**Minutes**

**Louisiana Committee of Certification**

**November 3, 2011**

**Department of Health and Hospitals**

**Baton Rouge, Louisiana**

Meeting was called to order at 10:00 am.

**ROLL CALL:**

1. Determination of Quorum.

Committee Members in attendance:

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

Committee Members Absent:

Bryan Kauffer

 A quorum was achieved.

Recognition of Visitors and Others:

DHH-OPH staff members in attendance were Glenn Cambre, David McCay, Dinah Millet and Steve Hoss.

No visitors present

1. Announcements: There were no announcements.

**MINUTES:**

The minutes from the July 18, 2011 meeting were distributed and reviewed. Motion to accept the minutes was made by Glenn Brasseaux and seconded by Tom Owens. Minutes were approved.

**CHAIRMAN’S REPORT:**

Chairman introduced newly appointed Committee member, Dirk Barrios and welcomed him to the Committee. Then announced that Tom Owens was reappointed to the Committee for another term

Chairman informed the Committee that he submitted a letter of support for the operator certification fee increase to DHH on behalf of the Committee of Certification.

**ADMINISTRATOR’S REPORT**

The Administrator presented the 2012 Exam Schedule to the Committee. There will be one exam per month from February 2012 to November 2012. Two (2) of these exams are classified as Open Exams. One Open Exam will be held in March 2012 in conjunction with the LA Conference Short Course and the second one will be held in July 2012 in conjunction with the LRWA conference. The other exam dates will be Closed Exams. Anyone completing a 32 hour course in the appropriate category and level within 3 months prior to the exam date can be approved to test at a Closed Exam. The Operator is required to submit the exam application a minimum of 30 days prior to the exam date to ensure adequate time for processing. We implemented the pre-approval process for Closed Exams about 2 years ago and it has been very successful. We have very large crowds at the exams now, but the pre-application process has been very successful. Many operators choose to pre-apply for Open exams even though it is not required. Almost 50% of the operators testing at the 2011 Open Exams were pre-approved. Motion to accept the 2012 Exam Schedule was made by David Wittner, seconded by Grant Magnon. Motion passed.

There were 1,283 letters mailed out in late October 2011 to operators that are short of the required continuing education hours. This is the 2nd letter of this type mailed out in 2011. The first letter was mailed out in January 2011.

Letters informing the operators of past due renewal fees were sent out in July or August 2011. This was the 2nd letter of this type mailed out. The first letter was also mailed around January 2011.

Craig Gautreaux received an e-mail from Steve Barras asking the Committee of Certification to “lock in” Flo Fitzmorris’ certifications because she was unable to attend the required continuing education hours because she had a stroke in March 2010. She only attended 2 CE hours in January 2010. Dinah informed the Committee that the Operator Certification Program had no way to “lock in” Flo’s certificates. Flo has to be either active or inactive in the database. Dinah warned the Committee that allowing Flo to remain active without the required CE hours would probably lead to other operators asking for the same consideration. Dinah suggested the Committee consider making Flo an “Honorary” operator. Flo’s record in the OCS database would reflect an “Inactive” status, a note of the honorary status would be made on her records, but she would not be allowed to work as an operator in charge of a facility. The Committee of Certification requested an Honorary Operator for Life Certification be awarded to Flo Fitzmorris due to her disability condition. The Committee re-confirmed that this Honorary Certification does not allow Flo to work as a certified operator for a water or wastewater facility and agreed that Flo’s record in the DHH Operator Certification database will be inactivated and notes of her honorary status be will be noted in the database and her paper file.

Dinah announced her resignation effective December 31, 2011. She encouraged the Committee to continue the practice of scheduling one exam per month so that staff can have time to handle the other required activities and she asked the Committee to consult with David McCay, the DHH attorney, as they proceed with efforts to update the Operator Certification Rule. The current rule has lots of vague language and David can give guidance on how to make it less vague and more defined.

# TRAINING OFFICER’S REPORT

Steve reported that the Qualifying Points for operators have been added to the Training Hours Report that is posted on our website.

Steve Hoss provided a training statistics report to each Committee member. In his review of the report, he announced that the Class 4 Wastewater Collection test has the highest pass rate overall for the year to date the next one is Class 4 Water Distribution. The lowest pass rate is on Class 2 Water Distribution followed by Class 1 Water Distribution has the next worst pass rate. A stat summary of each exam is included in the report.

# SECRETARY’S REPORT

Jake informed the Committee that DHH expects to fill the Administrator’s position quickly. Originally, it was approved to double encumber the position, but since the position has not been advertised that probably won’t happen. The paperwork for the position is on the Asst. Secretary’s desk, waiting for his signature. The position is funded by the Op Cert grant, so there should not be a problem getting someone hired.

