

Minutes
Louisiana Committee of Certification
May 24, 2012
Department of Health and Hospitals
Baton Rouge, Louisiana

Meeting was called to order at 10:02 am.

ROLL CALL:

A. Determination of Quorum.

Committee Members in attendance:

Craig Gautreaux (Chairman), David Wittner (Vice-Chairman), Grant Magnon, Tom Owens, Dennis McGehee, Mayor Glenn Brasseaux, Dirk Barrios, and Jake Causey.

A quorum was achieved.

Recognition of Visitors and Others:

DHH-OPH staff in attendance was Jim Mooring.

Visitors were: Curtis Davis, Greg Shelden, Tom Walton (LA Conference), B.J. Francis, Camille Mize and Henry Templet.

B. Announcements: There were no announcements.

MINUTES:

The minutes from the November 3, 2011 and December 1, 2011 meetings were distributed and reviewed. A motion to accept was made by Mayor Brasseaux and was seconded by Dirk Barrios. Minutes were approved.

The meeting scheduled for March 12, 2012 was not held due to the lack of a quorum.

CHAIRMAN'S REPORT:

Craig Gautreaux reported that Dr Guidry had revoked the certifications of John Pruett and Mario Papadopoulos. He also reported that the former's conviction appeal was overruled and that the latter had filed an administrative appeal. David McKay, the DHH attorney, will be handling this matter.

ADMINISTRATOR'S REPORT:

After a few words of introduction and background information, Jim Mooring reported that the issue with the computer program which had prevented the Op Cert program from closing out the 2010-2011 certification cycle had been resolved well enough to close out the cycle. Renewal invoices were mailed on May 4, 2012 with a June 1, 2012 due date. Dr. Mooring also informed the Committee that, due to the uncertain time frame regarding the sending of renewal notices, Op Cert's policy of withholding certificate upgrades until receipt of renewal payment had been, temporarily, suspended. This was done so that operators would not be forced to wait indefinitely for certificate upgrades which are often required to receive pay raises. This has led to a few operators questioning the need to renew a certificate of a lower class than the one currently held. Generally they understand after an explanation. The Committee was informed that they may receive inquiries regarding this. Mr. Wittner asked about invoices received which did not include all of the licenses held. The Administrator explained that it is the understanding of the Op Cert program that Class 1 certificates, and any subsequent certificates of the same type received in the last six months of the certification cycle, are exempt from renewal. Some of the committee members stated that it is their belief that these certificates are exempt from the CEU requirement but not from payment. Other's shared the Program's understanding. Dr. Mooring stated that the computer program was designed to reflect Op Cert's understanding. Mr. Wittner expressed concern that at a later time an operator may lose certificate(s) due to this. He was assured that will not happen. Jake Causey suggested that this issue be re-visited for the next renewal period. Mr. Magnon stated that he found some confusion regarding the "hours report" on the Op Cert website. He said that it gives the impression that the hours are up to date when they are clearly not. Tom Walton stated that LA. Conference has not submitted their sign in sheets from March because they are formatting them to be more easily entered into the Program's database. The Administrator indicated that he would check with Steve Hoss regarding this.

Dr. Mooring informed the Committee that the renewal invoices were posted to the web site and may be obtained from there. Mr. Causey stated that the issue with the program seemed to be that the design logic was based on points. After meeting with the contractor and explaining the logic behind certificate renewal the major issues appear to be resolved. The Administrator related that it is probable that renewal invoices will be able to be sent to eligible operators beginning in July of the last year of the cycle.

Next he directed attention to the two letters from operators requesting an extension of time to gain CEU's. Phillip Leon's request was to have been discussed at the March meeting. Given the time-sensitive nature of the request Mr. Gautreaux directed the Administrator to grant an extension through July. A motion to uphold the Chairman's decision was made by Mr. Magnon and seconded by Mayor Brasseaux. After much discussion the motion carried. The next letter was from Steven Bass. A motion to deny

an extension was made by Mayor Brasseaux and seconded by Mr. Magnon. After discussion the motion carried.

The Administrator next discussed the Program's policy regarding high school diplomas and GED certificates. The Committee was informed that administration of Adult Education (GED) has been transferred from BESE to the LA Community and Technical Colleges System. After discussion with these entities the administrator was assured that no high school diploma or GED may be obtained by distance learning. The existing Op Cert policy of accepting State approved high school or GED, only, will remain in effect.

TRAINING OFFICER'S REPORT

Steve Hoss was not present at the meeting so Jim Mooring provided the documents prepared by Steve.

The Committee was informed that 4 exams have been given in 2012 to date. The reports provided reflect the first 3. Tom Walton asked which exam has the lowest pass rate; Water Distribution 4 has a pass rate of 33% with Wastewater Treatment 3 having a 38% pass rate and Water Treatment 3 having a 39% pass rate. James informed the Committee that Steve is working on updating exams.

SECRETARY'S REPORT

Jake Causey began by referencing the recent hearings and his role as a committee member. He remarked that he did not vote during the hearings as he had been involved in the investigation. He addressed his role as an ex-officio member and that the term refers to the method in which he became a member. He stated that the term does not define the role or rights of an ex-officio member. His position as Secretary is by statute. He affirms that he is an officer and a voting member of the Committee. This opinion was supported by the DHH attorney, David McCay. The attorney also expressed some concern regarding Mr. Causey's position as a voting member and his role in a DHH investigation. To that end Mr. Causey will not participate in an investigation, rather Caryn Benjamin, the Deputy Chief Engineer, will coordinate investigations. Mr. Causey will hear the facts along with the other Committee members.

