

LOUISIANA BOARD OF PROFESSIONAL GEOSCIENTISTS

9643 Brookline Ave., Ste. 101, Baton Rouge, LA 70809



REGULAR MEETING OF LBOPG

Tuesday, March 10, 2020, 1:00 P.M.

Louisiana Engineering Society Building Conference Room
9643 Brookline Avenue, Baton Rouge, LA 70809

MINUTES

Vice-chair Todd Perry called the meeting to order at 1:20 p.m., Tuesday, March 10, 2020. He commenced roll call.

Present: William Finley, Lloyd Hoover, Elizabeth McDade, Todd Perry, William Schramm, and Melanie Stiegler, Board Members; Mabelle Hall, Legal Counsel; Brenda Macon, Executive Secretary; Chantel McCreary, Assistant Executive Secretary

Absent: David Williamson, Board Member

Guests: Donna Sentell, Executive Director, LAPELS; Stephen Lee, LDNR; Kellie McNamara, LDNR; Corey Shircliff, LDNR; and David Frey, retired from Louisiana One Call

Quorum was established. Roll Call and Visitor Sign-in sheets were circulated for signatures.

Public Comment Period

Perry invited the guests to comment for the record. Steve Lee addressed the board to explain what LDNR is doing in the area of injection mining. He explained that the agency had rewritten regulations several years ago in response to an incident at Bayou Corne. During that rewrite, the agency staff recognized the need for work performed under caverns to be certified by licensed professional engineers and geoscientists. That requirement has since been added to the regulations. The agency has followed up the new regulations by communicating these requirements through a variety of means. For example, they have created a chart with every type of submittal the agency requires that indicates who can certify the work. He also said the agency would be expanding the types of wells they regulate, which will also increase the need for certification by licensed professional geoscientists. He then offered to answer questions. No questions were forthcoming. Perry thanked the guests from LDNR for attending.

Meeting Minutes

Minutes of the January 16, 2020 meeting were reviewed. Schramm moved to approve the minutes; Stiegler seconded. Perry called for discussion; there was none. He then called for a vote, and the motion passed unanimously.

Treasurer's Report

Board Treasurer Schramm reported the board is moving forward and remains in the black. He presented a graph showing the last two years of activity, explaining the one dip represented the point at which the board moved \$50,000 from the checking account into a savings account. He reported that in January, deposits were \$12,571.23; debits were \$7,956.49. In February, deposits were \$11,501.24; debits were \$6,698.56. He pointed out that deposits exceeded debits an average of about \$5,000 per month.

He then turned the board's attention to the monthly budget v. actual comparison. He pointed out that, again, the spending is below the projected level and revenue is above the projected level. He then proposed discussion of the new budget for fiscal year 2020-2021. Perry and Finley agreed to move this discussion from "New Business" and discuss it at this point. Schramm pointed out a few changes from the old budget: About \$600 more is projected in revenue. He explained that the assistant executive secretary's raise was added into the budget and board travel expenses were projected to increase. He then brought to the board's attention that the budget must be approved in May to be in place for the new fiscal year on July 1. Perry moved to accept the proposed budget with salary increases added; Stiegler seconded; the motion passed.

Hall mentioned that boards that rely heavily on penalties are meeting with increasing scrutiny. She counseled the board to avoid that situation in the future.

Perry turned the meeting over to Finley at this point and moved to accept the treasurer's report. Stiegler seconded. Finley called for discussion; none was forthcoming. He then called for vote; the motion passed.

Standing Committees

Application Review Committee: Chair Melanie Stiegler reported that the committee reviewed one additional applicant for PG license; the committee is recommending that applicant, number 2 on the list, be approved. Stiegler moved to accept the recommendation; Perry seconded; the motion passed.

Stiegler then brought to the board's attention questions from a current applicant:

"How is part-time work counted? For a year, I worked part-time conducting geological field work for UNO's Earth and Environmental Sciences department. Over the course of three years, I taught nine courses at two universities and a community college. Would my one year (9 months of the calendar year) of teaching high school environmental science count? For the next 8 months, I will be working with a geologist at NOAA. I'm unsure if she's a PG. Does she need to be in order for the time to count?"

