

PEST CONTROL BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF THE MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by § 92-7(b), Hawaii Revised Statutes (“HRS”)

Date: Monday, January 27, 2020

Time: 2:00 p.m.

Place: King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, Hawaii 96813

Present: Rodney Ono, Industry Member, Chairperson
Terrance Manago, Industry Member, Vice Chairperson
David Lau, Industry Member
Julian Yates, Ph.D., Public Member
Jonathan Montalbo, Industry Member
Scott Ai, Public Member
Gracelda Simmons, Department of Health, Ex-Officio
John McHugh, Ph.D., Department of Agriculture, Ex-Officio
Jia-Wei Tay, Ph.D., Department of Plant & Environmental Protection
Sciences, Ex-Officio
Charlene Tamanaha, Executive Officer
Lei Ana Green, Executive Officer
Christopher Leong, Esq., Deputy Attorney General
Susan Reyes, Secretary

Member(s) None

Excused:

Guest(s): Tim Lyons, Hawaii Pest Control Association (“HPCA”)

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor as required by § 92-7(b), Hawaii Revised Statutes (“HRS”).

Call to Order: There being a quorum present, the meeting was called to order by Chairperson Ono at 2:00 p.m.

Ms. Jia-Wei Tay, from the Department of Plant & Environmental Protection Sciences, was welcomed to the Board as an ex-officio member.

Approval of Minutes: It was moved by Dr. Yates, seconded by Mr. Ai, and unanimously carried to approve the minutes of the November 25, 2019 meeting as circulated.

Executive Officer's Report:

a. Examination Report

**PROMETRIC
 HAWAII PEST CONTROL EXAMINATIONS
 EXAMINATIONS ADMINISTERED DECEMBER 2019**

<u>EXAM</u>	<u>ADMINISTERED</u>				
	<u>NO. EXAMS</u>	<u>NO. FAIL</u>	<u>NO. PASS</u>	<u>% FAIL</u>	<u>%PASS</u>
PART 1	1	0	1	0%	100%
FIELD REP BR 1	2	0	2	0%	100%
FIELD REP BR 2	3	1	2	34%	66%
FIELD REP BR 3	5	2	3	40%	60
OPERATOR BR 1	1	1	0	100%	0%
OPERATOR BR 2	0	0	0	0%	0%
OPERATOR BR 3	0	0	0	0%	0%
TOTAL NO. EXAMS ADMINISTERED				12	
TOTAL NO. EXAMS PASSED				8	
TOTAL NO. EXAMS FAILED				4	
TOTAL PERCENT PASSED				66%	
TOTAL PERCENT FAILED				34%	

b. Scope/Board Interpretations

Ms. Green briefed the Board on documentation that the Board's office maintains with the Board's previous interpretations. This document had recently been updated with the Board's interpretations dating from 2011 to 2019, and a copy was provided to each Board member to add to their binders for future reference with scope questions.

c. PCO & PCFR application updates

Ms. Green advised the Board that the applications for PCO & PCFR have been updated. The PCO application added clarification to questions 5, 7, and 8, noting that if an applicant answers yes to any of those questions, it clarifies that additional documentation should be submitted. Additionally, the individual PDFs of both the PCO and the PCFR applications that are posted to the Pest Control Board website have been updated so that applicants no longer have to download each individual form for the classification. Applicants may now download either the PCO or PCFR applications, and the single PDF will include all the forms needed for that specific application.

2020 Legislation:

Ms. Green requested the Board amend the agenda to correctly reflect that two bills listed as carry overs from last session are actually new bills presented this session. The below bills should be noted as new, not carry over:

Relating to Professional and Vocational Licensing

House Bill No. 1606

Specifies the documentation needed for a military spouse to receive a temporary licensure by endorsement. Requires issuance of the license within 30 days of the application and supporting documents.

Relating to Health

House Bill No. 1665

Prohibits the use of any pesticide containing glyphosate as an active ingredient.

It was moved by Mr. Montalbo, seconded by Dr. Yates, and unanimously carried to approve the amendment to the agenda.

a. Carry Over

Ms. Green informed Board members that many of the carry over bills do not appear to directly affect the Board's statutes and the Board will continue to track them in the event Chapter 460J is impacted. Ms. Green briefed the Board on the following bills.

