

**MINUTES OF THE MEETING OF THE  
STRUCTURAL PEST CONTROL BOARD**

The Meeting was held July 22 & 23, 2015 at the Sheraton Ontario Hotel Airport, Orchid Room,  
429 North Vineyard Avenue, Ontario, California.

**Board Members Present:**

Dave Tamayo, President  
Curtis Good, Vice President  
Ronna Brand  
Mike Duran  
Marisa Quiroz  
Cliff Utley

**Board Members Absent:**

Naresh Duggal

**Board Staff Present:**

Susan Saylor, Executive Officer  
Robert Lucas, Assistant Executive Officer  
Kathy Boyle, Chief Enforcement Officer  
David Skelton, Administrative Analyst

**Departmental Staff Present:**

Kurt Heppler, Legal Counsel  
Frederic Chan-You, Legal Counsel

**Wednesday, July 22, 2015**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the Meeting to order at 1:01 P.M. and Ms. Saylor called roll.

Board members, Tamayo, Good, Brand, Duran, Quiroz, and Utley were present.

Board member Duggal was absent.

A quorum of the Board was established.

## **FLAG SALUTE / PLEDGE OF ALLEGIANCE**

Mr. Tamayo lead everyone in the flag salute and recitation of the Pledge of Allegiance.

## **PETITION FOR REINSTATEMENT –**

### **BRADLEY KENDRICK / FR 45047, BRANCH 2 AND RA 48245, BRANCH 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Reinstatement for Bradley Kendrick, Field Representative License Number 45047 and Applicator License Number 48245. Mr. Kendrick was informed that he would be notified by mail of the Board's decision.

## **PETITION FOR MODIFICATION / TERMINATION OF PROBATION**

### **JAIME CHAVEZ / OPR 11254, BRANCHES 1 AND 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Modification / Termination of Probation for Jaime Chavez, Operator License Number 11254. Mr. Chavez was informed that he would be notified by mail of the Board's decision.

## **PETITION FOR REINSTATEMENT**

### **HERNANDO BARRIOS / OPR 10090 BRANCHES 2 AND 3**

Administrative Law Judge Kimberly Belvedere sat with the Board to hear the Petition for Reinstatement for Hernando Barrios, Operator License Number 10090. Mr. Barrios was informed that he would be notified by mail of the Board's decision.

## **CLOSED SESSION**

Pursuant to subdivision (c) (3) of section 11126 of the Government Code, the Board met in closed session to consider proposed disciplinary actions, stipulated settlements, and petitions for modification / termination of probation and reinstatements.

## **Return to Open Session**

## **ADJOURNMENT**

The Meeting adjourned for the day at 5:39 P.M.

**Thursday, July 23, 2015**

**ROLL CALL / ESTABLISHMENT OF QUORUM**

Mr. Tamayo called the Meeting to order at 8:00 A.M. and Ms. Saylor called roll.

Board members, Tamayo, Good, Brand, Duran, Quiroz, and Utley were present.

Board member Duggal was absent.

A quorum of the Board was established.

**FLAG SALUTE / PLEDGE OF ALLEGIANCE**

Mr. Tamayo lead everyone in the flag salute and recitation of the Pledge of Allegiance.

**PUBLIC HEARING: TITLE 16, DIVISION 19, CALIFORNIA CODE OF REGULATIONS  
ADDING SECTION 1960, TO REQUIRE FINGERPRINT BACKGROUND CLEARANCE FOR  
ALL LICENSEES NOT ALREADY FINGERPRINTED UPON RENEWAL; AMENDING  
SECTIONS 1936, 1936.1, AND 1936.2, TO UPDATE AND REVISE THE OPERATOR, FIELD  
REPRESENTATIVE, COMPANY REGISTRATION AND APPLICATOR APPLICATIONS; AND  
AMENDING 1970.4 TO ALLOW THE OCCUPANT FUMIGATION NOTICE TO BE  
AVAILABLE IN ELECTRONIC FORMAT**

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Utley asked if the proposed fingerprint requirement would apply to individuals who work in the pest control industry but do not hold a license.

Ms. Saylor stated that the proposed fingerprint requirement would apply only to individuals who hold a license and who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check.

Mr. Duran asked if individuals who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check could do so at any time after the regulation became effective or if they would need to wait until the time of renewal to do so.

Ms. Saylor stated that individuals who have never submitted a set of fingerprints for the purposes of conducting a criminal history record check could do so any time after the regulation becomes effective.

Mr. Tamayo asked if there was any public comment for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

No further comments were received for the proposed regulatory addition of Section 1960 of Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal.

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

No public comment was received for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure.

Mr. Tamayo outlined the nature of the proceedings for the public hearing for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mr. Tamayo opened up the floor to public comment regarding the proposed regulatory change to Section 1970.4 to Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mike Katz, Western Exterminator Company stated his support for the proposed regulation citing the benefits of bringing regulations up to date with what modern technology allows.

