

Minutes
Louisiana Committee of Certification
February 27, 2015
Bienville Building
Baton Rouge, Louisiana

Meeting was called to order at 10:05 AM.

ROLL CALL:

A. Determination of Quorum.

Committee Members in attendance were: Dirk Barrios, Chairman, Mayor Vern Breland, Tom Owens, Tom Walton, Barbara Featherston, Delos Williams (10:43) and Jake Causey (10:11)

Absent members were: Camille Mize, and Grant Magnon.

A quorum was achieved.

Recognition of Visitors and Others:

Visitors in attendance: JW Hellums, Roger Kelley, Pat Credeur, Anika Hubert, Kyle Gray, Patrick Henagan, and Bobby Grier. Mr. Gray and Henagan were present in the Region 7 office and were accessed by phone. DHH staff in attendance: David McCay, Laurie Jewell, Amanda Laughlin, Silas Corkern, Stacy Williams, McDonald Volentine, Valenscia Walker, Steve Hoss, Sally Collins, Jim Mooring, William Smith and Gregg Stout. Mr. Smith and Mr. Stout were present in the Region 7 office and were accessed by phone.

B. Announcements: There were no announcements.

MINUTES:

The minutes from January 16, 2015 meeting were not prepared and will be considered at the next meeting.

CHAIRMAN'S REPORT:

No Report.

SECRETARY'S REPORT:

Mr. Causey reported that there is a chance that the Op Cert fee proposal may be considered in the upcoming legislative session.

ADMINISTRATOR'S REPORT:

Dr. Mooring welcomed new members, Ms. Barbara Featherston and Mr. Delos Williams. He also reported that he had recently spoken with Ronnie Harris from LMA about nominees for Mr. Magnon's position.

ASSOCIATION REPORTS:

Louisiana Conference: Mr. Tom Walton reported that the Conference is ready to go on March 9-13, 2015 at the Best Western in Alexandria. He reported that the 2016 Conference will be held in Shreveport and the 2017 Conference will be held in Baton Rouge.

LELAA: Steve Hoss reported that two people have applied for the Lab exams in March.

LETA: No report.

LRWA: Pat Credeur reported that The Conference will be held in July in Lake Charles and the plan for 2016 is to return to Alexandria.

LWEA: Dr. Mooring read an email from Mr. Hawley. The most recent LWEA meeting on 2/24/15 and included a presentation by Caryn Benjamin on the amoeba issue. Mr. Hawley thanked DHH Engineering for allowing staff to present such information. He mentioned the upcoming conference to be held jointly with La Conference.

OLD BUSINESS:

Kyle Gray:

Dr. Mooring reported that Mr. Gray had asked for the hearing to be conducted by phone. Attorney David McCay advised that this was acceptable so Mr. Gray was in attendance at the DHH Regional office in Shreveport. Mr. Smith was contacted by phone. He verified that Mr. Gray, Mr. Patrick Henagan, and DHH staff member Gregg Stout were also present. Mr. McCay swore in the witnesses who would give testimony.

Dr. Mooring provided the Committee with a packet of material regarding Kyle Gray which included the violations issued to Dixie Gardens Water Supply System and TWM Mobile Home Community Water Supply. Also included were numerous correspondences by Mr. Gray with DHH Region 7 on behalf of Dixie Gardens. Mr. Gray and the Region 7 staff also were provided with a copy of these documents. Mr. Gray verified that he was in possession of a copy. Dr. Mooring directed the attendees attention to the minutes from the meeting of 12/4/14 in which Mr. Causey asked that Mr. Gray provide DHH staff with copies of the sampling done concerning the monitoring violations in 2013 and 2014 and concerning the public notice violations in 2013 regarding TWM. Mr. Gray stated that he provided information to Mr. Smith.