Relating to Professional and Vocational Licensing

House Bill No. 73 (This bill has a companion bill Senate Bill No. 774 SD1 HD2)

Prohibits a licensing authority from using rules to supersede requirements set forth in licensing laws and adopting rules that authorize an unlicensed individual to perform duties, activities, or functions that, if performed by another professional, would require licensure of that professional.

Ms. Tamanaha reminded the Board about this bill and the surrounding discussions when it was brought forward last session.

Relating to Taxation

House Bill No. 112

Requires a tax clearance before a professional or vocational license may be issued or renewed. Applies to taxable years after 12/21/2020.

Ms. Tamanaha stated this bill would not impact PCOs because a tax clearance is already required; however, it would require tax clearances for all RMEs and PCFRs. Ms. Green stated that this bill is being tracked, should it be resurrected.

Relating to Professional and Vocational Regulatory Programs

Senate Bill No. 202

Establishes repeal dates for all professional and vocational regulatory programs under the professional and vocational licensing division of the department of commerce and consumer affairs. Requires the auditor to perform an evaluation of each program prior to repeal.

Ms. Green stated that this bill is being tracked. Previously the Board opposed this bill, and with the Board's approval, she will note that the Board will hold the same position.

It was moved by Mr. Montalbo, seconded by Mr. Lau, and unanimously carried to approve the Board's position in opposition of Senate Bill 202.

Relating to Pesticides

House Bill 1575

Prohibits the use of any pesticide use unless the user is certified by the Department of Agriculture. Requires DOA to include an educational component in the pesticide use certification process.

Ms. Green stated that this bill is being tracked.

House Bill No. 929 H.D.2

Increases fines for pesticide use violations. Requires issuance of a warning, notice for first-time pesticide violations. (HB929 HD2)

Ms. Green stated that this bill is being tracked.

House Bill No. 1065

Deletes the Provision authorizing the issuance of a written warning notice for a first violation of Hawaii's pesticide laws. Increases the administrative penalties. Enhances the criminal penalties for violations involving bodily injury.

Ms. Green stated that this bill is being tracked.

Relating to the Pesticide Subsidy Program

House Bill No. 1103 H.D.2, S.D.1

Appropriates funds to the Department of Agriculture for the pesticide subsidy program to help eradicate the coffee berry borer. (SD1)

Ms. Green stated that this bill is being tracked.

Relating to Environmental Protection

Senate Bill No. 445

Prohibits application of neonicotinoid insecticides without a permit after 6/30/20 to protect honeybees and other pollinating animals.

Ms. Green stated that this bill is being tracked.

Relating to A State Lottery

Senate Bill No. 602

Establishes a state lottery commission to implement a lottery, of which excess proceeds are deposited into the pest inspection, quarantine, and eradication fund to prevent the introduction of, and control the spread of, invasive species. Authorizes the commission to establish multistate lottery games. Appropriates funds.

Ms. Green informed the Board that the bill states that some of the excess proceeds would be deposited into the pest inspection, quarantine, and eradication fund, and she simply wanted to ensure the Board is aware of it. This bill is being tracked

New

Relating to Professional and Vocational Licensing

House Bill No. 1606

Specifies the documentation needed for a military spouse to receive a temporary licensure by endorsement. Requires issuance of the license within 30 days of the application and supporting documents.

Ms. Green said that this does not directly affect the Board's statutes, but it amends 436B and pertains to military spouses being able to obtain licensure by endorsement or reciprocity.

Ms. Tamanaha stated that licensure by reciprocity/endorsement is under HRS section 436B, therefore it affects every license area in the Professional Vocational Licensing division. The content can require any Board to grant a license provided the Board deems the licensing requirements of the other state to be equivalent to or greater than the requirements of this state. She will be providing testimony on behalf of PVL. There is another bill that separates the 52 different licensing areas under PVL into those with uniform national standards and those that lack national standards, and allows boards and programs that do not have national standard to still vet the military spouse applicant and determine whether or not that applicant's out-of-state licensure requirements are equivalent to or greater than the requirements in Hawaii.

Relating to Health

House Bill No. 1665

Prohibits the use of any pesticide containing glyphosate as an active ingredient.

Ms. Green stated that this bill is being tracked.

Relating to Little Fire Ants

House Bill No. 1854 (Companion Measure to Senate Bill No. 2474)

Requires the use of best practices, as identified by DOA and Hawaii Ant Lab, for the treatment of little fire ants by pest control operators. Authorizes DOA and the pest control board to adopt rules to carry out the requirement. Requires DOA and the pest control board to post any rules and best practices on their respective websites.

