

**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
MINUTES FOR REGULAR SESSION MEETING**

Tuesday, June 23, 2020, beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL**

Appeared Telephonically: Stephen Noel, Dr. Alejandro Angel, Carmen Wyckoff, Clarence McAllister, Andrew Everroad, Eugene Montgomery

Present: Jack Gilmore, Neal Jones

Absent: Jason Foose

Staff: Melissa Cornelius, Patrice Pritzl, Kurt Winter, Douglas Parlin, Robert Stam

AAG: Scott Donald, Deanie Reh (telephonic), Michael Raine

3. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

A. Board Meeting Minutes

1. Approve, modify and/or reject, May 26, 2020 Board meeting minutes

Mr. Jones moved and Mr. Gilmore seconded to approve the minutes; motion carried unanimously.

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

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

A. Review, Discuss and Take Possible Action on Motion to Administratively Close Hearing:

1. P18-050, Padilla, Carlos, non-registrant Land Surveyor

Ms. Reh, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Ms. Reh explained that Pinal county had filed criminal charges against Respondent for case P20-002 and Pima county planned to do the same for case P20-016.

Dr. Angel asked what the implications were of administratively closing the cases. Ms. Reh answered that the administrative process had not been effective because Mr. Padilla dodged service, that the Board could reopen the cases later, if needed, and she recommended administratively closing them. Ms. Cornelius agreed, stating Pima and Pinal county prosecutors had the same objective as the Board, protecting the public.

Mr. Gilmore moved and Dr. Angel seconded to administratively close the case; motion carried unanimously.

2. P20-002, Padilla, Carlos, non-registrant Land Surveyor

Ms. Reh, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

See 4a1

Mr. Gilmore moved and Dr. Angel seconded to administratively close the case; motion carried unanimously.

3. P20-016, Padilla, Carlos, non-registrant Land Surveyor

Ms. Reh, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

See 4a1

Mr. Gilmore moved and Dr. Angel seconded to administratively close the case; motion carried unanimously.

B. Review, Discuss and Take Possible Action on Signed Consent Agreement in Lieu of Hearing:

1. P19-068, Amire Kazz, aka Amir H. Khazdooz, non-registrant, and Kazz Group Architect, unregistered firm

Scott Donald, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Mr. Donald recommend the Board accept the signed consent agreement.

Dr. Angel moved and Mr. Jones seconded to accept the signed consent agreement and vacate the case hearing; motion carried unanimously.

2. P18-073, Richard Moore, R.A. #22679 and RMA Design Group, LLC, Firm #13772

Deanie Reh, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Ms. Reh recommend the Board accept the signed consent agreement.

Mr. Gilmore moved and Mr. Jones seconded to accept the signed consent agreement and vacate the case hearing; motion carried unanimously.

3. P16-066, Steven O'Brien, P.E. (Mechanical) #35209

Respondent's attorney, Mr. Condrey, appeared telephonically. Deanie Reh, AAG, appeared before the Board telephonically representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Ms. Reh explained that this case would be difficult to prosecute at OAH remotely because it was a very technical case. She recommended that the Board accept the signed consent agreement. Mr. Condrey and Ms. Cornelius agreed with Ms. Reh. Dr. Angel stated that he did not have any issues with the signed consent agreement.

Dr. Angel moved and Mr. Noel seconded to accept the signed consent agreement and vacate the case hearing; motion carried unanimously.

C. Review, Discuss and Take Possible Action on Motion to Continue Hearing.

1. P19-060, Andres Loaiza, non-registrant, and Beaux Architecture LLC, unregistered firm

Scott Donald, AAG, appeared before the Board representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent advice.

Mr. Donald asked that the Board continue this matter for at least 90 days to give him time to establish service through publication.

Dr. Angel moved and Mr. Jones seconded to approve the State's Motion to Continue for 90 days; motion carried unanimously.

2. AL19-001, Tyson Landon, non-registrant

Deanie Reh, AAG, appeared before the Board telephonically representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent advice.

