

NCOWCICB
BOARD MEETING AGENDA AND MINUTES
December 8, 2017 9:00 a.m.
LOCATION: Hilton Garden Inn Raleigh Durham Airport
1500 RDU Center Drive Morrisville NC 27560

9:00 a.m. CALL TO ORDER: RUSS DAVIS
OPENING PRAYER: JERRY PEARCE
ROLL CALL: ALL PRESENT INCLUDING ANNA CHOI BOARD COUNSEL
READING OF ETHICS STATEMENT
ETHICS STATEMENT: In accordance with the State Government Ethics Act, it is the duty of every [Board] member to avoid both conflicts of interest and appearances of conflict. Does any [Board] member have any known conflict of interest or appearance of conflict with respect to any matters coming before the [Board] today?
If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved.
READ BY RUSS DAVIS, DIANA RASHASH WILL NOT PARTICIPATE IN NCSU CLASS APPROVAL REQUEST, JERRY PEARCE WILL NOT PARTICIPATE IN NCSTA CLASS APPROVAL REQUEST, DAVID SWINNEY WILL NOT PARTICIPATE IN ALBERMARLE CLASS REQUEST
Welcome to the Board to the newest member, David Swinney BY RUSS DAVIS.

Thank you for your service to the Board Jeff Knight. RUSS DAVIS PRESENTED JEFF KNIGHT WITH PLAQUE IN RECOGNITION OF HIS SERVICE TO NCOWCICB.

9:10 a.m. RECOGNITION OF ANY ATTENDING PUBLIC AND REQUEST TO ADDRESS BOARD (PLEASE NOTE: PUBLIC MAY ADDRESS THE BOARD DURING THIS SECTION OF BOARD MEETING. BOARD WILL NOT RESPOND TO COMMENTS OR REQUEST MADE BY PUBLIC. REQUEST MADE BY PUBLIC DURING THIS SESSION WILL BE PLACED ON A FUTURE BOARD AGENDA FOR DISCUSSION. PUBLIC WILL BE ALLOWED MAXIMUM OF FIVE (5) MINUTES PER PERSON TO ADDRESS BOARD. PUBLIC WILL NOT BE ALLOWED COMMENT FOR REMAINDER OF BOARD MEETING.

DOUG LASSITER FROM NCSTA

9:10 a.m. Approval of Minutes from May 12, 2017 meeting (see minutes attached)
MOTION TO APPROVE DIANA RASHASH, 2ND JERRY PEARCE APPROVED

9:15 a.m. Update from Administrator:

- Audit for fiscal year 7/1/16 – 6/30/17 has been completed and NCOWCICB received a clean report
- All reports required by NCOWCICB have been completed and filed on time
- Renewal due date has passed with a large percentage of certification holders renewing on time. During 2017 three new installer and inspector classes were held attendance at these classes was high and we should have an increase in number of certification holders as a result.
- Proposed Budget for fiscal year 7/1/17 – 6/30/18
Receipts \$215,000
Expenses:

Salaries	\$72,800
Payroll Taxes	3,500
Attorney	20,000
Accounting	25,000
Office Rent	6,000
Printing	12,000
Travel	14,000
Postage	3,000
Phone	3,600
Bank Charges	200
Investigations	2,000
Office Supplies	2,000
Misc	600
Meeting Expense	3,000
Hearing Expense	2,000
Web Expense	4,000
Depreciation	500
Total Proposed Expenses	\$174,200

Notes: Attorney fees, Investigation fees, and hearing expenses may be higher depending on number of complaints. Funds may be transferred to general account from accounts held for future litigation for this purpose if needed.