Mr. McCay next swore in those present in Baton Rouge who would give testimony. Ms. Amanda Laughlin, DHH staff, reported that the DBP monitoring samples for the 1st quarter of 2014 were received late and that no samples were received for 2013. Mr. Gray stated that the information provided to Joey Smith contained proof that monitoring was done in 2013. Mr. McCay asked if it is Mr. Gray's position that certain monitoring was done in 2013 and was not sent to DHH such that it would be considered a monitoring violation. Mr. Gray affirmed that position. Mr. Causey asked Mr. Gray if he monitored all quarters for 2013. He responded that prior to 2014 he only did part of duties and that he cannot verify if all monitoring was sent in for 2013. Dr. Mooring asked Mr. Gray if he took over as operator for TWM in March of 2013. Mr. Gray answered that he did but he was not the person who was reporting the lab results and filing them in the office. He stated that as of 2014 he is in charge of everything for TWM. Mr. Causey addressed the DDBP Monitoring-Chlorine violation in September 2014. Mr. Gray stated that they had a coliform positive sample in August, that he did the extended monitoring for August, but resumed routine monitoring in September because he was unclear of the rule requiring extended monitoring the following month.

Ms. Laughlin reported that TWM did not have an approved DBP monitoring plan for 2013, they failed to monitor that year, and were placed on increased monitoring for 2014. She said that they did submit a plan in January of 2014 which was approved and they were placed on quarterly monitoring. The first quarter results were received late but they

monitored correctly for the remainder of 2014. Mr. Gray stated that he was not aware that penalties are accruing. Mr. Causey asked Mr. Gray if he received the May 8, 2014 post order inspection report. Mr. Gray was not familiar with the report. Mr. Gray asked if the report could be resent and he was assured that staff will resend it. Mr. Smith was asked to inform the committee of the information he received from Mr. Gray regarding TWM. Mr. Smith forwarded the information to several staff. The information included DBP monitoring results for the first quarter of 2014 and the second quarter of 2013. Ms. Laughlin confirmed this and stated that the 2013 results were from one site and that there was no approved monitoring plan at that time. Mr. Causey reiterated that because there was no approved monitoring plan in 2013 and because one sample site is not sufficient the violation was issued. Mr. Gray stated that he understands that and now has approved monitoring plans in place.

The committee then focused on Dixie Garden. Dr. Mooring directed the members' attention back to the minutes of 12/4/14 in which both Mr. Gray and Mr. Taylor stated that Mr. Gray has never been the operator for Dixie Garden Water Supply but he is the operator for TWM Mobile Home Community and for the Wildwood South Water System. They stated Patrick Henagan is the operator for Dixie Garden. Mr. Causey recommended that Regional staff be consulted to determine that Mr. Gray has never represented himself as an operator for Dixie Garden. Mr. Taylor stated that Mr. Gray has talked to Jennifer Kihlken, Regional Engineer, many times. Mr. Causey asked if he spoke with her as an operator for the system. Mr. Gray stated that Mr. Henagan's schedule doesn't allow him to meet with Jennifer Kihlken on a regular basis so Mr. Gray has made himself available to meet with her.

Dr. Mooring asked Mr. Gray if it is his position that he is not, nor has he been, the operator for Dixie Garden. Mr. Gray answered that he has done things for Dixie Garden such as help repair water line breaks or go to meetings in place of Mr. Taylor or Mr. Henagan if one of them is unavailable but that Patrick Henagan is supposed to be the listed operator for Dixie Garden. Mr. Walton asked Mr. Gray if he has represented himself as an operator for Dixie Garden. Mr. Gray answered yes, but not as the head operator.

The committee next looked at several pages of correspondence between Mr. Gray and Jennifer Kihlken, the DHH regional engineer, on behalf of Dixie Gardens. Mr. Gray responded that when the other gentlemen's schedules did not permit them to correspond with Ms. Kihlken he did correspond on behalf of Dixie Garden. Mr. Causey asked Mr. Gray in what ways or in how many different issues had he represented himself as an operator for Dixie Garden. Mr. Gray stated that he and Mr. Henagan share tasks. Mr. Causey asked Mr. Gray if he handled the monitoring plans. Yes. Mr. Causey asked Mr. Gray if he is the point person DHH contacts for sampling and to set up sanitary surveys. Yes, if Mr. Taylor or Mr. Henagan are unavailable. Mr. Gray stated that both he and Mr. Taylor met with Ms. Kihlken regarding the last sanitary survey. Mr. Causey asked Mr. Gray who collects the monthly coliform samples? Mr. Gray answered he collects them as of 2014. Mr. Causey asked Mr. Gray if he collected them prior to 2014. Yes, but under Mr. Taylor or Mr. Henagan's certification if they were unavailable. Mr. Causey asked Mr. Gray if as of 2014 he is the operator for Dixie Gardens. Mr. Gray responded that he has realized he does not hold a distribution certificate and is working under Mr. Henagan's certification until he obtains a distribution certificate.