Ms. Reh stated that Respondent contacted her expressing his wish to resolve this matter and she then asked that the Board continue this matter so she had time to the settle it with Respondent.

Mr. Jones moved and Ms. Wyckoff seconded to approve the State's Motion to Continue for 30 days; motion carried unanimously.

3. P19-018, John Davis, R.L.S. #26410

Deanie Reh, AAG, appeared before the Board telephonically representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Ms. Reh stated that Respondent's wife contacted her stating Respondent was ill and she asked that the Board continue this matter so she had time to settle it.

Mr. Jones moved and Mr. Noel seconded to approve the State's Motion to Continue for 30 days; motion carried unanimously.

D. Review, Discuss and Take Possible Action on Administrative Law Judge's Decision

1. 20F-P14-045-BTR, Christopher DePrima, Applicant #192190 (Civil)

Applicant appeared before the Board telephonically. Deanie Reh, AAG, appeared telephonically representing the State. Michael Raine, AAG, appeared before the Board to give the Board independent legal advice.

Ms. Reh recommended the Board accept the ALJ's decision as written.

Mr. DePrima argued that the Board should not accept the ALJ's decision because he alleged that he submitted proof to the Board that he met the Board's experience requirements for licensure, stating that the Board and ALJ disagreed with him. Dr. Angel stated that the ALJ's most critical finding was that the Board could not regulate Mr. DePrima. Dr. Angel asked Mr. DePrima if he believed the voluntary revocation of his license was illegal. Mr. DePrima did not answer.

Dr. Angel moved and Mr. Jones seconded to adopt the Findings of Fact as recommended by the Administrative Law Judge; motion carried unanimously.

Staff muted Mr. DePrima's ability to continue speaking during the vote after he interrupted the Board's vote a number of times despite being politely asked to be silent during the vote.

Dr. Angel moved and Mr. Jones seconded to adopt the Conclusions of Law as recommended by the Administrative Law Judge; motion carried unanimously.

Dr. Angel stated that he was concerned that Mr. DePrima, after four years, still did not appear to understand the serious nature of the Board's concerns about him and what he needed to do to become licensed.

Dr. Angel moved and Mr. Jones seconded to accept the ALJ's decision and deny Mr. DePrima's application; motion carried unanimously.

5. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Administrative Closure:

1. P20-012, Josh Oehler, R.A. #61973 and Arc One Associates, Firm #16899

Respondent appeared telephonically.

Dr. Angel asked who the acting registrant in this matter was, Respondent or his father. Respondent answered "his father." Dr. Angel asked if Respondent firm corrected the issues in this matter. Respondent answered 'yes,' Respondent firm paid for the corrections and did not charge the client for Registrant Firm's professional design time. Dr. Angel opined that Respondents made some critical errors during the project but was pleased that they made adequate corrections to ensure public safety once the errors were discovered.

Mr. Jones moved and Dr. Angel seconded to dismiss the case; motion carried unanimously.

2. P20-011, Richard Oehler, R.A. #12821

Respondent appeared telephonically. See 5a1

Dr. Angel moved and Ms. Wyckoff seconded to dismiss the case; motion carried unanimously.

3. P20-033, Randel Jacob, R.A. #31971 and RJDG Collaborative, Firm #21462

Mr. Jones moved and Ms. Wyckoff seconded to dismiss the case; motion passed unanimously.

4. P20-041, Tres Warner, P.E. (Structural) #43901, P.E. (Civil) #42887

Mr. Jones moved and Ms. Wyckoff seconded to dismiss the case; motion passed unanimously.

5. P20-047, Garry Jagers, P.E. (Civil) #26326

Dr. Angel moved and Mr. Jones seconded to administratively close the case; motion passed unanimously.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI20-024, Daniel Itami, C.H.I. #67634

Alleger, Thomas Rack, appeared telephonically.