Board members discussed each question: In response to the question about part-time work, Schramm and Stiegler suggested that the applicant should document the hours worked. For example, 20 hours per week would equate to half of a year. Schramm then asked if the work should be done under the supervision of a licensed PG. Stiegler commented that the work should be qualified, but it would not matter if qualified work was under the supervision of a licensed PG. Though GITs are expected to work with a licensed PG during their training, applicants for the license who are not GITs need only document that the work they are performing is geoscience.

In response to the question about teaching high school environmental science, the board discussed whether all environmental courses are geoscience; the consensus was that applicants who include teaching as part of their geoscience work experience will be handled on a case-by-case basis with additional information (course description and syllabus, etc.) required. Finley asked Hall to weigh in on

how the application of case-by-case assessment would affect the board legally; she responded that, as long as all applicants are asked to supply the same types of documentation for similar jobs, the board should be safe.

In response to the final point in the series of questions, Finley asked, if an applicant is doing geoscience work, is it necessary to quantify that work based on who the employer is? He said he doesn't think it matters. Discussion ensued, with the consensus agreeing with Finley's assessment, and with one board member pointing out that federal employees are exempt.

License Examination Committee: In Williamson's absence, Stiegler reported that, for the March 20 testing date, a total of nine Fundamentals of Geology testing candidates and seven Practice of Geology candidates are scheduled to sit for exams. Macon commented that Chantel McCreary would be assisting with proctoring.

Compliance Committee: Perry asked Schramm to speak on the results of the 2019 audit. Schramm reminded the board that at least three of the people who were selected for last year's audit did not renew because they did not have the appropriate CEUs. Five people renewed but did not respond to the audit at all. Schramm pointed out that the people who did not renew should be contacted to allow them to retain their licenses, while the licensees who did not respond should be held accountable. Two respondents renewed but had incorrect documentation. Twenty failed the audit because they had insufficient development hours or were missing the ethics hour. Six had sufficient development but did not have ethics. Only two people fulfilled all of the requirements for both professional development and ethics hours. One person used rollover hours from 2017 and accurately documented those hours. After the audit was ended, one more person correctly and adequately resubmitted documentation.

Perry announced that the list for the 2020 audit has been generated. Letters to those licensees have been written and signed and are scheduled to go out. He commented that, because of the board's attention to providing better information to licensees, effectively educating them regarding what types of hours will count, he feels confident the numbers of those who pass will increase.

McDade mentioned that the New Orleans Geological Society (NOGS) offered an ethics presentation earlier in March. The event drew 42 attendees, which is at least as good as the attendance for those presentations the NOGS executive committee prefers. Additionally, she reported that about half of those attending were not already NOGS members and could potentially become members. Since the organization needs new members, those numbers were significant. Interestingly, almost immediately after McDade sent email invitations, she began to receive requests to offer the presentation online. Their requests gave McDade the opportunity to provide information to those who could not attend the presentation regarding additional courses offered by other organizations. Discussion ensued, with Perry suggesting that a Zoom-type ethics presentation could be offered online for licensees.

Perry then presented a two-page document used by his company PPM to explain more clearly what types of reports and figures and other documents are required to be sealed. Perry asked the rest of the board to review the document to be discussed at the next meeting regarding the feasibility of posting it on the board's website. He also mentioned that he intends to send a PowerPoint presentation that will supplement the document.

Schramm brought up the question of the ethical position of a board member who works with companies as an independent contractor to review reports, assess them, and apply his seal to those reports that met the standards of the profession. Hall pointed out that several of the members of the state Board of Medical Examiners are practicing physicians; she said professional geoscientists are no different and can work in their profession as well as serve on the board. Discussion ensued, with McDade relating that one of the situations described in the NOGS presentation was of a professional geoscientist who was hired by a company because he was licensed and had a seal and was then given an ultimatum to either seal a document or be fired, which was clearly unethical.

Office Committee: Macon drew board members' attention to two draft contracts in their packets: one for L.A. Champagne for accounting services, and one for the Louisiana Department of Justice (DOJ) for legal services. She reminded board members that the contracts for both were previously sent to them electronically and were included in their packets for discussion. She explained that, while the contracts don't necessarily have to be approved at this meeting (the board is scheduled to meet again on May 12), a final decision – with an approved motion – must be made before the May 15 deadline.

