

MINUTES
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240
Phoenix, AZ 85007

Tuesday September 25, 2018
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL** - Dr. Alejandro Angel, Stephen Noel, Jason Foose, Jason Madison, Jack Gilmore, Carmen Wyckoff , Andrew Everroad, Neal Jones, Eugene Montgomery
Staff: Melissa Cornelius, Patrice Pritzl, Douglas Parlin, Kurt Winter

3. **CALL TO THE PUBLIC**

No one appeared before the Board.

4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject, August 28, 2018 Board meeting minutes.

Mr. Noel moved and Mr. Foose seconded to approve the minutes; motion carried. Mr. Montgomery and Ms. Wyckoff abstained.

- B. Approve, modify and/or reject, August 28, 2018 Board Executive minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes; motion carried. Mr. Montgomery and Ms. Wyckoff abstained.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

Formal Hearings or Related Proceedings will begin at 9:30 a.m.

- A. Review, Discussion and Take Possible Action to Close a Matter Pending Hearing

1. AL15-009 Secure Link, Inc. #18370, Adam Scrivner Controlling Person #55886

Ms. Pritzl explained that, unlike some other agencies, the Board lacks language in its rules stipulating that the Board could not cancel a Respondent's registration during the course of an investigation or hearing. Therefore, Staff requested that the Board administratively close all four matters under Agenda 5 since the Board had cancelled the registration of all four respondents after they failed to renew.

Dr. Angle asked what the Board's option would be if any of the four respondents reapplied. Mr. Donald answered that the Board could deny granting registration or grant registration and immediately move forward with a hearing.

Mr. Madison moved and Mr. Jones seconded to consent items 5a1, 5a2, 5a3 and 5a4 and administratively close the matters: motion carried. Vote was unanimous.

2. HI15-021 Travis Russell, Home Inspector, #55760

See 5A1

3. P17-073 Andrie Neiciulescu, Engineer/Civil,#49559

See 5A1

4. HI17-028 Vince Sferruzza, Home Inspector, #60003

See 5A1

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Letters of Concern:

1. HI18-038, Robert Budinoff, C.H.I. #64401

Respondent appeared before the Board.

Mr. Madison moved and Mr. Foose seconded to issue a Letter of Concern; motion carried. Vote was unanimous.

B. Complaints Proposed for Resolution with signed Consent Agreements:

1. AL18-009, Matthew Willes, Alarm Controlling Person #55648 and Protection Source LLC, Alarm Business #18236

Mr. Madison moved and Mr. Jones seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

2. HI19-002, Jeffrey Lematta, C.H.I. #43208 and Lematta Home Inspections, Firm #15326

Mr. Jones moved and Mr. Gilmore seconded to accept signed Consent Agreement; motion carried. Vote was unanimous.

C. Complaints Proposed to Offer Consent Agreement:

1. P18-071, Rudolfo Chapa, Non-Registrant and Centrix Engineering, Non-Registrant Firm

Investigator Will stated that Respondent disagreed with the allegation that he was required to register with the Board. Mr. Montgomery and Mr. Madison commented that the Respondent's analysis in this matter did not rise to the level associated with a Board regulated professional but they did consider Respondent's subsequent drawing of conclusions did constitute the practice of a Board regulated profession.

Mr. Madison moved and Mr. Montgomery seconded to offer the proposed Consent Agreement and, if not signed within 30 days, proceed to hearing: motion carried. Vote was unanimous.

2. AL18-010, Tanner Jeffrey Haas, Non-Registrant

Investigator Will informed the Board that he had lost contact with Respondent. Mr. Madison asked if Respondent still worked for Protection Source LLC. Investigator Will answered 'no.'

Mr. Everroad moved and Mr. Gilmore seconded to offer the proposed Consent Agreement and, if not signed within 30 days, move to hearing: motion carried. Vote was unanimous.

3. HI18-032, David Peters, C.H.I. #39925 and Lighthouse Home Inspection Service, Firm #12388

Respondent appeared before the Board.

Mr. Everroad moved and Mr. Foose seconded to accept the signed Consent Agreement: motion carried. Vote was unanimous.

D. Complaints Proposed for Formal Hearing:

1. HI18-033, Steven Bartolomei, C.H.I. #39977

The Board asked staff if Respondent had signed the proposed consent agreement offered at the August 2018 meeting. Investigator Will answered 'no.' Mr. Madison asked if there was a way the Board could summarily suspend Respondent's registration until the conclusion of this matter's hearing. Mr. Donald answered 'yes,' stating that the Board could do so through a hearing proceeding but further stated that the Board would have the burden of proof that Respondent was a danger to the public. Mr. Everroad asked Mr. Donald when a hearing could take place. Mr. Donald answered that a hearing could take place after the October Board meeting. Ms. Cornelius stated that the hearing could take place in front of the Board or the Office of Administrative Hearing.