Mr. Rack argued that the Board should update the Board's Home Inspector Standards to require home inspectors to observe issues with calking in their home inspection reports. Dr. Angel stated that Respondent did note issues with the calking in his home inspection report. Mr. Montgomery agreed. Ms. Cornelius stated that a Home Inspector task force planned to convene to review and update the Home Inspector Standards.

Dr. Angel moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

2. HI20-018, Valentin Minchev, C.H.I. #68439

Mr. Gilmore moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

C. Complaints Proposed to Offer Consent Agreement:

1. AL20-007, Rodolfo A. Vengoechea, Alarm Controlling Person #69560 and Safe Field Security, LLC, Alarm Business #22002

Dr. Angel asked staff whether a controlling person required an active level one clearance card for the Board to license them. Staff answered 'yes.' Ms. Pritzl stated that Respondent failed to respond to a Board subpoena, a violation of the Board's Practice Act.

Dr. Angel moved and Mr. Everroad seconded to offer Proposed Consent Agreement to Respondent and if not signed in 30 days move to hearing; motion carried unanimously.

6. LICENSING CONSENT AGENDA

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

- A. Rodriguez, Steven - Universal Licensure Application for Registration as a Home Inspector #200933

Dr. Angel moved and Mr. Jones seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

B. Baril, Jasen - Universal Licensure Application for Registration as a Home Inspector #201127

Dr. Angel moved and Mr. Jones seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona; motion carried unanimously.

8. **POLICY MATTERS**

Review, Consideration, and Possible Action on the following:

A. Notice of Supplemental Proposed Rulemaking Amendment to R4-30-106 and R4-30-247

Ms. Cornelius explained that, after its initial review, GRRC staff suggested that the Board revise and resubmit its proposed rulemaking. Ms. Pritzl stated she did research regarding home inspector financial assurance, including reaching out to financial assurance providers, and rewrote the rulemaking for submittal as a notice of supplemental proposed rulemaking. She asked for the Board's opinion and approval to submit the notice to the secretary of state.

Mr. Montgomery asked staff if there was a minimum dollar amount a home inspector needed for their financial assurance to be valid with the Board. Staff answered 'yes.' Dr. Angel expressed his concern that inactive home inspectors would encumber costs when they were no longer working. Ms. Pritzl explained that under current rules and statutes, when a home inspector goes inactive, they must keep their financial assurance indefinitely if they don't want to be revoked; this proposed rule change reduced the time an inactive home inspector needed to keep financial assurance to two years. Mr. Noel commented that the financial assurance protects the home inspector from liability, as well as protecting the public safety and well-being. Ms. Pritzl stated that the Home Inspector Rules and Standards Committee chairman, David Swartz, stated to her that he approved of the language in the proposed rulemaking.

Mr. Noel moved and Mr. Jones to approve the language and submit to the Secretary of State; motion carried unanimously.

B. Request for an Exemption to the Rules Moratorium and Request to Open a Docket of Rulemaking: Land Surveyor Minimum Standards, Retired Status, Revising AAC R4-30-101(16): Other Misconduct

Ms. Cornelius asked that the Board consider approving staff's request for an exemption to the rules moratorium and request to open a docket of rulemaking regarding revising the Land Surveyor Minimum Standards, creating a Retired Status and Revising AAC R4-30-101(16): Other Misconduct. Ms. Cornelius opined that GRRC might deny the Board's request if all three were lumped together and she asked if the Board wished to make separate exemption requests. Dr. Angel opined that the Board request an exemption for the

Land Surveying Minimum Standards alone so there was a higher chance that GRRC would accept and adopt the revised standards.

Dr. Angel moved and Mr. McAllister seconded to approve staff's request for an Exemption to the Rules Moratorium and Request to Open a Docket of Rulemaking: Land Surveyor Minimum Standards; motion carried.