Hall commented that she had received requested minor changes from the DOJ contract and, after those changes are made, the contract will be approved by DOJ. Discussion ensued, including the feasibility of approving the contracts at the current meeting. Hall suggested that the contracts could be approved at this meeting with the understanding that the minor changes would be made. Stiegler moved to approve both the contract for legal services with the Louisiana Department of Justice and the contract for accounting services with L.A. Champagne & Company LLC with the few changes stipulated by the board attorney. Hoover seconded the motion. Finley called for additional discussion; none was forthcoming. He then called for a vote; the motion passed.

Macon then reported the FARB membership is up for renewal as of March 12, 2020. The annual fee is \$175. If the board would like to renew this membership, Macon pointed that an approved motion is needed. Perry moved to renew the membership; Stiegler seconded; the motion passed.

Macon announced that Chantel McCreary's reappointment as assistant executive secretary has been submitted to the Louisiana Civil Service Commission and approved by that commission. The overtime issue has been resolved. While she is paid time and a half for work over 40 hours per week, she does not normally reach that point until the end of work on Thursdays. The solution has been that she does not work for LBOPG on Fridays unless her assistance is necessary. Therefore, she has yet to accrue overtime in 2020 but may do so when she assists with ASBOG testing on Friday, March 20. One way to look at her overtime is that, if she works two hours beyond the allotted 40 hours in a week, the board pays for three instead of two. She currently makes \$19.67/hour.

Macon reported that, since January 15, she has been working with Craig Smith, who is the chair for ASBOG's Committee on Outreach and Uniform Procedures, to outline the process for establishing new boards in states that don't currently have geoscience licensing boards. She used the timeline and history from the report created in late 2018/early 2019 to provide Smith with information that should prove useful to other states. Macon pointed out that, if any board member would like to add to, comment on, or otherwise join in this effort, she has provided a copy of Smith's draft outline in the board members' packets.

Macon further reported that, on February 20, she was contacted by Kathy Steelman, senior auditor with the Office of the Legislative Auditor. Steelman said, since this board has less than \$200,000 in revenue each year, we will no longer be required to submit to an audit – until such time as our revenue increases

to that amount. Instead, the board is required to upload the board's Annual Financial Report (AFR), prepared each year by L. A. Champagne and Company, onto the Legislative Auditor's electronic portal when that document is ready, usually in September each year.

In response to David Williamson's suggestion at the last board meeting, Macon checked to see what transcript evaluation service LSU uses. The university suggests any service recommended by the National Association for Credential Evaluation Services (NACES) and any translation service recognized by the American Translators Association (ATA). They, too, expect students to have their transcripts translated and evaluated *before* they submit them to the university. Finley pointed out that the board should provide guidance to applicants regarding transcript evaluation and translation services. Macon suggested adding links to the two websites, which are umbrella organizations for evaluation and translation companies. Discussion ensued.

Because Williamson commented that he could not upload a document from an applicant's reference, Macon contacted Dovetail Digital's IT support team, and they are currently working on providing more spaces to upload documents of this type.

As a reminder, Macon mentioned that the board has been considering a change in financial institutions because of problems with Campus Federal Credit Union's business services inadequacies. Finley and Schramm had met with representatives from the final two possible institutions in November 2019 and had selected Capital One. Arrangements are still pending. Finley explained Capital One seems to offer the types of services the board needs and asked if the board had already approved this move. Macon reminded the board that the move had been approved at the November 2019 meeting. Additional discussion ensued, with Finley voicing his intent to move forward with this change.

Finally, Macon announced the latest training invitation from the Louisiana Department of Justice is included in board members' packets.

Discussion of the Board's Authority

Finley asked Hall if she had any updates on the Attorney General's opinion the board is seeking and that Harry Vorhoff had prepared and submitted. She did not have additional information but suggested a board member contact Adrienne Gauthier, who manages the opinions, and ask her where the opinion is in the system. Discussion ensued. Finley pointed out that at least one part of the requested opinion may no longer be an issue. He said one concern was that unlicensed state employees would be reviewing the work of licensed professional geoscientists. However, in his meeting with LDNR, he discovered that state agencies may be taking care of that issue by requiring their employees who review those reports to be licensed PGs. He also mentioned that a U.S. Corps of Engineers representative spoke at the ASBOG Annual Meeting in November 2019 about that agency's policy of advancing those professionals who are licensed over those who are not, which gives incentive to all employees to become licensed. Additional discussion ensued, with topics also including when licensed geoscientists would be required to provide sealed reports.

