

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

MINUTES OF THE HEARING

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

Date: Monday, September 28, 2020

Time: 2:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/97879626856>

Present: Terrance Manago, Industry Member, Chair
Jonathan Montalbo, Industry Member, Vice Chair
David Lau, Industry Member
Julian Yates, Ph.D., Public Member
Scott Ai, Public Member
Jia-Wei Tay, Ph.D., Department of Plant & Environmental Protection Sciences, Ex-Officio
Gracelda Simmons, Department of Health, Ex-Officio
Greg Takeshima, Department of Agriculture, Ex-Officio
Charlene Tamanaha, Executive Officer (“EO”)
Lei Ana Green, Executive Officer (“EO”)
Christopher Leong, Esq., Deputy Attorney General (“DAG”)
Susan Reyes, Secretary
Karyn Takahashi, Secretary to DCCA Director Catherine P. Awakuni Colón
Terry Akasaka-Toyama, Secretary to DCCA Deputy Director Jo Ann M. Uchida Takeuchi
Ahlani Quiogue, Supervising Executive Officer (“SEO”)
Christopher Fernandez, Executive Officer (“EO”)
Risé Doi, Executive Officer (“EO”)
Relley Araceley, Executive Officer (“EO”)
Daniel Jimenez, Executive Officer (“EO”)

Member(s)
Excused: None.

Guest(s): Wesley Otani, Douglas Products
Steven Russo, The Terminix International Limited Partnership
Sandie Wong, Public
Candace Ito, Executive Officer (“EO”)
Kedin Kleinhans, Executive Officer (“EO”)
Chelsea Fukunaga, Executive Officer (“EO”)

Agenda: The agenda for this hearing 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 hearing was called to order by Chair Manago at 2:03 p.m.

Individuals wishing to provide public comment may do so at the beginning of each agenda item. Pursuant to HAR §16-76-62(a)(5), the Board will limit an individual’s public comments to (5) minutes for each agenda item. Public comment on issues not on the agenda may be considered by the Board at a subsequent meeting. The Board is precluded from discussion or acting on items raised by public comment that are not already on the agenda.

Chair Manago introduced himself, the members of the board and DCCA staff in attendance.

Chair Manago read the notice of the hearing. After reading the hearing notice, he proceeded to call for oral testimony from the following individuals who had submitted written testimony:

- Mr. Timothy Lyons from Hawaii Pest Control Association. He was not present.
- Ms. Sandie Wong was present and provided oral testimony. She came to the board 10 years ago when she had a problem with a pest control company, Kama’aina Termite and Pest Control, which she retained to inspect a condo that she had purchased. Their inspection report said that there were no termites. However, when her contractor went in, they found the condo had a termite infestation. She called Kama’aina Termite and Pest Control, spoke with Mike Miske and asked them to come back to re-inspect. She said that he told her that they cannot go back and if she did not like it, that she could sue them. She discovered that there was no remedy for consumers in her situation if a pest control company does not follow the standards. She tried to change the law but was unsuccessful. She is in support of the proposed amendments to the administrative rules and encourages the Board to do consider creating a remedy if the pest control operator does not adhere to the standards in future changes.

Chair Manago thanked Ms. Wong for her testimony and all the background information. The Board will be working on future revisions to the rules, as necessary.

Chair Manago asked if there were anyone else that would like to provide testimony, to which there were none. Chair Manago adjourned the hearing at 2:23 p.m.

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, September 28, 2020

Time: Immediately following the public hearing

Place: Virtual Videoconference Meeting – Zoom Webinar
(use link below)
<https://dcca-hawaii-gov.zoom.us/j/97879626856>

Present: Terrance Manago, Industry Member, Chair
Jonathan Montalbo, Industry Member, Vice Chair
David Lau, Industry Member
Julian Yates, Ph.D., Public Member
Scott Ai, Public Member
Jia-Wei Tay, Ph.D., Department of Plant & Environmental Protection Sciences, Ex-Officio
Gracelda Simmons, Department of Health, Ex-Officio
Greg Takeshima, Department of Agriculture, Ex-Officio
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Daniel Jimenez, Executive Officer (“EO”)

Member(s)

Excused: None.