C. Recap and discussion regarding the 2020 Legislative Session: Lessons Learned and Plans to Move Forward with Board Composition

Dr. Angel explained that ACEC planned to run a bill next legislative session to modify the Board's composition to include additional engineer and architect members. He asked the Board if they wished to support the bill and possibly attach the language of the Board's 2019 Legislative Bill. The Board answered 'yes.' AIA representative Tina Litteral asked if professionals were excluded from applying for public member positions under the new language of SB 1274. Ms. Cornelius answered 'no,' but she opined the Governor wouldn't appoint professionals as public members. Arizona ACEC president Justan Rice stated she would contact lobbyist groups for other professional organizations to support the bill.

D. Whether to publish the next edition of the Board's Newsletter

The Board reviewed the next edition of the Board's Newsletter and made recommendations for edits and modifications.

The Board directed staff to publish the next edition of the Board's Newsletter, with minor edits.

E. Re-calendaring the August 2020 Board Meeting.

Ms. Cornelius explained that the Board meeting scheduled August 25, 2020 would take place the day SB 1274 became effective. She asked that the Board re-calendar the August meeting to a date prior to August 25 in order to guarantee a quorum.

Board Members agreed to re-calendar the August 2020 Board Meeting to Thursday, August 20, 2020.

F. Interpretation of Governor's Executive Order 2020-17

Dr. Angel opined that the Board should interpret EO 2020-17 to mean 20 days after home inspector examination centers open should be the date in which home inspector provisional licenses become suspended.

Dr. Angel moved and Mr. Jones seconded to interpret Governor's Executive Order 2020-17 to mean that all home inspectors issued a provisional license would have their provisional license suspended 20 days after August 1, 2020; motion carried unanimously.

- G. CV 2019-013509 – Mills v. Arizona State Board of Technical Registration: upon motion and vote, the Board may hold an executive session to receive legal advice pursuant to A.R.S. § 38-431.03(A)(4) [Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.]

Nothing discussed.

9. DIRECTOR'S REPORT

A. Budget Update

Ms. Cornelius reported that revenue continued to come into the Board with little impact from the Covid-19 pandemic; that the Board was responsible for the legal costs associated with the Mills case; and, that next year's budget was smaller due to the Legislature's "skinny budget" passing due to the pandemic.

B. Previous Meeting Follow-Up

a. Case Updates

i. Lessons Learned webinar

Nothing Discussed

ii. CNOH Mills case

Ms. Cornelius reported that the superior court judge dismissed the Mills Superior Court case, but Mr. Mills appealed.

iii. Padilla Class 2 Misdemeanor

See 4a1

b. Computer Updates

i. Salesforce

Ms. Cornelius reported that staff purchased additional laptops to make working remotely available to staff and that the Board would request funds to hire a business analyst to begin the process of hiring a vendor to build online licensing platform for the Board.

C. National Council Updates

- a. NCARB – Ms. Cornelius reported the NCARB lost \$4 million due to the pandemic and the annual meeting took place remotely the previous week.
- b. NCEES – Ms. Cornelius reported that NCEES lost \$5 million due to the pandemic and that NCEES planned to host its annual meeting remotely.
- c. CLARB – Ms. Cornelius reported that the next CLARB meeting would be remote.
- d. ASBOG – Ms. Cornelius reported that ASBOG would offer its exam in the fall.
- e. AZSLS – Ms. Cornelius reported that the Board continued to offer the State Specific exam during the pandemic.

D. Statistics Review

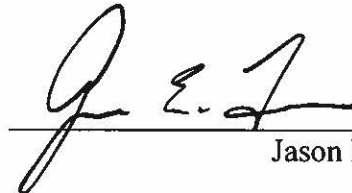
Ms. Cornelius reported that there were new statistical categories this month and that there were fewer complaints submitted for investigation due to the pandemic.

10. **FUTURE BOARD MEETINGS** -July 28, 2020


11. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**

Nothing Discussed

12. **MEETING ADJOURNMENT** – 11:51am



Jason Foose, Chairman



Melissa Cornelius, Executive Director