The Op Cert fee proposal is still in the Agency’s legislative package. There has been lots of questions about when fees were established and other historical questions. The primary fee increase is the exam fee. It will increase from $5 per exam to $30 per exam, certificates will go from the $20/$10 to $30 per certificate and the addition of a $25 application fee. It also includes a reinstatement fee which if the fee package is passed, could allow operators that did not meet renewal requirements a method to become certified again without starting over at Class 1. One reason for the new fees is to get some new mechanisms in play to help support the operators. Basically in establishing these fees, we looked at the cost of operating the program for a 2 year period and proposed fees to cover that cost. If the fees are passed, the program should have enough self generated fees to fund the program on a 2 year basis.

**EXECUTIVE SESSION**

Chairman called for an executive session, to discuss John Jeffrey Pruett and Marios Papadopoulos. As advised by the DHH attorney, the Committee decided not to go into an executive session. The meeting continued as an open meeting.

**NEW BUSINESS**

David McCay explained to the Committee members that letters were sent to the 2 operators (J. Pruett and M. Papadopoulos) giving them an opportunity to explain that they’ve done nothing wrong such that no disciplinary action is warranted. The LA Administrative Procedures Act requires that they are given a chance to make that showing, if they can, before a decision is made to actually set up a formal disciplinary proceedings, like a hearing. The theory is that they should be given a chance to show or convince the Committee they have done nothing wrong before they are put through the process of a formal hearing and they get summoned. So, a letter was sent giving them time to respond to provide an explanation as to why no disciplinary action is warranted and they responded. So, this meeting is for the Committee to review their responses in light of the allegations and known facts and determine whether their responses are satisfactory or whether the Committee needs to continue on with formal disciplinary proceedings.

Grant Magnon asked about the publication of the agenda and notice of the Committee of Certification meeting and whether the Committee was violating the Open Meeting Law. Dinah stated that the agenda was placed on the LA DOA Boards and Commissions website when it was received. At Grant’s request Craig said he would write to David McCay and ask for clarification on what action needs to be taken to ensure that the Committee is in compliance with the Open Meeting Law. Steve Hoss informed the group that the minutes of the Committee meetings are also posted on the LA DOA Boards and Commissions website.

Dinah provided a copy of the R.S. 40:1145(D), a copy of each operator’s record reflecting the certifications held and the continuing education hours attended in 2010-11, a copy of information pertaining to the legal issue in question, a copy of the letter mailed to each operator and the operator’s response.

Craig asked the Committee to review Mr. Pruett’s record first. Craig stated that Mr. Pruett is incarcerated, has no intentions of renewing his licenses and is in the process of selling his company. David McCay confirmed that this information was in Mr. Pruett’s attorney’s response. Mr. Pruett’s attorney also indicated in the response that there was no reason to continue the hearing process because when Mr. Pruett lets his license lapse and it does not renew that will be the end of it. David McCay stated that the sale of Mr. Pruett’s company may not go through. Jake added that DHH is not convinced that Mr. Pruett will continue to pursue selling the company. Jake stated that there were inquiries about the company having certified operators that can run the systems while Pruett is in jail. Though DHH and DEQ continues to work together to have Mr. Pruett’s company placed in receivership, there is a possibility that Mr. Pruett will argue that he can run the company from prison. Jake added that DHH would prefer action be taken rather than doing nothing. After additional discussion on the issue, Grant Magnon made a motion to hold a disciplinary hearing to determine if disciplinary action is warranted. The motion was seconded by Mayor Glenn Brasseaux. Motion passed.

Next, the Committee reviewed Mr. Papadopoulos information. Mr. Papadopoulos pled no contest to a DMR violation and falsifying public records as an agent for his company and as an individual. Mr. Papadopoulos sent an email to Craig giving his explanation and justification. In the email, Mr. Papadopoulos stated there was no admittance on his part but “no contest” to the charges to resolve the issue quickly. After further discussion, Mayor Glenn Brasseaux made a motion to hold a disciplinary hearing to determine if disciplinary action is warranted. The motion was seconded by Tom Owens.

The disciplinary hearing for John Jeffrey Pruett and Marios Papadopoulos was scheduled for December 1, 2011 starting at 10:00 AM.

David McCay informed the Committee that there is a provision in the LA Administrative Procedures Act that states that once a matter is docketed for hearing, as these 2 cases now are, the people who will be involved in making the decision, the committee members, should not have any contact about the facts or law regarding the case with the people involved in the prosecutorial, investigative or advocative functions which would be Dinah and Jake. The Committee members should be not be calling and talking to Dinah and Jake about the facts of the case at all. The Committee members will get the evidence about the case at the hearing and there should not be any contact at all about the case.

**ADJOURNMENT**

Motion to adjourn was made by David Wittner and seconded by Mayor Glenn Brasseaux. The meeting was adjourned at 11:45 am.