Discussion of Fines and Penalties

Finley asked Donna Sentell, director of LAPELS, how fines and penalties are handled by her board. Sentell explained that her board can assess penalties up to \$5,000 per offense, but all of the monies collected go to Louisiana's General Fund, not to the board. She gave as an example a surveyor who has ten surveying jobs while he had an expired license: LAPELS has the authority to assess a \$5,000 fine for each of those jobs, but in reality, that has never happened. Their board takes into consideration the length of time the person worked and how big the job was. Additionally, about 12 years ago, LAPELS developed a set of

disciplinary guidelines so they could be more consistent in assessing penalties against both licensees and non-licensees. She added that LAPELS also has the authority to take action against non-licensees and has done so in the past. She further explained that the board can invoice the entity that has been assessed a disciplinary penalty to cover the administrative costs (legal fees, disciplinary hearing expenses, etc.) associated with those penalties, but the board is rarely fully reimbursed for the expenses incurred in these disciplinary actions.

She said the board gets questions regarding how the costs of investigating and adjudicating disciplinary cases can cost more than \$1000; she said legal expenses alone, at a rate of \$250 per hour, can quickly add up to more than that amount. She said the board assesses about \$100,000 per year in penalties that are almost all turned over to the state. She explained that the statute regulating LAPELS gives the board the authority to assess \$5,000 per offense; the board's rules address how fines are assessed and administrative costs are recouped; in-house procedures determine how complaints are investigated and adjudicated.

In response to questions from board members, she explained that complaints can be submitted to the board formally via an affidavit that can be downloaded from the LAPELS website, completed, and submitted publicly. Complaints can also be anonymous, but those complaints are put into a queue with a lower priority than the publicly submitted ones, if those anonymous complaints are about acts that are not life-threatening; if an anonymous complaint does appear to present a clear danger to life, that complaint goes to the top of the queue. She said, as an example, she currently has 100 open cases and 240 cases in the queue. She further explained that the board and its staff can also file complaints that can be added to the queue.

The complaint process begins with an in-house investigation by the board's staff and a local licensed professional engineer, who is under contract with LAPELS to advise the staff on both engineering and surveying oversight. Then, when the staff and the advisor have put together about two dozen cases, they call a meeting of the Standing Complaint Review Committee, (CRC) which is composed of three board members from different geographic regions of the state. The committee meets for two days and review the cases with the board staff, advisor, and attorney. The staff makes a recommendation, often with input from the advisor and attorney, as to what the violation was and, referencing the guidelines, what the associated penalty should be.

Most of the time, the CRC goes along with the recommendation; however, the CRC can request additional information before deciding to go along with disciplinary action. Once the CRC makes a decision regarding a case, that decision goes back to the full board for ratification and approval. Members of the CRC cannot vote in the full board meeting on whether a case action is ratified. Rather, that three-member panel makes the formal recommendation to the rest of the board but does not vote on it.

Sentell responded to a comment from Hoover regarding the previous inability of the board to have cases criminally prosecuted by explaining that, previously the board discussed cases openly in full meetings, which constituted a lack of due process for the accused. Since that time, LAPELS has changed its policies and procedures to prevent open discussion of cases.

Finley said LBOPG needs to develop a similar process for handling complaints; Sentell offered to share this information with LBOPG board members and staff to create a draft document. Macon asked if the

board wants to eventually add a complain form to its own website and if fines and penalties need to be established through additional legislation. Finley said the board could create rules to set up the complaint process, but the board cannot assess fines until legislation gives the board that authority. Hall offered to review the legislation that created the board to determine if new legislation is necessary. She explained that each statute defines a board's authority differently and that, just because a monetary number is not included in the statute does not mean the statute does not give the board the authority to assess fines and penalties.

Hall further suggested that the board research how other boards handle complaints and develop a way for those who are accused of violation to have due process before the board. Sentell mentioned that those who are accused present their cases in a conference with the CRC rather than the full board to prevent their cases from being tainted. Finley said the LBOPG process that has already been developed is very similar to the LAPELS procedure. Schramm mentioned that it would be a good idea to have a complaint form on the website. Hall mentioned that anonymous complaints can be said to be filed by the board itself.

