

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

**STATE BOARD OF CRANE OPERATORS
VIA VIDEOCONFERENCE**

TIME: 10:30 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

September 23, 2020

State Board of Crane Operators
September 23, 2020

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

BOARD MEMBERS:

Michael A. Becker, Chair, Professional Member - Absent
Molly Smith, Administrative Officer, Bureau of
Professional and Occupational Affairs, on behalf of
K. Kalonji Johnson, Commissioner, Bureau of
Professional and Occupational Affairs
Andrew S. Goulet, Professional Member
Daniel R. Haulman, Professional Member/Acting Chair
F. Allan "Buddy" Mauger Jr., Public Member
Brian M. Schmoyer, Professional Member

BUREAU PERSONNEL:

Dean F. Picarella, Esquire, Senior Board Counsel
Colby B. Widdowson, Esquire, Board Prosecution Liaison
Amanda Li, Board Administrator
Theodore Stauffer, Executive Secretary, Bureau of
Professional and Occupational Affairs
Marc Farrell, Deputy Policy Director, Department of
State
Andrew LaFratte, MPA, Policy Office, Department of
State

ALSO PRESENT:

Richard Thompson, Manager of Regulatory and Consensus
Standards, National Commission for the Certification
of Crane Operators
Neil Tolson, Executive Director, Electrical Industry
Certifications Association
Jen Smeltz, Executive Director, Senate Consumer
Protection and Professional Licensure Committee
Steven Kuncelman, Assistant Safety & Training
Director for Local Union 126, International
Brotherhood of Electrical Workers

1 ***

2 State Board of Crane Operators

3 September 23, 2020

4 ***

5 [Dean F. Picarella, Esquire, Senior Board Counsel,
6 Acting Chair, referred to Section 301(1) of the Crane
7 Licensure Act, noting the requirement had been waived
8 with the COVID-19 emergency declaration from Governor
9 Wolf on March 17, 2020, allowing videoconferences.]

10 ***

11 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
12 9:00 a.m. the Board entered into Executive Session
13 with Dean F. Picarella, Esquire, Senior Board Counsel,
14 for the purpose of conducting quasi-judicial
15 deliberations on a number of matters that are
16 currently pending before the Board and to receive the
17 advice of counsel. The Board returned to open session
18 at 10:30 a.m.]

19 ***

20 [Theodore Stauffer, Executive Secretary, Bureau of
21 Professional and Occupational Affairs, noted the
22 meeting was being recorded, and those who remained on
23 the call were giving their consent to being recorded.]

24 ***

25 Roll Call/Introductions

1 [Acting Chair Haulman requested the introduction of
2 the Board members, staff, and audience in attendance.]

3 ***

4 The regularly scheduled meeting of the State
5 Board of Crane Operators was held on Wednesday,
6 September 23, 2020. Daniel R. Haulman, Acting Chair,
7 Professional Member, called the meeting to order at
8 10:30 a.m.]

9 ***

10 Approval of minutes of the July 23, 2020 meeting

11 ACTING CHAIR HAULMAN:

12 At this time, I would like to begin with
13 approval of the minutes of our previous
14 meeting of July 23, 2020.

15 Does anybody have any changes or
16 anything that needs to be made to those
17 minutes, and if not, could I have a
18 motion to accept those minutes?

19 MR. MAUGER:

20 I accept the minutes as read. I did not
21 see any corrections needed.

22 MR. SCHMOYER:

23 I second that.

24 ACTING CHAIR HAULMAN:

25 All in favor of accepting those minutes?

1 Any opposed, please let us know now.
2 Not hearing any objection. Minutes are
3 approved for the July 23 Board meeting.
4 [The motion carried unanimously.]

5 ***
6 Report of Prosecutorial Division
7 [Colby B. Widdowson, Esquire, Board Prosecution
8 Liaison, presented the Consent Agreement for Case No.
9 19-71-013639.]

10 ***
11 MR. PICARELLA:
12 The Board was in Executive Session.
13 This matter was one of the matters
14 discussed in Executive Session.

15 Do any members of the Board feel we
16 need to reenter into Executive Session
17 before voting on this matter?

18 At this time, I believe the Board
19 would entertain a motion to accept the
20 Consent Agreement and Order at Case No.
21 19-71-013639.