The Board directed Staff to establish a date and time for a hearing before the Board sometime in November 2018.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration after Full Board Review

A. Markee, Kyle- Application for Registration as a Professional Architect #181950

Ms. Cornelius stated that Applicant was technically qualified for registration and that other state boards had granted him. Dr. Angel stated he was not concerned with Applicant's misdemeanor but was concerned that Applicant lied on this application. Dr. Angel asked whether staff knew if the other state boards were aware of this violation. Ms. Cornelius answered she did not know. Mr. Madison expressed his concern that Applicant lied on his application and was not forthcoming when Staff subsequently requested an explanation from him regarding why he failed to explain his failure to disclose his 2016 arrest and deferred prosecution for Indecent Exposure.

Mr. Jones moved and Ms. Wyckoff seconded to deny registration; motion carried. The Board took a roll call vote. Vote was unanimous.

B. Cobb, Bradley- Application for Certification as a Home Inspector #18190

Applicant appeared before the Board.

Dr. Angel asked Applicant if law enforcement had arrested him since 2010. Applicant answered 'no.' Mr. Everroad asked if a class D felony was severe. Mr. Donald answered that he believed it to be a low severity felony. Mr. Madison noted that Applicant still needed to register as a sex offender for the next three years and was concerned with the public's perception of the Board if they granted the application.

Mr. Everrod moved and Mr. Gilmore seconded to grant registration: motion carried. Mr. Madison voted Nay.

8. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on Staff Recommendations for the following:

1. Cancellation of registrations and certifications that have been expired for one full renewal period;

Mr. Jones moved and Mr. Gilmore seconded to cancel registrations and certifications that had been expired for one full renewal period; motion carried. Vote was unanimous.

2. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § § 32-122.05, 32-122.06, and A.R.S. § 32-123.

List available for public review upon request.

9. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

A. Possible legislation to amend ARS 127 (C) regarding cancellation of registration

Mr. Donald explained that, with current laws, after the Board canceled a respondent's lapsed registration, the Board lost jurisdiction over the respondent, cannot proceed with any pending hearings, and, must administratively close the matter. An amendment to the statute would give the Board indefinite jurisdiction over respondents. Ms. Pritzl stated that an amendment would help guarantee public notice. Ms. Cornelius agreed but was hesitant to include the amendment in the next legislative session since it could detract from the Board's licensure through endorsement bill. Mr. Madison stated his only concern was having cases open indefinitely with no means of closing them.

The Board directed staff to place this matter before the next L&R committee.

B. Petition to amend R4-30-102(2) Definition of Parallel Inspector

Mr. Leeds, Mr. Dimit and Mr. Smith appeared before the Board.

Mr. Smith argued that the new rule was burdensome to his business, his employees and was a disservice to those seeking licensure as home inspectors since the rule deprived them of the education and experience that his employees provided prior to the new rule. Mr. Jones asked if the new rule affected the other two home inspector schools. Mr. Smith answered that only his school offered parallel inspections as part of the school program.

Mr. Leeds argued that the HIRSC did not arbitrarily add the five-year requirement to be a parallel inspector. The requirement came about through years of discussion, comparison with the standards to become a member of ASHI, the Board's EACs and the HIRSC, and the data backed conclusion that home inspectors were not sufficiently completing home inspection reports to the home inspector standards.

Mr. Dimit argued that the new rule was burdensome for those living in rural areas, both applicants and employers. Mr. Leeds stated that this was not a new issue and that applicants were seeking state licensure so the requirements must be the same statewide.

Ms. Cornelius reported that registered home inspectors made up 3% of the registrant population but made up 34% of the complaints. Furthermore, she stated that 18% of applicant parallel inspections submitted to staff do not meet the standards and staff must send these reports back to applicants for resubmission.

Mr. Smith asked if it were possible for parallel inspectors to be certified. Dr. Angel opined that it would exacerbate the situation. Mr. Smith asked that the Board consider a grandfather clause to the new rule. Dr. Angel asked Mr. Smith how many of his six trainers had over 250 paid inspections. Mr. Smith answered five.