Sam Tutton, Ecoskan Pest Solutions voiced his support for the proposed regulation stating that both consumers and pest control companies benefit from allowing modern technology to be employed.

Dr. Hanif Gulmahamad stated his support for the proposed regulation but also expressed concern that the County Agricultural Commissioners would not accept the Occupant Fumigation Notice in electronic format.

Lee Whitmore, Beneficial Exterminating, stated his support for the proposed regulation specifically mentioning the added convenience of storing, filing, and presenting documents electronically.

Mr. Heppler stated for the record that although the proposed regulation allows for an electronic copy of the Occupant Fumigation Notice to be present at the time the fumigant is released, it does not require it and that people who wish to continue keeping a written copy present may do so.

Dr. Hanif Gulmahamad expressed his support for continuing to allow a written copy of the Occupant Fumigation Notice to be present at the time the fumigant is released.

Mr. Utlely voiced his support for the proposed regulation stating that the increased convenience afforded by allowing an electronic copy of the Occupant Fumigation Notice to be present will benefit both consumers and the pest control industry.

No further comments were received for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released.

Mr. Good moved and Mr. Utlely seconded to approve the proposed language for the proposed regulatory addition of Section 1960 to Division 19, Title 16 of the California Code of Regulations to require applicants for renewal of licensure who have not previously been fingerprinted to do so as a condition of license renewal and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utlely. NOES: None. ABSTENTIONS: None.)

Mr. Utlely moved and Mr. Duran seconded to approve the proposed language for the proposed regulatory changes to Sections 1936, 1936.1, and 1936.2 to Division 19, Title 16 of the California Code of Regulations to update the Board's applications for licensure and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utlely. NOES: None. ABSTENTIONS: None.)

Ms. Quiroz moved and Mr. Utley seconded to approve the proposed language for the proposed regulatory change to Section 1970.4 of Division 19, Title 16 of the California Code of Regulations to allow for an electronic copy of the Occupant Fumigation Notice to be present at the time a fumigant is released and for the Executive Officer to prepare and submit the final rulemaking package. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Baron McDonald, Clark Pest Control, asked the Board to set an agenda item for the October 2015 meeting to discuss the mandatory thirty day waiting period for applicants to re-take an examination if they fail.

#### **APPROVAL OF THE MINUTES FROM THE MARCH 25 & 26, 2015 BOARD MEETING**

Mr. Duran moved and Mr. Utley seconded to approve the Minutes of the March 25 & 26, 2015 Board Meeting. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **EXECUTIVE OFFICER'S REPORT**

Ms. Saylor reported to the Board on licensing and enforcement survey results and statistics, staffing changes, WDO statistics, examination development, occupational analysis, and legislative and regulatory updates.

Martyn Hopper, Pest Control Operators of California (PCOC), provided the Board with a summary and a status update on Senate Bill 328 (Hueso) and Assembly Bill 551 (Nazarian) and stated that PCOC supports both.

Mr. Utley asked if the Board was actively investigating whether WDO inspection reports were being properly filed.

Ms. Saylor stated the Board runs quarterly reports on the proper filing of WDO inspection reports and that their investigation is ongoing and will continue.

Lee Whitmore, Beneficial Exterminating, asked if the Board could differentiate individual complaints when multiple complaints are filed at the same time and also stated that all of his interactions with Board staff have been pleasant and handled professionally.

Ms. Saylor stated that staff would look into differentiating individual complaints when multiple complaints are filed at the same time and thanked Mr. Whitmore for his comments regarding the conduct of Board staff.

## **PRE-TREATMENT COMMITTEE UPDATE**

Ms. Saylor updated the Board on the progress of the Pre-Treatment Committee stating that they met on April 15, 2015 and directed staff to gather specific data to be presented at a future meeting.

## **PRESENTATION, DISCUSSION AND CONSIDERATION OF CONTINUING EDUCATION (CE) INTEGRATED PEST MANAGEMENT REVIEW COMMITTEE RECOMMENDED CHANGES TO CURRENT CE REGULATIONS**

Darren Van Steenwyk, Chairman, SPCB CE IPM Review Committee, presented the recommendations (shown in Board Materials) of the CE IPM Review Committee to the Board.

Mr. Utey stated that requiring each CE category to contain a percentage of the overall hour requirement could lead to confusion and that a concrete hour requirement for each category would be preferable.

Mr. Utey asked if the Committee envisioned the proposal as a statutory or regulatory change and if it would be possible to add new subject matter into the proposed CE categories as it becomes relevant.

Mr. Tamayo stated that the proposal was intended to be implemented as a regulatory change that staff and legal counsel would draft and steer through the rulemaking process.