22 MR. GOULET:
23 I would like to make a motion to approve
24 that Consent Agreement.

25 MR. MAUGER:

1 I'll second that motion.

2 ACTING CHAIR HAULMAN:

3 We have a move and second. All in
4 favor, say aye. Anyone in opposition?

5 [The motion carried unanimously. The caption in this
6 matter is the Commonwealth of Pennsylvania BPOA v.
7 Andrew G. Dorton, L.C.O. Mr. Becker was recused and
8 not present for deliberation or voting on the motion.]

9 ***

10 Report of Board Counsel

11 [Dean F. Picarella, Esquire, Senior Board Counsel,
12 noted the Act 48 citation authority regulation package
13 was moving forward and was hopeful to the package in
14 front of the Independent Regulatory Review Commission
15 (IRRC) soon.

16 Mr. Picarella addressed Act 41, informing the
17 Board of comments received from Richard Thompson,
18 Manager of Regulatory and Consensus Standards at the
19 National Commission for Certification of Crane
20 Operators (NCCCO).

21 Mr. Picarella addressed the first comment
22 referencing "substantially equivalent" in § 6.16
23 regarding licensure by endorsement under Act 41. He
24 stated NCCCO recommended including the Occupational
25 Safety and Health Administration's (OSHA) language

1 regarding government-issued licenses in 1926.1427(c)
2 as a component of being considered substantially
3 equivalent to include a written exam, practical hands-
4 on exam, exams covering topics in 1926.1427(j)(1) and
5 (2), a determination by the entity overseeing the
6 licensure program that meets OSHA's requirements, and
7 an official statement from the other jurisdiction's
8 licensing body that it had been deemed compliant.

9 Mr. Picarella stated the rationale for this
10 comment was that this approach would help standardize
11 the concepts associated with certification and
12 licensure by minimizing issues associated with
13 establishing whether licensure programs without a
14 practical exam were substantially equivalent.

15 Mr. Picarella explained the purpose of Act 41 is
16 to give people an easier avenue to be licensed in
17 Pennsylvania, and substantial equivalency is the major
18 component. He commented that substantially equivalent
19 would require an individual to demonstrate compliance
20 with Section 502 of the act, where an applicant
21 applying for a license must have good moral character,
22 be 18 years of age or older, and hold current
23 certification.

24 Mr. Picarella stated current certification would
25 denote substantial equivalency and referred to Section

1 102 of the act for definitions.

2 Mr. Picarella noted certification from the
3 National Commission for Certification of Crane
4 Operators or another organization found by the State
5 Board of Crane Operators to offer an equivalent
6 testing and certification program meeting the
7 applicable requirements of the American Society of
8 Mechanical Engineers (ASME) B30.5 as related to mobile
9 cranes, ASME B30.3 are the requirements of ASME B30.4
10 related to tower cranes and accreditation requirements
11 by the National Commission for Certifying Agencies or
12 the American National Standards Institute.

13 Mr. Picarella referred to definitions under the
14 Board's regulation, including certification from the
15 NCCCO and other organizations found by the Board to
16 offer a testing and certification program equivalent
17 to NCCCO and meeting the applicable requirements of
18 ASME B30 and to the accreditation requirements of the
19 National Commission for Certifying Agencies (NCCA) or
20 the American National Standards Institute, as well as
21 defining a certifying organization as NCCCO, another
22 organization approved by the Board to issue
23 certification.

24 Mr. Picarella believed, when read in conjunction
25 with the remainder of the act and the regulations, Act

1 41 would remedy this concern.

2 Mr. Picarella stated substantial equivalency is
3 where the Board discern whether the individuals are
4 certified properly, just like anybody seeking initial
5 licensure.

6 Mr. Picarella addressed the second comment
7 regarding certification by accredited certifying
8 entities. He noted NCCCO's recommendation included
9 additional language to assure that a license,
10 certification, registration, or permit issued to a
11 professional crane operator in another jurisdiction
12 which requires certification by an accredited
13 certifying entity as a pathway to, or requirement for
14 a license, certification, registration, or permit. It
15 also noted such entities should be identified as those
16 accredited by ANSI or NCCA at the time of the issuance
17 of the certification.