MOTION TO APPROVE RUSS AYERS, 2ND WALTER JAMES, APPROVED

- REMINDER Any Board member that has not taken the required Ethics training should do so immediately. Once you have taken the course please send me a copy of the completion certificate. Information for required Ethics training for Board members can be found at <http://www.ethicscommission.nc.gov/education/default.aspx>

- The following is what the Ethics Commission records show regarding the Board member's Ethics Training as of 11/20/17:

Board Member	Last Date Rcvd	Next Due Date
Russ Davis	1/6/16	1/6/18
Russ Ayers	11/2/17	11/2/19
Jerry Pearce	8/23/17	8/23/19
Diana Rashash	8/28/17	8/28/19
Glenn Hines	4/13/16	4/13/18
Mark Brooks	4/15/16	4/15/18
Walter James	11/30/16	11/30/18
Adam Waters	10/31/16	10/31/18
David Swinney		1/1/2018
Connie Stephens(EL)	4/14/17	4/14/19

- Thank you to each Board member for filing your SEI on time last year. **REMEMBER YOUR SEI IS DUE BY APRIL 15, 2018.**
- Most of you will be able to use the short form SEI, visit <http://www.ethicscommission.nc.gov/sei/default.aspx>
- Class Approval Request:
NCSU Class approval request:
Re-approval request for all classes approved in 2017 MOTION TO ACCEPT JERRY PEARCE, 2ND RUSS AYERS, APPROVED

NCSTA Class approval request:

Re-approval request for all classes approved in 2017

Approval request for 28th Annual Convention & Expo, 6 hours all levels MOTION TO ACCEPT GLENN HINES, 2ND RUSS AYERS, APPROVED

Granville/Vance County approval request:

Re-approval request for class approved in 2017, MOTION JERRY PEARCE, 2ND DIANA RASHASH, APPROVED

Chatham County approval request:

Re-approval request for class approved in 2017, MOTION DIANA RASHASH, 2ND JERRY PEARCE, APPROVED

Albermarle region approval request:

Re-approval request for class approved in 2017, MOTION GLENN HINES, 2ND WALTER JAMES, APPROVED

SSSNC approval request:

Re-approval request for class approved in 2017, MOTION DIANA RASHASH, 2ND WALTER JAMES, APPROVED

Johnston County approval request:

Re-approval for class approved in 2017, MOTION WALTER JAMES, 2ND ADAM WATERS, APPROVED

Professional Wastewater Group approval request:

18 hour intro 18 hours approval request for those getting certified not for c/e hours, Inspector class, 12 hours both as c/e and beginning Inspector, Pump systems, 6 hours c/e all levels. These classes will help fill the gap for those seeking certification NCSU only offers 3 times annually. This group is made up of varied speakers that have presented at most all of classes held in past, retired RS, current RS, certified Inspectors, certified Installers, really good presenters and much needed classes, MOTION TO APPROVE JERRY, 2ND RUSS AYERS, APPROVED

Jackson County approval request:

This is first request received from Jackson county, agenda meets the requirements for approval, MOTION TO APPROVE DIANA RASHASH, 2ND MARK BROOKS, APPROVED

- Rules Periodic Review: The periodic review for our rules was on the agenda of RRC on November 16, 2017. The report was accepted by RRC and we are not required to do another Rule Review for 10 years
- Records Retention: The Division of Archives and Records within the Department of Natural and Cultural Resources has reviewed NCOWCICB and determined that NCOWCICB records do not and will not have further official use or value for administrative, research, or reference purposes after the respective retention periods specified and they consent to the destruction or other disposition of these records as specified in the schedules.
What does this mean? We can destroy any records after the set retention period for each type of record, if we choose to destroy it.
The Board needs to approved this acceptance by DNCR and Russ Davis and I will be signing the acceptance letter , MOTION TO APPROVE JERRY PEARCE, 2ND RUSS AYERS, APPROVED
- The General Assembly has been busy this year with passage of several new statutes. Some of these changes will require changes and/or additions to our rules.

For those that require additions and/or changes to our rules I would suggest that the Rules Writing Committee combine these with any other additions/changes that we will need to be made to the rules and present them as a group to the Board. We may want to schedule a teleconference call meeting sometime the first of March for the committee to present the rules. The information is as follows:

1. G.S. 143-765. Occupational licensing boards and commissions; notice requirement; applicant certification and disclosures.
 - (a) Every State occupational licensing board or commission that is authorized to issue any license, permit or certification shall include on every application for licensure, permit, or certification, or application for renewal of the same, the following:
 - (1) Certification by the applicant that the applicant has read and understands the public notice statement.
 - (2) Disclosure by the applicant of any investigations for employee misclassification and the result of the investigations for a time period determined by the occupational licensing board or commission.
 - (b) An occupational licensing board or commission shall deny the license, permit, or certification application of any applicant who fails to comply with the certification and disclosure requirements of this section.