Ms. Pritzl handed out figures to the Board members, which indicated that home inspectors that met the current parallel inspector requirement made up just over half of the active registered home inspector population. Mr. Jones asked Mr. Leeds what he thought about those numbers. Mr. Leeds answered that the numbers were a good indication that many of the issues he raised earlier would be fixed. Mr. Foose asked if a newly registered home inspector was minimally qualified. Mr. Leeds answered that the Board should not consider a home inspector the Board recently granted to be minimally qualified to be a parallel inspector.

Dr. Angel opined that five years seemed excessive but agreed that a minimum period registered with the Board should be required. Ms. Wykoff asked why the new rule included the requirement that a parallel inspector not have disciplinary action over the last three years and not five years. Mr. Leeds answered that there was a precedent.

Mr. Donald stated that, per the new statute allowing the public to submit a petition regarding a possibly burdensome rule, the Board needed to consider whether the rule was specifically burdensome for those seeking licensure and not so much those outside entities.

Mr. Smith commented that he did not receive notice about the Notice of Proposed Rule Changes. Dr. Angel stated that the Board gave proper notice of the rule changes. Mr. Foose asked what the expectations were for giving notice. Mr. Donald explained. Ms. Wykoff asked for clarification of what actions the Board could take regarding this matter. Mr. Donald explained the Board could deny the petition with a letter explaining their justification or begin the rule making process to change the rule. Mr. Foose asked if Mr. Smith's email was in fact a petition. Mr. Smith answered 'yes.' Mr. Montgomery stated that it was too soon after the rule change to know how it would affect the profession. Dr. Angel opined that the five-year requirement was arbitrary. Mr. Foose opined that the rule was fine as written but wished to respect the petition. Mr. Everroad asked would the Board need to re-justify the rule if they denied the petition. Mr. Donald answered that the Board must give a reason for the denial. Mr. Foose asked what would be the costs associated with a rule change. Mr. Donald stated that cost was irrelevant to this matter. Dr. Angel asked if there was time for staff to collect data before the next Board meeting to help the Board better determine whether the five-year requirement was merited. Mr. Donald answered 'yes.'

The Board directed staff to compile data regarding this matter and to table this matter for the October board meeting.

The Board took a break at 11:50am. The Board returned at 12:00pm.

- C. HIRSC’s recommendation that the Board allow the HIRSC to review EAC recommendations for ‘severe’ disciplinary measures prior to sending them to the Board for Action.

Dr. Angel asked Mr. Leeds for his and the HIRSC’s opinion on this matter. Mr. Leeds stated he was not a fan of additional steps to the investigative process, but other members of the HIRSC were for the approval of this change. Mr. Everroad commented that the HIRSC recommended this to the Board in lieu of not having a home inspector member on the Board. Dr. Angel asked if the Board could supply the HIRSC with a report detailing any cases that received disciplinary action instead of sending EAC recommendations to the HIRSC for review. Mr. Leeds indicated that he and the HIRSC would be content with that.

The Board directed staff to compile a list of cases against home inspectors that ended in disciplinary action for staff to present at each subsequent HIRSC meeting.

10. DIRECTOR’S REPORT & DISCUSSION

- A. Budget Update

Nothing discussed.

- B. Previous Meeting Follow-Up

- a. Computer System

Nothing discussed.

- b. Status of Breach Complaint

Nothing discussed.

- c. Legislation, Licensure by Endorsement

Nothing discussed.

- d. Member Appointments

Ms. Cornelius reported that she did not have any new information regarding replacements for Mr. Madison or Dr. Angel.

- C. Director’s Meetings

- a. ASET Engagement Manager

Nothing discussed.

b. Women in Transportation Conference

Nothing discussed.

c. HIRSC request to authorize a letter to the ROC regarding home builders limiting their ability to conduct lawful home inspections

Ms. Cornelius reported that the HIRSC requested staff write a letter to the ROC regarding homebuilders limiting their ability to conduct lawful home inspections. Board members agreed that a letter was required and directed staff to draft the letter.

D. Statistics Review

Nothing discussed.

11. BOARD CHAIR'S REPORT – Nothing to consider

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee – Possible meeting in October.
- B. Home Inspector Rules and Standards Committee – September 12, 2018 Meeting

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Annual Meeting in Monterrey in October.
- B. CLARB – Annual Meeting in Toronto in September.
- C. NCARB – New Ethical Guidelines
- D. NCEES – Allegation against NCEES that the FE Exam was biased against women

14. FUTURE BOARD MEETINGS – October 23, 2018, 11-19-2018
15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.
ABET, Outreach program
16. MEETING ADJOURNMENT – 12:41pm



JASON E. FOOSE V. CHAIRMAN - ACTING CHAIR

Melissa Cornelias, Executive Director


