact the training quality if a course is not offered every year. Ms. Evangelista stated the requirements should match NEHA continuing education requirements.

Brisa Soto commented that she also is in private sector and agrees with Ms. Evangelista's comments.

Ms. Ponton summarized the proposed regulation with the recommended changes as a result of written comments. As each section was reviewed, additional public comments were requested.

Ms. Ponton concluded the public workshop asking for any additional comments.

Ms. Ulch questioned the need for "random audits" of CE if the Board continues utilizing NEHA. Ms. Ulch also stated that she would like to see the Board provide hard copy registration cards; last year they were in the form of a paper registration.

Cara Evangelista asked if there is anything that can be done about protected practice; there are individuals in the Las Vegas area who are offering their services as "food safety consultants" who are not registered or have the appropriate qualifications. Ms. Ponton stated a complaint could be filed with the Board and it would be investigated.

Loretta Ponton stated any revisions to the proposed regulations made as a result of the comments received at the workshop will be posted and notice made to all individuals

Ms. Ponton thanked the members and the public for comments. The public workshop was closed at 10:49 a.m.

BOARD MEETING

Tony Macaluso, Chair called the Board meeting to order at 10:50 a.m. A roll call confirmed a quorum was present with Tony Macaluso, and Bob Stulac present in Reno, Larry Law present in Las Vegas and Drew Skeen and Erika Marquez present by teleconference.

Public Comment: Larry Law stated that there was no public attendance for the Board meeting in Las Vegas. Public present in Reno were Briana Johnson and Michael Touhey. There were no public comments in the Reno location.

New Board Member Orientation: Loretta Ponton welcomed new Board member Erika Marquez and stated that it would be helpful for all to begin with introductions and a brief summary of each members' background.

Ms. Marquez stated she has been working for the last 10 years at the University of Nevada Las Vegas, Department of Environmental Health focusing primarily on housing and health related issues; she participates in the Nevada Healthy Homes Partnership and has recently been appointed as the Director of Social Policy for the Kenny Guinn Center for Policy Priorities. Housing issues and policies in Clark County have been her area of emphasis.

Board members welcomed Ms. Marquez, introduced themselves and each member provided a brief summary of their background.

Loretta Ponton provided an overview of the structure of the Board; state administrative requirements, open meeting law, budget process and audits; Board policies and forms; roles and responsibilities of Board members referencing the Nevada Board and Commission Manual, Open Meeting Law Manual, administrative rule making process; and explaining the difference between the Nevada Revised Statutes and Nevada Administrative Code.

Election of Officers: Tony Macaluso, Chair stated that by law the officers are elected every two years. Loretta Ponton stated that the official officers are a Chair and Secretary, the Chair has a term of 2 years and the Secretary serves at the pleasure of the Board. The current Chair is Tony Macaluso and Secretary is Larry Law. The Governor has re-appointed Mr. Law to the Board through June of 2019. Loretta Ponton recommended that the Board designate the Secretary position to serve as the Vice-Chair in the absence of the Chair, and provided a summary of the duties of the positions.

Bob Stulac stated that Tony has done a great job as Chair and Larry as Secretary and he sees no reason to make a change. There was a consensus to retain both if they are willing. Tony Macaluso call for a motion.

Larry Law made the motion, seconded by Bob Stulac to retain Tony Macaluso as Chair. The motion passed, with Tony Macaluso abstaining.

Bob Stulac made the motion, seconded by Drew Skeen to retain Larry Law as Secretary. The motion passed, with Larry Law abstaining.

Approval of the Minutes: Tony Macaluso asked if there were any comments or revisions to the minutes of the March 14, 2016 meeting. Hearing none, called for a motion. A motion was made by Larry Law, seconded by Bob Stulac to approve the minutes of the meeting of March 24, 2016. The motion passed with Erika Marquez abstaining.

Applications for Registration: Loretta Ponton stated she had reviewed the following applications for EHS trainee registration and recommends approval. All applicants have submitted the required documentation, paid the registration fees and completed fingerprinting

Ellen Messinger-Patten, Matthew Christensen, Dejen Wogayehu, Rabea Sharif, Kendra Lett

Loretta Ponton stated that the Board has not received the fingerprinting results for EHST applicant Shanae Acevedo. All other documents, and fees have been received and it is recommended Shane Acevedo's application be approved, contingent upon a receipt of a clean fingerprint result.

Applicant Diane Piar, REHS is requesting approval for registration by reciprocity. All requirements have been met for registration by reciprocity; it is recommended Diane Piar be approved for REHS by reciprocity.

A motion was made by Larry Law, seconded by Bob Stulac to approve the applications for environmental health specialist trainee registration for Ellen Messinger-Patten, Matthew Christensen, Dejen Wogayehu, Rabea Sharif, and Kendra Lett; the trainee registration for Shanae Acevedo contingent upon receipt of clear fingerprint record; and Diane Piar as a registered environmental health specialist by reciprocity. The motion passed unanimously.

Consideration of Applications as Environmental Health Specialist Trainees: Loretta Ponton stated that this item could be considered under closed session if the applicants request. Ms. Briana Johnson and Mr. Michael Touhey stated they did not wish to go into closed session.