What does this mean? No rule is required for this G.S. The intent is to not have employers misclassifying employees i.e showing that they are independent contractors instead of employees. This law is effective 12/31/17. On our applications and renewals after that date there will need to be a disclosure that the applicant has read the public notice statement. This law falls under the NC Industrial Commission Employee Classification Section. At this point they have not issued a public notice. They have a draft but are not sure when it will be approved or released. They do not have a draft of the disclosure statement. This means that at this point each Board will come up with a disclosure statement. They also have not determined what the Boards will do with the information we collect. Bottom line we will have an addition to the application and renewal invoice stating that the applicant or certification holder does not misclassify employees I'm just not sure of the wording at this point.

2. “ G. S. 93B-15.1 (k) An occupational licensing board shall not charge a military-trained applicant or a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check.”

What does this mean to NCOWCICB? We have a rule, as required by G. S. for Licensure for Military, within this rule it states the applicant must submit the fee. This will need to be removed from the rule and should be a simple fix. See below

- **21 NCAC 39 .0405 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE**
- (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license upon the applicant's satisfying the following conditions:

- (1) Submit a complete Application for Certification;
- (2) ~~Submit a license fee in accordance with G.S. 90A-27;~~
- (3) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (4) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed,
- (b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license upon the applicant's satisfying the following conditions:
 - (1) Submit a complete Application for Certification;
 - (2) ~~Submit a license fee in accordance with G.S. 90A-27;~~
 - (3) Submit documentation demonstrating that the applicant is married to an active member of the U.S. military;
 - (4) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); and
 - (5) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.
- *History Note: Authority: G.S. 90A-74; 93B-15.1*
- *Eff. April 1, 2014.*

3. G. S. 150B 20. Petitioning an agency to adopt a rule.

(a) (Effective January 1, 2018) Petition.

A person may petition an agency to adopt a rule by submitting to the agency a written rule making petition requesting the adoption. A person may submit written comments with a rule making petition. If a rule making petition requests the agency to create or amend a rule, the person must submit the proposed text of the requested rule change and a statement of the effect of the requested rule change. Each agency must establish by rule the procedure for submitting a rule making petition to it and the procedure the agency follows in considering a rule making petition. An agency receiving a rule-making petition shall, within three business days of receipt of the petition, send the proposed text of the requested rule change and the statement of the effect of the requested rule change to the Office of Administrative Hearings. The Office of Administrative Hearings shall, within three business days of receipt of the proposed text of the requested rule change and the statement of the effect of the requested rule change, distribute the information via its mailing list and publish the information on its Website.

(b) Time.

An agency must grant or deny a rule-making petition submitted to it within 30 days after the date the rule making petition is submitted, unless the agency is a board or commission. If the agency is a board or commission, it must grant or deny a rule-making petition within 120 days after the date the rule-making petition is submitted.

(c) Action.

If an agency denies a rule-making petition, it must send the person who submitted the petition a written statement of the reasons for denying the petition. If an agency grants a rule-making petition, it must inform the person who submitted the rule-making petition of its decision and must initiate rule-making proceedings. When an agency grants a rule-making petition, the notice of text it publishes in the North Carolina Register may state that the agency is

initiating rule-making as the result of a rule-making petition and state the name of the person who submitted the rule-making petition. If the rule-making petition requested the creation or amendment of a rule, the notice of text the agency publishes may set out the text of the requested rule change submitted with the rule-making petition and state whether the agency endorses the proposed text.

(d) Review.

Denial of a rule-making petition is a final agency decision and is subject to judicial review under Article 4 of this Chapter. Failure of an agency to grant or deny a rule-making petition within the time limits set in subsection (b) is a denial of the rule-making petition.