18 Mr. Picarella mentioned NCCCO's rationale behind
19 the comment was that the goal of a license,
20 certification, registration, or permit is to ensure an
21 individual meets all the statutory requirements. The
22 programs of accredited certifying entities must be
23 valid at the time of the issuance of certification by
24 a state, territory, or county in order for any
25 subsequent license, certification, registration, or

1 permit to be valid. This approach also supports
2 compliance with the regulatory aspects of 29 CFR
3 1926.1427(d)(1)-(d)(4).

4 Mr. Picarella responded to the comment by saying
5 the Board established in their definitional sections
6 of certification in both the act and regulations that
7 the Board would assure that is covered upon reviewing
8 applications. He stated substantial equivalency would
9 verify the accreditation by ANSI or NCCA at the time
10 of the certification.

11 Mr. Thompson commented that the introduction of
12 the word "country" threw NCCCO for a loop. He
13 questioned how that would play into the act and other
14 existing rules and regulations because he was unaware
15 of any reciprocal agreements between the United States
16 and other countries for operator certification.

17 Mr. Picarella explained that applicants are
18 required to submit documentation of the process for
19 their certification in their original jurisdiction.
20 He noted not all states have licensure for crane
21 operators and nobody knows another country's
22 requirements for crane operators or licensure, which
23 is why the applicant must submit the information for
24 the Board's decision.

25 Mr. Picarella commented, after the substantial

1 equivalency, the Board confirms an applicant has 2 out
2 of the last 5 years past experience in the profession
3 before granting licensure.

4 Mr. Picarella addressed the third comment
5 regarding license, certification, registration, or
6 permit issued by state, territory, or country. He
7 noted NCCCO's recommendation included reference to 29
8 CFR 1926.1427(c)(1)-(c)(4) "operator certification or
9 licensing" within § 6.16(a)(1)(i).

10 Mr. Picarella noted NCCCO believed this is
11 appropriate to ensure that a provisional license
12 issued by the State Board of Crane Operators as a
13 result of the proposal to provide licensure under Act
14 41 meets the regulatory requirements provided in 29
15 CFR 1926 Subpart CC, Crane and Derricks in
16 Construction. NCCCO also believed including a
17 reference to 29 CFR 1926.1427(c)(1)-(c)(4) would
18 minimize the applications that do not meet the minimum
19 federal requirements.

20 Mr. Picarella explained a provisional license as
21 somebody who applies but does not fully meet the
22 requirements, which is usually in the experience 2 of
23 the last 5 years. He mentioned that individuals would
24 be allowed to practice under a provisional license for
25 1 year to gain experience, and if they needed a second

1 year, it would be granted for a second year upon
2 request. He stated those who do not meet all of the
3 requirements after 2 years would not be issued a
4 license.

5 Mr. Picarella referred to § 6.16(a)(1)(i), noting
6 that proof of their current licensure in good standing
7 and how their licensure was obtained would take care
8 of that issue.

9 Mr. Picarella provided a proposed preamble for
10 Act 41, which outlined the history for the Board's
11 action and to take care of any comments in this
12 process. He stated the preamble and annex would be
13 put into a regulations package and sent for processing
14 to get the regulation passed.]

15 ***

16 MR. PICARELLA:

17 At this point, I believe the Board would
18 entertain a motion to accept the
19 preamble and annex previously approved
20 and direct me to prepare a regulation
21 package and forward the package for
22 promulgation as proposed rulemaking.

23 Will anybody make that motion?

24 MR. GOULET:

25 I make that motion.

1 MR. MAUGER:

2 I'll second his motion.

3 ACTING CHAIR HAULMAN:

4 Any further discussion? I would ask all
5 those in favor to say aye. Any opposed?

6 [The motion carried unanimously.]

7 ***

8 Report of Board Counsel - Matters for Discussion
9 [Andrew S. Goulet, Professional Member, addressed
10 prior discussion regarding practical and national
11 certification examinations. He provided additional
12 research, where four of the five current accredited
13 crane certification bodies in the state of
14 Pennsylvania allow for the practical exams for crane
15 certification to be taken on digger derricks.