Ms. Green noted that the purposes of this bill are to: (1) require the use of best practices, as identified by the Department of Agriculture (DOA) and Hawaii Ant Lab, for the treatment of little fire ants by pest control operators; (2) authorize DOA and the pest control board to adopt rules to carry out the requirement; and (3) require DOA and the Board to post any rules and best practices on their respective websites.

Tim Lyons from Hawaii Pest Control Association stated that Hawaii Ant Lab (“HAL”) works out of Hilo and they have established the practices associated with eradicating the little fire ants and they work state-wide. Whenever they hear of outbreaks, HAL will respond to eradicate the outbreak before it spreads further. It is not a state agency, and it is funded through The Research Corporation of the University of Hawaii (“RCUH”).

Vice Chairperson Manago had concerns about the content of this bill and any additional cost that could be passed on to consumers.

Mr. Lau was concerned that if HAL identifies best practices, who is to say it won't change in the future, and there may be other equally qualified entities. If best practices are put into the statutes, how applicable with the statutes and best practices be in the future when the best practices change?

Ms. Tamanaha responded that placing best practices in rules or statute will require the Board to update the statute or rules each time HAL changes the practice.

Vice Chairperson Manago said that best practices are dictated by the industry. They are also dictated by the manufacturers that produce the pesticides and who provide label requirements. Ms. Simmons indicated that it is never a good practice to place in the statutes or rules the requirements for the industry to follow

because of the changing technology. She suggested providing guidelines as an alternative to putting it into rule or statute.

Dr. Hughes stated, for clarification, that the Department of Agriculture did not request this bill and did not ask for these changes.

Tim Lyons stated that there is a variety of unlicensed people on the Big Island that are advertising and claiming to take care of fire ants and, apparently some of them have not done a professional job. There have been some consumer complaints, which may have been made to their legislators.

The Board was in consensus that they recognize there may be pest control work being performed by unlicensed individuals and they appreciate the bill's intent to help mitigate the harmful effects and active spreading of an invasive species. However, the Board has the following concerns regarding this bill: (1) the cost of this additional regulation could be passed onto customers by mandating a sole entity, such as an organization or a government office, to be the approver of best practices, regardless of other government or educational research; and (2) best practices should not be included in statutes and rules. The industry is dynamic and dictates best practices, as not only do the pesticides, technologies, and methodologies change, but the insects themselves change and evolve. An effective method for mitigating an invasive species may exist but, regulating methodology with statutes and rules will make it challenging for the industry to quickly adapt with more effective solutions that may arise through current and future research and application.

It was moved by Vice Chairperson Manago, seconded by Mr. Lau, and unanimously carried to approve the Board's position in opposition of House Bill 1854 and its companion measure, Senate Bill 2474.

Ms. Green will draft testimony on behalf of the Board. There is no hearing yet scheduled for this bill, but the testimony will be prepared to convey the Board's opinion on this and its identical companion measure, SB 2474.

Senate Bill No. 2474 (companion measure to House Bill No. 1854)
Requires the use of best practices, as identified by DOA and Hawaii Ant Lab, for the treatment of little fire ants by pest control operators. Authorizes DOA and the pest control board to adopt rules to carry out the requirement. Requires DOA and the pest control board to post any rules and best practices on their respective websites.

Ms. Green announced to the Board that this bill is being heard on February 5, 2020 at the State Capital, at 1:15 p.m., Conference Room 224 if anyone was interested in attending.

Ms. Tamanaha asked the Board if there was anyone available to testify who could answer questions from the committee, should any arise. If there is no one available, Ms. Green will provide the Board's testimony.

Relating to Coffee Berry Borer

House Bill No. 1861

Extends the sunset date for the Coffee Berry Borer Pesticide Subsidy Program until June 30, 2025, for the purchase of pesticides containing Beauveria bassiana to combat the coffee berry borer. Extends the program manager position to June 30, 2026. Appropriates funds.

Ms. Green stated that this bill is being tracked.

Senate Bill No. 2623

Extends the sunset date for the Coffee Berry Borer Pesticide Subsidy Program until June 30, 2025, for the purchase of pesticides containing Beauveria bassiana to combat the coffee berry borer. Extends the program manager position to June 30, 2026. Appropriates funds.

Ms. Green stated that this bill is being tracked.