Mr. Good emphasized the importance of industry outreach when implementing this proposal and asked if there was discussion about a CE course that outlined the CE requirements for licensees.

Mr. Van Steenwyk stated that a CE course outlining the CE requirements for licensees was discussed and that the proposal was purposefully left broad for staff to figure out the most effective means of industry outreach.

Dr. Gulmahamad asked why the Laws and Regulations was limited to 3 hours per renewal cycle.

Mr. Van Steenwyk stated that the Committee felt that there was not enough meaningful content for the requirement to be larger than 3 hours in the Laws and Regulations category.

Mr. Whitmore stated that not having a branch specific Application and Intervention category is a step back and that as proposed, licensees could get CE that doesn't apply to their license.

Karey Windbiel-Rojas, UC IPM, expressed her support for the proposal stating that the increase in the IPM requirement will benefit consumers.

Mr. Tamayo thanked Mr. Van Steenwyk for his chairmanship of the Committee.

Mr. Duran moved and Ms. Brand seconded to approve the proposal of the CE IPM Review Committee and for staff to draft the regulatory language, with the incorporation of a branch specific requirement in the Application and Intervention category, and bring it back before the Board for approval. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **PRESENTATION, DISCUSSION AND CONSIDERATION OF PROPOSED RECOMMENDED CHANGES TO THE BOARD'S DISCIPLINARY GUIDELINES; CONSIDERATION OF REGULATORY AMENDMENTS**

Mr. Lucas presented to the Board the recommended changes to the Disciplinary Guidelines and explained that the goal was to provide more clarity for Board Members and Administrative Law Judges when imposing discipline.

Mr. Good moved and Mr. Utley seconded to approve the recommended changes to the Board's Disciplinary Guidelines and to direct staff to begin the rulemaking process and set a public hearing. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

#### **DISCUSSION AND REVIEW OF QUALIFYING MANAGER'S RESPONSIBILITIES**

The Board discussed their previously approved recommended changes to B&P Code Section 8506.2 and considered what, if any, additional amendments might be made.

The Board made no changes to their previously approved recommended changes to B&P Code Section 8506.2.

Mr. Tamayo offered his help in finding an author to include the Board's recommended changes in a Bill during the 2016/2017 Legislative Session.

Ms. Saylor thanked Mr. Tamayo and stated that during the 2016/2017 Legislative Session Senator Hueso could possibly be an option to author a Bill incorporating the Board's recommended changes.

#### **DISCUSSION OF LEGAL COUNSEL OPINION OF THE BOARD'S INVOLVEMENT IN DEVELOPMENT OF EXAMINATION STUDY GUIDES**

Mr. Chan-You presented his legal opinion that while the Board cannot participate in the production of an examination study guide, it also cannot prevent a third party from creating one, provided that no examination subversion occurs.

Robert Baker, PCOC, stated that currently the Board uses too many, and conflicting source materials in exam creation and it makes the creation of a third party study guide impractical. Mr. Baker further stated that the Board should consider using one comprehensive source book, in conjunction with the Structural Pest Control Act, to produce examination questions.



Mr. Chan-You advised the Board that the discussion of the source material used to create examination questions was outside the scope of the agenda and would need to be discussed at a future meeting so the topic could be properly noticed.

### **REVIEW AND CONSIDERATION OF STYLE OPTIONS FOR STRATEGIC PLAN WITH SPCB LOGO**

Ms. Saylor presented to the Board the final version of the Strategic Plan for their approval.

Mr. Duran moved and Ms. Brand seconded to approve the Strategic Plan. Passed unanimously. (AYES: Tamayo, Good, Brand, Duran, Quiroz, Utley. NOES: None. ABSTENTIONS: None.)

### **BOARD CALENDAR**

The next two meetings were previously scheduled for October 7 & 8, 2015 in Sacramento and January 13 & 14, 2016 in San Diego.

The following two meetings were scheduled for April 6 & 7, 2016 in Sacramento and July 13 & 14, 2016 in Ontario.

### **FUTURE AGENDA ITEMS**

The following items were identified as topics to be included on future agendas.

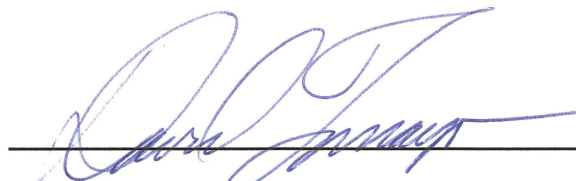
Examination study guides and examination construction including the source material used.

CE IPM regulatory language for Board approval.

Mandatory 30 day waiting period between examinations for applicants who fail.

### **ADJOURNMENT**

The meeting was adjourned at 10:31 A.M.

  
Dave Tamayo, President

  
Date