16 Mr. Goulet mentioned a Board meeting in 2016,
17 where the Board had an indication that the machine for
18 practical exams had to be taken on an ASME B30.5
19 machine, although there was no way to verify that
20 information through applicants, which is still true
21 today. He stated, even though the Board directed the
22 use of the ASME B30.5 machine, that could not be
23 verified.

24 Mr. Goulet also noted it was not actually
25 included in the regulation at § 6.13, which only

1 requires proof of certification and a copy of the
2 written and practical examination scores provided by
3 the applicant by a certifying organization and a
4 waiver for the certifying organization to release the
5 license certification status and certification score
6 to the Board.

7 Mr. Picarella commented that each individual
8 accredited crane certification organization maintains
9 records differently. Some do not document the make
10 and model for practical exams and just list the
11 control type. He stated their evaluation forms do not
12 keep records of that information, which makes it
13 difficult to verify the machines utilized.

14 Mr. Picarella questioned whether Ms. Li could
15 send a letter to certifying organizations requiring
16 information in order for the Board to accept their
17 certification.

18 Ms. Li will send a letter to certifying
19 organizations detailing the verifications to be
20 provided to the Board.

21 Ms. Li mentioned that the only certified
22 organization providing the type of machine utilized in
23 the practical exams on was the Crane Institute
24 Certification (CIC). She noted other certifying
25 organizations only indicate what the candidate is

1 currently certified for as far as specialty
2 designations.

3 Mr. Schmoyer commented that there are digger
4 derricks that are dual-rated and meet the B30.5
5 requirement and some that are rated for A10.31 and
6 also on a B30.5 platform as well. He noted not seeing
7 a problem as long as the B30.5 requirement is met.

8 Mr. Picarella noted it could be as simple as
9 having the certifying organizations include
10 verification information, and the ones that give
11 specialization designation would reflect testing on an
12 exam for a certain type of crane.

13 Mr. Goulet suggested amending the indication from
14 2016 and making a motion that practical exams must
15 comply with OSHA and ASME B30.5 requirements for
16 practical certification. He did not believe this to
17 be a regulation and just an indication, noting there
18 is no regulation that specifies the equipment type
19 beyond an ASME B30.5 machine and was an interpretation
20 at the time.

21 Mr. Picarella commented that the definitions note
22 compliance with certain testing criteria, so it may be
23 more of a guidance for the Board when considering
24 applications to confirm the information.

25 Steven Kuncelman, Assistant Safety & Training

1 Director, International Brotherhood of Electrical
2 Workers, Pennsylvania Local Union 126, expressed
3 concern over the difficulty to obtain manpower for the
4 industry when individuals come from outside of
5 Pennsylvania and try to receive a state license in
6 order to work on projects. He informed the Board of
7 licenses being denied because individuals initially
8 took their certification with a control type that
9 might have been done on the digger derrick.

10 Mr. Kuncelman mentioned this to be an issue only
11 in Pennsylvania and a hassle to individuals who have
12 been operating cranes for over 10 years. The
13 individuals have to jump through hoops and set up new
14 practical exams to receive the license.

15 Mr. Picarella stated the Board will look into the
16 situation.]

17 ***

18 MR. GOULET:

19 I would like to make a motion to amend
20 the indication wording from 2016. I
21 make a motion that practical exams must
22 comply with OSHA and ASME B30.5
23 requirements for practical exam
24 certification.

25 MR. PICARELLA:

1 I believe that would just ratify the
2 Board's decision to follow what we
3 already had in our definitional section.

4 I have not heard anybody second
5 that motion. I guess the question is
6 what exactly are we proposing to do with
7 that motion?

8 Having no second, I do not believe
9 we can move on that at this time.

10 [The motion will be considered.]

11 ***

12 [Mr. Kuncelman stated the Board of Crane Operators is
13 meant for the safeguarding of the public and licensing
14 pieces of equipment. He noted a loophole with digger
15 derricks, where some of the equipment is over 30-ton
16 capacity and have well over 100-foot tip height
17 capabilities but not required by state licensing
18 because they were left out of the definitions.