Mr. Tony Macaluso recused himself from this agenda item as he has personal knowledge of both the individuals as they work at Washoe County. Mr. Larry Law took over the Chair responsibilities.

Loretta Ponton explained the applicants are present to explain or provide more information regarding the positive fingerprint results that were not disclosed on their applications.

Ms. Ponton stated Briana Johnson had an arrest in 2000 in Texas for possession of marijuana.

Ms. Johnson explained that the incident was while she was a minor at the age of 15 and she did not realize there was a criminal record on the incident. There have been no other arrests or criminal activity since that time.

Mr. Law asked if there were any questions; hearing none called for a motion. Erika Marquez made the motion, seconded by Bob Stulac to approve the EHST application of Briana Johnson. The motion passed.

Ms. Ponton stated Michael Touhey had an arrest in Florida for damage of property/criminal mischief.

Mr. Touhey explained that he believed you only reported if you plead guilty or no contest, the charges were dropped; the incident was over a decade ago when he was a teenager. Mr. Touhey stated he is not that person now. Ms. Ponton added that Mr. Touhey has provided proof that the charges were dropped.

Larry Law asked if there were any question; hearing none called for a motion. Bob Stulac made the motion, seconded by Drew Skeen to approve the EHST application of Michael Touhey. The motion passed.

Mr. Law turned the Chair back to Mr. Macaluso.

Contract Amendment - Lorylynn Ltd, Executive Director Services: Tony Macaluso asked Loretta to present. Loretta Ponton stated the Board contract for Executive Director Services was funded for the period September 1, 2015 through August 31, 2016. An amendment to the independent contract is necessary to continue the services through 2019.

Three options were provided by Ms. Ponton for consideration:

Option 1 to extend funding for one additional year at the same rate, \$19,800 a year;

Option 2 to extend for 3 additional years, with no increase for year 2 to remain at \$19,800, an increase to \$21,000 for year 3 and an increase to \$24,000 for the final year, for a total contract not to exceed \$84,600; or

Option 3 any combination of 1 and 2 or terminate the contract.

The Board discussed the quality and quantity of services provided and the status of the Board's finances. Mr. Macaluso stated that the Board is now in compliance with all state requirements and the office is running very smoothly.

Bob Stulac made the motion, seconded by Larry Law to approve Option 2 to amend the contract for three (3) additional years at the proposed compensation levels. The motion passed.

Administrative Office Co-location and Cost Allocation Agreement - Loretta Ponton explained that the Board's office is co-located at the Board of Occupational office space and that the Board has paid \$50.00 per month. A formal agreement for co-location is presented for Board consideration which formalizes the terms and costs to be paid by the Board. The Board of Occupational Therapy has an established cost allocation formula that results in an annual cost of \$531.00 to the Board for administrative space and shared expenses for FY 17.

Bob Stulac commented that the cost is certainly reasonable and that the Board could not afford to have a separate office.

Tony Macaluso called for a motion. Larry Law made the motion, seconded by Bob Stulac to approve the Administrative Office Co-location and Cost Allocation Agreement with the Board of Occupational Therapy. The motion passed.

Fiscal Year 2017 Budget - Loretta Ponton presented the FY 2017 Budget for consideration. Ms. Ponton explained the budget is based upon historical and projected revenue and expenses and the projections are conservative as a full year of data is not yet available.

Ms. Ponton summarized the budget line items were summarized by Ms. Ponton; revenue is projected at \$31,100 with major expenses to include pre-paid exam fees, legal fees for regulation reviews by LCB and funding for the Executive Director contract.

After discussion of the budget, Tony Macaluso call for a motion.

Larry Law made the motion, seconded by Bob Stulac to approve the FY 2017 Budget as presented. The motion passed.

Executive Director's Report: Loretta Ponton reported that she has attended the Legislative Committee on Health Care on May 18th where the Board's proposed regulation was on the agenda. There were no comments or questions on the regulation by the Committee members.

Ms. Ponton reported a meeting of regulatory board Executive Directors, lobbyists and the attorney general's office was attended where the implications of the North Carolina Board of Dental Examiners' Supreme Court Case was discussed. This case may result in legislation at the 2017 Legislative Session.

Ms. Ponton reported the Board's new website has been completed and is now active.

Ms. Ponton summarized the financial statement as of May 31, 2016 stating the current checking balance is \$38,550.83; projected FY 16 expenses are approximately \$34,000 with revenue at \$28,575. The Board's increased fee structure was not effective until November, 2015, the revenue includes fees for the entire period.

After discussion of the financial statements, Tony Macaluso called for a motion.

Bob Stulac made the motion, seconded by Larry Law to accept the Executive Director's report and financial statements. The motion passed.

Report from Board Chair: Tony Macaluso asked for available dates for the next Board meeting. The meeting of the Board was set for September 12, 2016 by teleconference, with access at the Board administrative office and Southern Nevada Health District.

Report from Legal Counsel: Heena Rasul stated she had nothing to report.

Public Comment: There was no public comment.

The meeting adjourned at 12:19 p.m.