Relating to the Pesticide Subsidy Program

House Bill No. 1888 (Companion Bill Senate Bill No. 2957)

Appropriates moneys to DOA for the pesticide subsidy program.

Ms. Green stated that this bill is being tracked.

Relating to Pesticides

House Bill No. 1893

Enlarges the restricted use pesticide buffer zone around schools. Amends the times during which the buffer zone is in effect. Effective 1/1/21.

Ms. Green stated that this bill is being tracked.

House Bill No. 2114

Requires the Department of Agriculture to prepare and submit an annual report concerning pesticide use. Increases fines for pesticide use violations.

Ms. Green stated that this bill is being tracked.

Relating to the University of Hawaii College of Tropical Agriculture and Human Resources

Senate Bill No. 2736

Makes an appropriation to the University of Hawaii College of Tropical Agriculture and Human Resources for ornamental and landscaping entomologist specialist, plant pathologist extension agent, and pesticide specialist positions.

Ms. Green stated that this bill is being tracked.

Applications:

a. Exam Ratification(s)

1. Jeffrey King / PCO / BR-2
2. Alexander Redeker / PCO / BR-1, 2
3. Puakaiu'iokalani Tancredi-Ching / PCO / BR-1
4. Joe Espinola / PCFR / BR-2
5. Edward Nuuanu / PCFR / BR 3

It was moved by Vice Chairperson Manago, seconded by Mr. Lau, and unanimously carried to ratify the application as reflected.

b. Pest Control Operator ("PCO")

	Applicant	Branch(es)	Board Determination
(i)	Aaron Ching Sole Owner	2, 3	Approved pending additional information on job list
(ii)	Preston Cole-Yamaguchi The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	2, 3	Deferred pending verification of additional documentation
(iii)	Andrew Hotema Ecolab Inc. (PCO-640 / BR-2, 3)	2, 3	BR-2: Approved pending additional information on job list BR-3: Approved
(iv)	Jacob Matthews Kamaaina Termite and Pest Control (PCO-824 / BR-1, 2)	1	Deferred pending additional documentation
(v)	Scott McCulough Smart Pest Prevention LLC (PCO-1398 / BR-2, 3)	2, 3	Approved

It was moved by Vice Chairperson Manago, seconded by Mr. Lau, and unanimously carried to approve/defer the applications as reflected above.

c. Pest Control Field Representative (“PCFR”)

	Applicant	Branch(es)	Board Determination
(i)	Elijah Kanini-Santiago-Sheather The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	2, 3	Approved
(ii)	Darryl Lagon Orkin LLC (PCO-1349 / BR-1, 2, 3)	2	Deferred pending additional documentation on job list
(iii)	Darrien Mitchell The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	2, 3	Approved
(iv)	Matthew Yoshikawa Rentokil North America Inc. (PCO-1620 / BR-2, 3)	2	Approved pending additional documentation

It was moved by Vice Chairperson Manago, seconded by Mr. Lau, and unanimously carried to approve/defer the applications as reflected above.

Unfinished Business:

a. Rule Revisions

(i) Hearing Notice

Ms. Green reported that the public hearing to amend HAR section 16-94, the Board’s administrative rules, was approved by the Board, and the hearing is scheduled for March 23, 2020. This is the date of the Board’s next scheduled meeting. The Hearing will be held at 2:00 pm, with the meeting to follow. The notice will be published in the newspapers on Oahu, Kauai, Maui and Hawaii on Friday, February 21, 2020.

Public Comment:

Public comment on issues not on the agenda may be considered by the Board at subsequent meeting. The Board is precluded from discussing or acting on items raised by public comment that are not already on the agenda. The public may comment by signing-in before speaking during the Public Forum section. **Public Comment will be limited to 5 minutes per person at the discretion of the Chairperson**

Announcements: a. Next Meeting:

Monday, March 23, 2020
2:00 p.m., Public Hearing with Board meeting to follow
King Kalakaua Conference Room
King Kalakaua Building, 1st Floor
335 Merchant Street
Honolulu, Hawaii 96813

Adjournment: There being no further business to discuss, the meeting adjourned at
3:08 p.m.

Taken and recorded by:

Taken and recorded by:

/s/ Lei Ana Green
Lei Ana Green
Executive Officer

/s/ Susan A. Reyes
Susan A. Reyes
Secretary

LG:sar

2/13/20

Minutes approved as is.
 Minutes approved with changes, see minutes of _____.