Next Mr. Causey asked Mr. Henagan if he is a certified operator. He stated that he has level 1 water production, distribution, and treatment. Dr. Mooring verified that Mr. Henagan was issued these certificates on 3/1/14. Dr. Mooring asked Mr. Smith if he meets with Mr. Henagan regarding Dixie Gardens. Mr. Smith answered that he usually meets with

both Mr. Taylor and Mr. Gray. Dr. Mooring asked Mr. Henagan if he were contacted by DHH could he respond within an hour. He answered that he is a school teacher and could not practically respond within an hour during school time. Mr. Causey stated that Mr. Henagan may not be able to serve as the certified operator for any of the systems since he is unable to respond within 1 hour, but that would be handled separately from this hearing.

Mr. Causey stated that there are a great many issues but that it does appear that Mr. Gray is slowly trying to pull things together. He then made the motion to request Dr. Guidry to place Mr. Gray's certifications on 2 years' probation and require him to complete 32 hours of, rules focused, training to be approved by the Chairman in addition to the hours required for recertification. Mayor Breland seconded the motion which carried. Dr. Mooring reminded Mr. Gray that at present he has received no continuing education and that this is the second year of the certification cycle. Mr. Gray acknowledged this. Mr. Causey informed Mr. Gray that he is acting as the operator for these systems, the systems are out of compliance, and the responsibility for maintaining compliance falls on the operator. Mr. Causey amended his motion making the probation dependent upon our receipt of a letter from Mr. Gray in which he acknowledges his understanding of his duties and responsibilities as the certified operator for a system. Mayor Breland seconded the motion which carried.

Anika Hubert:

Next the Committee proceeded with the hearing scheduled for Ms. Anika Hubert who was present. Mr. McCay swore in the witnesses who would give testimony. Dr. Mooring provided the Committee with a packet of information including copies of papers that were recovered from the restroom at the November 2014 exam location and the exam admission authorization sent to Ms. Hubert. He directed their attention to the paragraph of that letter which lists items prohibited from the testing facility. Dr. Mooring read the allegation against Ms. Hubert, a copy of which was included in the packet. Verification that Ms. Hubert received a grade of zero on the water distribution 1 exam was also provided.

Ms. Sally Collins, DHH staff member, reported that she was helping administer the exam on 11/21/14. While in the restroom she observed Ms. Hubert in the restroom holding some folded papers with red or pink writing on them. She immediately reported the incident to Dr. Mooring who asked her to get Valenscia Walker to assist. Ms. Walker, DHH staff, reported that she was there helping administer the exam when Ms. Collins asked her for assistance. As she was going into the restroom Ms. Hubert was coming out of the restroom. Ms. Walker searched the restroom and found no papers. She reported this to Dr. Mooring but said she would go check again.

At that time, Ms. Hubert went back into the restroom, went to the vanity to wash her hands and "grabbed a whole lot of tissue and just balled stuff up and threw it in the garbage." After that she said you can search me,. After that Ms. Walker went to the trash receptacle where all the paper was and that's where she found the papers which she gave to Dr. Mooring. Dr. Mooring explained that the procedure for restroom breaks during the exam session is for the examinee to place all exam materials in the exam packet and bring the packet along with their driver's license to a DHH staff member to secure while the examinee goes to the restroom. Dr. Mooring stated that after Ms. Walker gave him the papers from the restroom he returned Ms. Hubert's license to her, placed the papers in her exam packet, and held the packet for the remainder of the exam period until it could be returned to DHH Central Office for safe-keeping. Mr. Causey asked Ms. Walker to confirm if the papers submitted as evidence were the papers she recovered from the trash receptacle. She did so confirm.