What does this mean? NCOWCICB needs to have in the rules the procedure for submitting a rule-making petition and the procedure we follow in considering a rule-making petition. Below is the rule already in effect from another Board and we can use it to write our rule for this procedure. It looks like section 103 would be the place to put this and that's how it's formatted below but I leave the final up to the rule writing committee

21 NCAC 39 .0103 Petitions for Rule-Making

Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the Board shall address a petition to the Board's Executive Director, as set forth in 21 NCAC 39 .0103 (a).

(a) Contents of Petition for New Rule

A petition requesting the adoption of a rule should contain the following information:

- (1) either a draft of the proposed rule or a summary of the contents of the proposed rule;
- (2) reason for the proposal;
- (3) effect of the new rule on existing rules;
- (4) data supporting the rule proposal;
- (5) effects of the rule on existing practices in the area involved;
and
- (6) name, address and phone number of each petitioner.

(b) Contents of Petitions for Rule Amendment or Repeal

A petition requesting the amendment or repeal of a rule should contain the following information:

- (1) rule affected;
- (2) reasons for change;
- (3) either a draft of the proposed amendment or a summary of the proposed amendment, if the petition is to amend the rule;
- (4) data supporting the rule proposal;
- (5) effect of the proposed change on existing practices in the area involved; and
- (6) name and address of each petitioner.

(c) Granting or Denying Petitions

The Executive Director of the Board shall make a recommendation to a committee of the Board and the committee shall recommend to the full Board, based on a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition. The Board will consider all the contents of the submitted petition plus any additional information deemed relevant.

21 NCAC 39 .0104 Mailing List

- (a) Persons or agencies desiring to be placed on the mailing list for the Board's rule making notices issued pursuant to G.S. 150B 21.2 may file a request in writing, furnishing their name and mailing address to the Executive Director of the Board, at the address set forth in 21 NCAC 08A .0102.
 - (b) The request shall state the subject areas within the authority of the agency for which notice is requested
- Some additions to the inspectors rules that have been suggested are listed below. These are only suggestions and the rule writing committee should review and bring back suggestions to the Board with the other rules:
 1. Requirement for Inspectors to have Errors and omissions insurance in the amount of two hundred fifty thousand dollars (\$250,000), which insurance may be individual coverage or coverage under an employer policy.
 2. Requirement for Installers to carry General Liability policy
 3. Statement in the Inspector rules to the following: The Inspector shall conduct the inspection using the rules in effect at the time of the construction, renovation, and any subsequent installation or replacement of any system or component of the home. This came about as a result of inspectors doing inspections on older homes and writing up the inspection report that the system is not what it should be today

4. Inspectors shall furnish their records to the Board on demand. This suggestion comes about because of calls that I receive regarding inspections and I need the authority to request the reports and to enforce that they send the reports as requested. You may want to something to effect of “upon request of Inspection report(s) the Inspector shall provide said reports to the Board electronically no later than seven(7) business days from receipt of request.
5. To set an expiration for the inspection report. The Inspections are getting some age on them and as a result we find that the Inspectors are being called back on something that may or may not have been an issue when the inspection was done. Take an example: Inspection is done for buyer 1 they purchase home then they sell the home to Buyer 2, buyer 2 doesn't get an inspection but is given the inspection that Buyer 1 had, time has passed, during Buyer 1 ownership things were done to the system that they didn't disclose and the Inspector can't prove wasn't there at time of inspection, etc. Or another example, there were no roots when Inspection was done and two years down the road roots clog the system, given the right tree and the right circumstances after a couple of years these could be a problem but they were not at the time of inspection.

I'm not sure how this should be handled or even if it should. On the one hand the Inspector should be held accountable for what they report however I don't think they should be on the hook for an eternity.

6. The Inspection form that we issue to inspectors is not a required form but we strongly advise that they use the form. I would like to rework the form and make it more user friendly and hopefully they will use the form and follow the flow better. Once I get an updated form I'll send out the Board and get everyone to proof read it before I publish it

SUGGESTION FOR ADDITION TO FORM AT REQUEST OF
BOARD THIS INSPECTION FORM SHALL BE SUBMITTED
TO CERTIFICATION BOARD

RULE WRITING COMMITTEE, DIANA RASHASH, DAVID
SWINNEY, MARK BROOKS , DOUG LASSITER

As stated at the last meeting the website has been updated and now has the feature to file a complaint online so far no online complaints filed.