Guest(s): Wesley Otani, Douglas Products
Steven Russo, The Terminix International Limited Partnership
Candace Ito, Executive Officer (“EO”)
Chelsea Fukunaga, Executive Officer (“EO”)

A brief video was played that explained meeting procedures and information on how members of the public can participate during the meeting.

There being quorum, Chair Manago called the meeting to order at 2:34 p.m. He provided information on how members of the public can participate during the meeting.

Approval of Minutes:

It was moved by Dr. Yates, seconded by Vice Chair Montalbo, and unanimously carried to approve the minutes of the August 10, 2020 meeting as circulated.

Unfinished Business:

a. Rule Revisions

Chair Manago asked if there are any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

Ms. Simmons asked if the proposed rules went through the small business review process and Ms. Green responded yes.

It was moved by Mr. Ai, seconded by Dr. Yates, and unanimously carried to accept the proposed rule revisions as distributed.

Applications:

Chair Manago asked if there are any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

It was motioned by Mr. Lau, seconded by Vice Chair Montalbo, and unanimously carried to approve applications as reflected below.

a. Pest Control Operator ("PCO")

	Applicant	Branch(es)	Board Determination
(i)	Darryl Campana Sole Owner	2, 3	Approved
(ii)	Preston Cole-Yamaguchi The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	2, 3	Approved
(iii)	Donna Gutierrez Sole Owner	2, 3	Approved

b. Pest Control Field Representative (“PCFR”)

	Applicant	Branch(es)	Board Determination
(i)	Fred Adkinson Additional Class The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	1, 3	Approved
(ii)	Tyana Cariaga Veteran Termite & Pest Control, LLC (PCO-1242 / BR-1, 2, 3)	1	Approved
(iii)	Jonathan Chang Four Corner Pest Control, LLC (PCO-1328 / BR- 2, 3)	2, 3	Approved
(vi)	Jay Fukuda Additional Class Orkin LLC (PCO-1349 / BR-1, 2, 3)	3	Approved
(v)	Junar Locquiao The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	2	Approved
(vi)	Tarrance Lajuan Additional Class The Terminix International Company LP (PCO-618 / BR-1, 2, 3)	3	Approved

Old Business: a. Application Review Committee

Chair Manago asked if there are any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

Chair Manago said that the Application Review Committee, established in the January 24, 2000 meeting, was comprised of four members. Each time the Board updated the membership as terms expire, we’ve named individuals. However, the Board may want to consider designating positions to the committee, rather than specific individuals. Previously, the committee had a combination of industry members and members from the Department of Agriculture and UH Department of Etymology. At this time, the Board can update the 4-member committee to be comprised of 2 industry members, the Board of Agriculture representative member, and the UH Department of Plant and Environmental Protection Sciences representative member. This will aid in optimizing the committee’s effectiveness and not delay the committee’s review when there is turnover as Board terms end and membership changes.

Dr. Yates asked for clarification.

Ms. Green explained that historically, we have named individuals to the Applications Review Committee and, as Board terms have ended, we would name new individuals to replace them. Whereas, if we name positions to the Applications Review Committee, this will help to ensure the committee can continue to review applications and not wait to replace people at the next board meeting, which could be two months away.

It was moved by Dr. Yates, seconded by Chair Manago, and unanimously carried to accept that the Applications Review Committee will be comprised of 2 industry members, the Board of Agriculture representative member, and the UH Department of Plant and Environmental Protection Sciences representative member.

- b. Discussion on Board position from 09/23/29 meeting: the PCO/RME, who is on the physical job site overseeing the work being performed, needs to be the one signing the Certification of Training and Field Experience.

Chair Manago asked if there are any members of the public who would like to provide oral testimony on this agenda item, to which there were none.