Ms. Hubert refuted the testimony given by Ms. Collins and Ms. Walker. Ms. Hubert stated she has a CDL and does not need her certifications. She made several disparaging remarks about SWBNO and about her coworkers, including several expletives and terms that may be considered to be racially insensitive. She also stated “for the record; we do have a stolen test; and we use it as a study guide. It’s the same test that we take that y’all give us. It’s 2A.” She also stated “some of us fail on purpose just so we can memorize the test and make our study guides.” “When we come up there to see our messed up scores that we failed on we sit awhile and we just wait and we memorize everything. And then we go back to our car and write everything down on paper.” She stated that the stolen test was “Water Collection 2A”. Mayor Breland asked Ms. Hubert to confirm that they have a stolen test. She did so confirm. She next stated that she was waiting to go to Alexandria to take the next test but that she doesn’t have anything to study from; that she is “waiting on someone to give her something to study. If I fail it, fine all that’s going to make me do is see what’s on the test for the next time. If I fail it again I’m going to remember what’s on the test and write it down whatever they give me. This is on the test. This is on the test. That’s how we study.” Mayor Breland noted that Ms. Hubert has over 10 qualifying points so the only thing keeping her from Class 3 and 4 certifications is passing the exams.

Mr. Causey reiterated the statute and the rule which the committee is contemplating:

a) L.R.S. 40:1145(D):

The state health officer may revoke the certificate of an operator, following a hearing by and upon recommendation of the committee when it is found that the operator has practiced fraud, or deception; that reasonable care, judgment or the application of his knowledge or ability was not used in the performance of his duties; or that the operator is incompetent or unable properly to perform his duties.

b) LAC 48: Chapter 73 § 7323 (H)

-- “Individuals caught cheating during the operator certification examinations or found to have prejudiced these exams or applications in any way shall be entitled to an administrative hearing before the committee of certification. If the committee finds that valid grounds exist, it shall revoke the subject’s current certificate, it may refuse to certify the applicant and it may reject future applications. As provided in the Administrative Procedure Act, an aggrieved party may seek judicial review of the committee of certification’s action.”

He then stated his opinion that, based upon the testimony he has heard from Ms. Collins, Ms. Walker, and from Ms. Hubert herself, Ms. Hubert’s certification be revoked. Mr. Causey made that in the form of a motion. Mr. Causey amended his motion to require that any future exam applications submitted by Ms. Hubert be brought before the Committee for consideration. Mr. Walton provided a second and the motion carried.

Mr. McCay explained to Ms. Hubert that the Committee’s decision is a recommendation to Dr. Guidry. He may either accept or reject the recommendation. If Dr. Guidry accepts the recommendation a letter will be sent to her to that effect which will also include notice of her right to appeal the decision by requesting an administrative hearing.

Bobby Grier:

The Committee next turned their attention to Mr. Bobby Grier who was in attendance. Dr. Mooring provided the Committee with a packet of information including a letter which Mr. Grier sent in response to the letter he received informing him that disciplinary action is being considered. Dr. Mooring reminded the Committee that the point of today's meeting is for the members to determine if, after considering Mr. Grier's response, a hearing is warranted. Mr. Grier presented some material for the Committee's consideration. Copies of the material was made and provided to the members. Mr. Grier admitted that he did not know that he was responsible for these issues. He asked the Committee for leniency. Mr. Causey made the motion to schedule a hearing to further discuss these issues. Mayor Breland seconded the motion which passed.

TRAINING OFFICER'S REPORT:

The Committee reviewed exam statistics presented by Mr. Hoss. The stats from all 2014 exams to that date were provided along with exam totals from 2009 to that date.

NEW BUSINESS

Mr. Owens asked Staff if samples could be taken at the first of the coming week due to inclement weather in the area. Mr. Causey informed him that the Shreveport lab is open. Also he advised that Ms. Kihlken be contacted to facilitate having the lab open tomorrow. He stated that samples must not be submitted late. Systems are encouraged to sample early to avoid such situations.

Next he reiterated a story regarding chlorine room fans. He stated that, until recently, he had been allowed to place the fan towards the top of the room, blowing into the room with a vent at the bottom of the room. The current Sanitarian, Steve Ray, informed him that the fan needs to be towards the floor. When asked why, the response was "because that's what the book says." Mr. Causey stated that the fan must be towards the floor because chlorine is heavier than air. Mr. Owens stated that the fan will be sitting in chlorine and will need to be replaced. Mr. Causey said that, ideally, there shouldn't be a chlorine leak. Mr. Owens responded that he could tell Mr. Causey has never run a water system.