10:30 a.m. Treasurer's Report by Jerry Pearce, Treasurer
Financial Report as of October 31, 2017

Monies on hand:	
Capital Bank Operating Account	\$192,415.51
Select Bank*	\$236,016.60
Bank of Oak Ridge*	\$232,177.29

Sound Bank*	\$207,780.29
North State Bank*	\$103,528.99
New Bridge Bank*	<u>\$203,331.52</u>
Total Monies on hand	\$1,175,250.20

(*CD held for future enforcement)

See detailed YTD Financial Report Attached

MOTION TO APPROVE DIANA RASHASH, 2ND DAVID SWINNEY, APPROVED

10:35 a.m. Board shall enter Closed Session for discussion of complaints received

11:00 a.m. Board shall re-enter regular session

Motion to re-enter regular session

MOTION TO RETURN TO REGULAR SESSION RUSS AYERS, DIANA RASHASH, APPROVED

THE FOLLOWING COMPLAINTS WERE DISCUSSED IN CLOSED SESSION:
COMPLAINTS REVIEWED AND DECISIONS BY BOARD LISTED UNDER EACH COMPLAINT

Complaint number: 10281601 This complaint was discussed at the December and May meeting. Two letters with admission of guilts have been sent second one was sent after December meeting and after investigation was done. He did not sign either admission. Executive committee reviewed this information and determined to send a stayed suspension notice for 12 month period. Motion to approve Executive Committee recommendation DAVID SWINNEY, 2ND WALTER JAMES, APPROVED

Complaint Number: 09151701 Install without certification and without permit 2nd offense
Motion to seek injunction and contempt charges: DIANA RASHASH, 2ND DAVID SWINNEY, APPROVED

Complaint Number: 10131701 Installation of repair without permit, first offense,
MOTION TO SEND LETTER STATING MUST HAVE PERMIT DIANA RASHASH, 2ND MARK BROOKS, APPROVED

11:05 a.m. Update from Counsel Anna Choi

GENERAL ASSEMBLY HAS BEEN BUSY THE DIRECTION SEEMS TO BE FOR TRANSPARENCY FROM ALL BOARDS. DOWN THE ROAD WE MAY NEED TO PROVIDE INFORMATION ABOUT DISCIPLINARY ACTIONS THAT WE HAVE TAKEN. WOULD HAVE TO WAIT UNTIL AFTER CONCLUSION OF MATTER NOT AT POINT OF COMPLAINT BEING FILED.

WE STILL HAVE THE AUTHORITY TO SEEK INJUNCTION ON UNCERTIFIED PERSONS

- 11:45 a.m. Next Scheduled Board Meeting: May 11, 2018 9 a.m. in Raleigh, keep in mind the Board meetings have been set as second Friday in May and December and there may be a teleconference meeting called in March for updated rules review.
- 11:45 a.m. Meeting Adjourn motion to adjourn WALTER JAMES, RUSS AYERS

NCOWCICB Financial Report as of October 31, 2017

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Total Monies on hand	\$1,175,250.20
(*CD held for future enforcement)	

YTD Receipts**

Fees Received	\$ 91,700
Interest Income	<u>\$ 1,197</u>
Total Receipts	\$ 92,897

YTD Expenditures**

Postage	\$ 1,470
Printing	\$ 9,623
Travel – Board	\$ 0
Travel – Staff	\$ 888
Telephone	\$ 1,050
Misc Expense	\$ 147
Bank Charges	\$ 0
Accounting	\$ 11,950
Salaries	\$ 24,268
Payroll Taxes	\$ 1,905
Office Expense	\$ 731
Depreciation	\$ 148
Office Rent	\$ 2,000
Investigations	\$ 0
Hearing Expense	\$ 0
Meeting Expense	\$ 0
Web Expense	\$ 1,507
Legal Fees	<u>\$ 1,510</u>
Total Expenditures	\$ 51,197

(**Fiscal year runs July 1 – June 30th)