Chair Manago stated that in trying to administer this Board determination over the past year, it would help the efficiency of the application process if the applicant had to provide an affidavit or a letter affirming their employment with PCO Entity "A" but is receiving training in Branch "X" by PCO/RME "B." This helps to reduce confusion when the PCO/RME signing the Certification of Training and Field Experience isn't associated with the PCO entity for which the applicant is working.

Chair Manago gave an example: Terminix does not perform fumigations and they subcontract out to a PCO licensed in fumigation. Therefore, they are sending their RMEs and PCFRs to another licensed fumigation PCO to learn on-the-job fumigation. The training certifications are being signed by the licensed RME providing the on-the-job fumigation training.

Mr. Steven Russo from The Terminix International Limited Partnership raised his hand to testify. He stated that they do use a subcontractor to perform fumigations. The training for their PCFRs is done by both entities, by the subcontractor who does the on-the-job training and by Terminix who does the education component. He asked if the Board is requesting a statement from future applicants, explaining that training.

Chair Manago stated that the Board needs applicants to identify where they are getting their training.

Mr. Lau stated that the confusion is that there are two PCO businesses involved, so we need clearly understand if the applicant is an employee of Terminix or an employee of the subcontractor.

Mr. Russo responded that they are Terminix employees and he, as RME, does the training on items such as measuring, graphing, and insect identification; the subcontractor will train on Terminix's behalf in the field work portion, such as putting up the tent, introducing the gas, etc. He reiterated that they are Terminix employees, and the on-the-job training is with the subcontractor.

Ms. Tamanaha said that the Board is looking for a statement or affidavit, which is signed by the RME of the person providing the actual field experience. The Board is looking to create an affidavit that will be signed by the RME of the subcontractor, indicating that he trained and supervised the fumigation jobs noted on the Project List, even though Terminix may have signed the 60-hour experience certificate.

Mr. Russo said that they are currently giving us one form signed by him, as RME doing the education, and one form signed by the subcontractor who is conducting the one-the-job training and overseeing field experience. He understands that the Board wants something in writing to clearly explain this for each application.

Dr. Yates asked Mr. Russo why the fumigation contractor (Terminix) cannot provide the RME for field training.

Mr. Russo explained that Terminix International sold the fumigation portion of the business to another company. The subcontractor is American Fumigation, and Richard Lee is the RME of that entity. Terminix, as a licensee, sells the fumigation jobs and the work is subcontracted out to American Fumigation. Terminix employees who are applying for a license in the fumigation branch will go on jobs with American Fumigation, and the RME is on the job site teaching Terminix employees how to put up the tent and all the necessary field work for the branch.

Dr. Yates asked for clarification on which RME is signing the training verification.

Mr. Russo responded saying that per a past board meeting, they were directed to have the RME from American Fumigation sign one form and then he would sign another form for Terminix International.

Dr. Yates asked if both RMEs are responsible for that applicant/trainee.

Mr. Russo responded yes.

Ms. Green stated that the Board is looking at creating one form to tie everything together, which clarifies where the applicant was trained, and by whom.

Mr. Russo agrees and supports the documentation needed for PCOs to produce the information the Board requires for verification.

Ms. Tamanaha stated that there was a related issue in the termite section of the Administrative Rules, when the Board was discussing the requirement for “baiting” on the job lists from applicants. The Board understands that even though someone has a Branch 3 license, it is possible that they do not perform some baiting that would require a special certification from the manufacturer. In order to provide training on some types of baiting, they would need to send their employees to gain training and experience with another PCO licensed in Branch 3 who has the required certification and experience in that specific baiting. This proposed form or affidavit will help make applicant training verification clearer for Board members who are reviewing applications, as well as the staff who process them. If the Board continues discussing changes to the rules that would require some baiting experience, this training verification would still be relevant.

Ms. Green provided a sample form for the Board to review and to make any recommended changes. She stated that it may be easier for an applicant to complete a form rather than submitting a letter from their employer/RME.