Next, the Secretary stated that he and the attorney had met with Dr. Guidry to present the Committee's recommendations regarding Pruett and Papadopoulos. Mr. McCay presented Dr. Guidry with statutory language which states that the State Health Officer may take action based upon the recommendation of the Committee of Certification. Dr. Guidry believed that, based on statutory language, he may either do nothing or take the action recommended by the Committee. Dr. Guidry felt that this prevented him from implying a stiffer penalty such as permanent revocation of certifications. Mr. Causey stated Dr. Guidry's position that either he should be able to exercise discretion concerning disciplinary actions; or these actions should fall completely to the Committee. He suggested that this be addressed by statutory changes and that the Committee and

legal counsel should consider this in the upcoming year. There was discussion concerning this with the Committee believing that their recommendations do not limit the State Health Officer. Mr. Causey reiterated that it is DHH counsel's opinion that the statute is written in such a way as to limit the Health Officer's options and that statutory language should be changed to reflect the Committee's desire to act in an advisory capacity. The Committee expressed agreement. The Secretary advised that the Committee may be receiving more operators for consideration. This led to a discussion regarding the decision to transfer responsibility for collection of Bac-T samples from DHH to the systems. There was a belief that DHH would no longer analyze these samples. Mr. Causey affirmed that DHH will continue to analyze the samples. He went on to explain that the Collection of Bac-T samples cannot be charged to the federal grant. The drinking water fee provides 4.5 million dollars annually to the Safe Drinking Water Program(SDWP) which provides for: chemical sample collection and analysis, bacterial sample analysis, radiologicals, plan reviews, sanitary surveys, compliance monitoring and enforcement. The total cost for these activities is approximately 7.5 million dollars annually. There is a 1.4 million dollar Public Water System Supervision Grant. The collection of Bac-T samples costs \$1.4 million per year which is 100% paid for from the State General Fund. The Secretary affirmed that the \$4.5 million from the drinking water fee is completely exhausted annually by the SDWP and that costs exceed the funds available. He stated that the fee would have to be increased to approximately \$4.20, assuming that the systems continue to retain only \$.32, in order to generate the \$1.4 million cost of Bac-T sample collection.

Next Mr. Causey addressed the Op Cert budget. He stressed the need to increase fees and reminded the members that an attempt to introduce legislation to that end failed last year. This year the fee proposal was pursued but upon polling the Commerce Committee it was discovered that only about 30% of the members would support an increase. This was consistent for many entities seeking to increase fees. Mr. Causey then explained that Op Cert generates approximately \$55,000 in fees during non-renewal years and approximately \$155,000 in fees during renewal years. The 3 salaries, without benefits, are approximately \$190,000. This doesn't take into account supplies, travel and allocated costs including IT and executive overhead. The fees are severely deficient to cover the cost of the program. In years past funds from the State General Revenue were put into the program to cover the cost. He stated the Expense Reimbursement Grant, which the program received approximately 10 yrs ago and which has been covering a large percentage of the Op Cert staff salaries, will expire on 12/31/2012. The amount remaining for the next fiscal year will not be sufficient to cover costs through December. He stated that Op Cert was informed that there will be no state funds to cover costs. The Drinking Water Revolving Loan Fund Program receives an annual Capitalization Grant with some set-aside funds which can be used to support several activities. Funds from this can be used to help fund Op Cert for fiscal year 2013 only. He warned that if there is no fee increase next year and if there continues to be no State Funds available the program will be severely impacted. He encouraged that, if legislation is proposed for fee increases, those in the industry may consider voicing their opinion regarding it. He also reminded that if LA has no Op Cert Program the state will lose primacy for the Safe Drinking Water Program and will forfeit about \$16 million. The Chairman asked how

the fee change concerning the discontinuation of “blanket” fees came about. It was discussed that prior to the middle of last decade, fees could be changed by rule. Post this time, fees must be changed by the legislature.

The Secretary next stated that, by law, the revenues for the Committee are to be deposited into a separate account. This has not been done in the past. The issue with the revenue being deposited with DHH is that there is considerably more revenue every other year and that DHH cannot carry these over from one fiscal year to another. He explained that statutory dedications exist whereby funds are deposited into dedicated accounts and they remain there to cover expenses in lower revenue periods. He has made contact to inquire about depositing the Committee’s funds into a dedicated account. Also, when fee increases are proposed, a two year cost must be considered, given the constant disparity of revenue every two consecutive years. He believes the knowledge that revenues will be deposited into a separate account may make the industry more comfortable with fee increases. Mayor Brasseaux expressed his opinion that a fee increase will be opposed by LMA and perhaps the Police Jury Association. He suggested that educating those impacted is critical and he agreed that depositing revenue into a dedicated account may ease concerns. Mr. Causey agreed that education is critical.

The Secretary addressed election of officers stating his understanding that elections are to occur each year for the two officer positions. Mr. Causey next made a motion that a nominating committee be appointed to nominate candidates for the two officer positions. Mayor Brasseaux seconded the motion. The motion carried and The Secretary and the Chairman agreed to serve as the Nominating Committee.

ADJOURNMENT

The meeting was adjourned at noon.

The next Committee of Certification meeting will be held on Monday, July 16th at 2:00pm in the Magnolia and Camellia Rooms of the Best Western Hotel of Alexandria, in conjunction with the LRWA Conference.