Sentell then presented the board with information on currently proposed legislation that the attorney for LAPELS has reported to her. House Bill 498 would require all boards to waive fees for any applicant for licensure or examination if that applicant is on public assistance. Another bill proposed by the same representative is the "Universal License Reciprocity Recognition Act," which states that, if an applicant is licensed in another state, even with minimal requirements, any Louisiana board would be required to recognize that license and give the applicant a Louisiana license. Another representative has filed a bill related to the Military Act, which would require any board to grant a license to an applicant in the military regardless of whether that person meets the requirements for experience or examination. She reminded board members that these bills are still in their original form; they may change during discussion. She also said she suspects LAPELS will be in opposition to all three proposed bills. LAPELS' auxiliary societies – LES, LEF, and ACEC – have been notified regarding these bills, and those organizations are planning to lobby actively against them.

Discussion ensued regarding the board's authority to assess fines and penalties.

Potential At-Large Board Member

Schramm pointed out that he had invited David Frey, who was present but had to leave, to attend the meeting because he is interested in serving as a board member. Formerly with Louisiana One Call (811), Frey is not a geoscientist but has experience with government regulation and has a wide network. Schramm described how the diggers' hotline works and explained that Frey was instrumental in establishing the service in Louisiana. Discussion ensued. Finley asked Schramm to follow up with Frey.

Report on 2020 FARB (Federation of Associations of Regulatory Boards) Forum 2020

Schramm, who had attended the 2020 FARB Forum in Colorado Springs (January 23-26), thanked the board for allowing him to attend and reported on the meeting. He presented PowerPoint slides of the highlights from the meeting. He commented that Louisiana had 14 representatives from 14 different boards in attendance – the second-most representation by any state. One discussion centered on the optimal number of non-market participants serving on a board. Another topic of discussion was on the definition of "good moral character" in determining an applicant's suitability to be licensed; he emphasized that the board needs to consider a specific definition to guide application review. He pointed out that too stringent standards can be perceived as depriving people of the right to work. Additional

topics also took up the issue of how licensing affects the right to work. He also reiterated that board members need to consider how they would succinctly explain to legislators why board licensure adds value to the state and to the profession. He also pointed out that boards have no way of tracking violations in other states by its renewing licensees. Several points in Schramm's presentation generated board discussion.

New Business

Website innovation discussion

Finley asked if the continuing education log sheet on the LBOPG website can be made interactive so licensees can fill out the form online. Macon responded that the form is one of the requested tasks in the current Dovetail Digital upgrade and refresh project.

Staff salary increase

At this point, Perry moved to go into executive session to discuss Macon's salary; Stiegler seconded; the motion passed. Upon returning from executive session, Finley announced that the board had approved a 4% increase in Macon's salary. Finley asked Macon to amend the new budget accordingly.

Question 1:

"I am a consulting geologist and licensed professional geologist in the state of New York. A client has asked us to obtain approval for them to sell their products (lightweight aggregate) manufactured at a plant in Louisiana for use in New York State Department of Transportation projects located only in New York. The geologic parts of this process would be examination and description of the general geology at their mine in Louisiana and preparation of a geologic report. Since the product would only be used in New York, would I need to obtain a license in Louisiana? If so, I assume there is a procedure for obtaining reciprocal rights if licensure is needed for this project."

The board considered this question as one about the requirements for a mining report. If that is the case, then the person filing this report is practicing geoscience in Louisiana and must be licensed in Louisiana. Perry suggested this person should either hire someone who is already licensed in Louisiana to file the report, apply for a temporary license, or apply for a full license. Finley commented that permits may also be required from the Louisiana Department of Natural Resources. Schramm added that, if a geologic report is to be generated, a license is required. Perry emphasized the sentence, "The geologic parts of this process would be examination and description of the general geology at their mine in Louisiana and preparation of a geologic report." He suggested letting the inquirer know that is the basis of the board's decision. Additional discussion ensued, with the consensus that additional information would be beneficial, but from the information that is included, a license is required.

Question 2:

"I was looking for an online geoscience program that met the educational requirements for licensing in LA. Would the BS in Geoscience from Southern New Hampshire Univ. fulfill the requirements. I have attached a link. <https://www.snhu.edu/online-degrees/bachelors/bs-in-geosciences>."

Stiegler commented that the rules require education must be from an accredited geoscience program. Schramm pointed out that the curriculum did not include essential, basic geology courses. Discussion ensued. The consensus of the board is that this particular program does not meet the requirements for licensure.

Adjourn

The date of the next regular meeting of the board is scheduled for Tuesday, May 12, 2020, at 1:00 pm. Perry moved to adjourn; McDade seconded the motion. Finley adjourned the meeting at 4:35 pm.