Mr. Owens then recounted that when Ms. Benjamin was first hired someone from the state wanted her to go see a water system. Mr. Owens was asked to show her around. He said Ms. Benjamin asked "what's that?" Answer, it's the well. She then asked "How do you get the water out?" Answer, it has a pump. Mr. Owens then said "she knew nothing and now in 4 or 5 years she's telling me what I can do and can't do. I've been doing this for 45 years."

Mr. Roger Kelley stated that the California Manual recommends that the chlorine room fan should be towards the ceiling with the vent no more than 12 inches from the floor. Mr. Causey responded that the water committee is writing the rules and that committee, predominantly, consists of water utilities. There was some disagreement concerning that statement.

The Committee next considered filling the Vice-Chair position which had previously been filled by Mr. Dennis McGehee. Mayor Breland volunteered for the position. Tom Walton made the motion to elect the mayor as Vice-Chair. Mr. Owens provided the second and the motion carried.

Demetrius Jones:

Next the Committee considered Mr. Demetrius Jones. Mr. Hoss explained that Mr. Jones is a trainer for SWBNO. Dr. Mooring stated that Ms. Elizabeth Jones has been doing the training for them and that she has done a good job. He explained that Ms. Jones lets the Program know who is in class and which persons do not complete the class and are, therefore, not eligible to take exams(s). He also explained that Mr. Jones has been helping Ms. Jones with some of the training. Dr. Mooring then presented a packet of information regarding Mr. Demetrius Jones. The packet contained copies of 2 course approvals and sign-in sheets for those classes. The staff asks that trainers provide a list of class attendees who are intending to take exams on Monday or Tuesday at the latest. Dr. Mooring explained that Ms. Jones was on leave and that Mr. Jones was teaching a class which began on 1/12/15. Mr. Jones did not provide the list of attendees on Monday nor on Tuesday and he was contacted Tuesday afternoon and asked to send the list. The list was still not received on Wednesday. Dr. Mooring stated that on Thursday afternoon he went to the SWBNO to check on the class and to help Mr. Jones as he was new to training on his own.

Dr. Mooring directed the members to a copy of the sign-in sheets Mr. Jones gave to him at 2PM on Thursday. All 5 days were initialed at 8AM, 1PM, and 5PM. Dr. Mooring informed Mr. Jones that these were falsified documents and instructed him to send the sheets to Mr. Hoss and then to correct the sheets. Dr. Mooring stated that he then went into the class room and saw approximately six students in class. He stated that Mr. Jones told him the others were at lunch. Dr. Mooring told the members that on Friday, January 16, 2015 he went back to SWBNO at 2:15PM and found no one in class. A copy of the sign-in sheet Mr. Jones submitted showed class ending at 2:30PM. Mr. Hoss stated that he had called Mr. Jones at 2:33PM, after hearing from Dr. Mooring, and that Mr. Jones stated that they had ended class at 2:30PM because everyone had 40 hours already. Mr. Hoss told Mr. Jones that holding class from Monday through Thursday from 8AM to 5PM does not equal 40 hours, and he pointed out that lunch must be deducted from the total. Mr. Hoss said that Mr. Jones was under the impression that lunch counts in the hour total.

Another class was scheduled for January 26, 2015 with the understanding that Ms. Jones was to have returned and would conduct the class. Dr. Mooring stated that he went to SWBNO at 2PM on that date and that Mr. Jones gave him a sign-in sheet which indicated that 14 students had initialed at 8AM, 1PM, and 5PM. Dr. Mooring stated that he called role and that 7 students were present.

Mr. J.W. Hellums, a Certified Environmental Trainer, stated that this information is upsetting because he works hard to maintain his integrity with the Committee and the Program Staff.

Mr. Walton made the motion to send a letter informing him that disciplinary action is being considered. Mr. Causey provided the second and the motion carried.

COMMENTS FROM PUBLIC

None other than those already noted.

NEXT MEETING DATE

The next scheduled meeting will be held at 10 AM on April 10, 2015 at the Bienville Building in Baton Rouge.

ADJOURNMENT

A motion to adjourn by Mayor Breland was seconded by Mr. Walton and was approved.