19 Mr. Kuncelman mentioned individuals are buying
20 these pieces of equipment from auctions and doing
21 general construction with them, which falls under
22 federal regulation but is exempt from of PA Codes. He
23 recommended incorporating the machines in the
24 language, which would be beneficial by ensuring people
25 are properly trained and properly licensed to operate

1 pieces of hoisting equipment.

2 Mr. Picarella suggested establishing a committee
3 to review the issue and report back to the Board.]

4 ***

5 MR. MAUGER:

6 I'll make a motion that we appoint a
7 committee to further look into the
8 digger derricks and its relation to our
9 crane licensing act.

10 ACTING CHAIR HAULMAN:

11 I'll second that motion.

12 MR. PICARELLA:

13 The motion has been made and seconded.
14 All in favor? Any opposed?

15 [The motion carried unanimously.]

16 ***

17 [Mr. Schmoyer and Mr. Goulet volunteered to be on the
18 committee.]

19 Mr. Thompson offered assistance from the National
20 Commission for the Certification of Crane Operators to
21 help answer questions from a certification
22 perspective.]

23 ***

24 Report of Commissioner - No Report

25 ***

1 Report of Board Chair - No Report

2 ***

3 Applications

4 [Dean F. Picarella, Esquire, Senior Board Counsel,
5 noted previous application discussion in Executive
6 Session. He also noted Mr. Beck was recused and not
7 present to participate on the Consent Agreement
8 approved this morning.]

9 ***

10 MR. PICARELLA:

11 Based upon our discussion in Executive
12 Session, I believe the Board would
13 entertain a motion to reject the
14 licensure application filed by Matthew
15 Willis and would direct me to send a
16 letter to Mr. Willis explaining that
17 rejection.

18 MR. MAUGER:

19 I make a motion that we reject it and
20 advise you to send a letter to him of
21 the rejection.

22 MR. SCHMOYER:

23 I'll second that.

24 MR. PICARELLA:

25 All in favor? Any opposed? Hearing no

1 opposition. That motion carries, and I
2 will draft that letter and send it to
3 Mr. Willis.

4 [The motion carried unanimously.]

5 ***

6 Report of Board Administrator

7 [Amanda Li, Board Administrator, reported renewals
8 were up and running with about 28% of the crane
9 licensing population renewed. She stated licenses
10 will expire and renewal will close on October 31,
11 2020. She mentioned that anyone who misses renewal
12 will have to go through the reactivation process.

13 Mr. Picarella commended Ms. Li on her fantastic
14 work with renewals and setting up the Pennsylvania
15 Licensing System (PALS) to get the renewals processed
16 efficiently and timely.]

17 ***

18 [Dean F. Picarella, Esquire, Senior Board Counsel,
19 noted the next scheduled Board meeting date is
20 November 18, 2020.

21 Ms. Li mentioned working on the 2021 Board
22 meeting dates and will send the dates out to the Board
23 members.

24 Mr. Stauffer informed the Board that digital
25 meetings would not be ending anytime soon with the

1 goal of one meeting per day for 2021, which may cause
2 some delay in 2021 meeting dates.

3 Mr. Picarella thanked Mr. Stauffer for his work
4 with setting up the digital meetings.]

5 ***

6 Adjournment

7 MR. PICARELLA:

8 I believe, at this time, the Board would
9 entertain a motion to adjourn.

10 MR. GOULET:

11 I make a motion.

12 MR. SCHMOYER:

13 I'll second it.

14 MR. PICARELLA:

15 All in favor, say aye. Any opposed?

16 The meeting has officially ended.

17 [The motion carried unanimously.]

18 ***

19 [The State Board of Crane Operators Meeting adjourned
20 at 11:27 a.m.]

21 ***

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Crane Operators meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Crane Operators meeting.



Derek Richmond,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CRANE OPERATORS
REFERENCE INDEX

September 23, 2020

TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:30	Official Call to Order
10:33	Roll Call/Introductions
10:36	Approval of Minutes
10:37	Report of Prosecutorial Division
10:43	Report of Board Counsel
11:21	Applications
11:23	Report of Board Administrator
11:27	Adjournment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50