Chair Manago stated that we want to make sure that the person who is providing training the fumigation is a licensed RME.

Ms. Tamanaha said the form is simple but there should also be a space on the form to indicate the type of training the RME is providing.

Mr. Montalbo said that the form should be simple where they can check-off an item or fill-in a blank.

Ms. Tamanaha asked the Board members if there are other items they would like to see on the form. For example, it could document on-the-job training (“OJT”).

Mr. Montalbo said that maybe the form should be specific to PCO companies that have OJT provided by another licensed PCO.

Ms. Simmons asked if it would be easier to have a different form for each of the different branches, indicating the OJT.

Chair Manago agreed that would be a good idea because every branch requires a different verification.

Ms. Simmons also stated that we could limit the checklist for each of the branches and tailor it to the specific branches, where they can just check if off and sign it.

Dr. Yates noted we should state the applicable rules on the form to make it clearer as to what training is being verified.

Ms. Simmons agreed that we could make reference to the applicable rules and itemize a checklist.

Ms. Tamanaha said we could tailor a form for each of the branches, noting on the form the current rule requirements for each branch. Ms. Green will provide a revised draft for Board review.

It was motioned by Mr. Lau, seconded by Chair Manago, and unanimously carried to approve the creation and use of a form to verify training for PCFRs when the training is provided by a PCO other than their current employer.

New Business:

a. Updating licensure exam questions

i. Fumigation questions and calculator.

Chair Manago stated that in the past the manufacturer of the fumigant Vikane provided to the State of Hawaii testing subcontractor, Prometric, specialized calculators to help calculate the amount of fumigant needed for structural fumigations. However, with changes in the industry, the fumigation calculator is no longer being manufactured and provided. Currently, the industry utilizes an app that is more practical and easier to use for the fumigator. Since the availability of the calculator is limited, the Pest Control Board may want to consider updating the fumigation questions on the PCO and PCFR exam to reflect the current fumigation practices, such as omitting or amending the calculation questions with the use of the fumigation calculator.

Chair Manago asked if there are any members of the public who would like to provide oral testimony on this agenda item, to which Mr. Otani and Mr. Russo raised their hands.

Mr. Wesley Otani, with Douglas Products, a manufacturer of a fumigant used for the structural fumigation industry, explained that the current exam that is required by the Pest Control Board uses a box calculator. Approximately two years ago the manufacturer that built and repaired these hand-held calculators had ceased manufacturing and repair. In 2014, Douglas Products made available an app for use on smartphones, which is free to fumigation companies. In 2018, Douglas Products updated the app, which enabled it to perform all the functions that the solid-

piece calculator can do, and more, to help fumigators calculate the fumigant needed on a job. The app is accessible to anybody who needs to calculate the correct dosage for a fumigation job. As an industry, more and more companies are moving away from the calculator and only a handful of companies are still using it. Douglas products suggests two possible solutions to this technology shift in the industry:

1. allow the test takers to use the app on their phones while taking the examination
2. change the exam questions by removing the fumigation calculation questions and replace those with questions that require demonstration of fumigation knowledge, such as the appropriate factors that are necessary in order to calculate the fumigant needed on a job

Mr. Otani stated that in Florida, the Department of Agriculture and Consumer Services also required a written exam with the use of the calculator and did not allow the use of the phone app while taking the exam. The Florida Department of Agriculture replaced the fumigation calculator questions with questions that could test the user's knowledge in how to determine or measure appropriate factors to enter into the fumigation calculator. Douglas Products has been in contact with the Florida Department of Agriculture, as they have developed questions in collaboration with fumigation experts. This bank of questions was approved by and is being used by the Florida Department of Agriculture, as well as the University of Florida's department that handles fumigation. The Florida Department of Agriculture is willing to share these questions.

Chair Manago asked how far off the slide rule is, compared to the calculator.

Mr. Otani stated that the slide rule is designed to have a lot of buffer and is based on exposure from 20 to 24 hours. The calculator can conduct an exposure time anywhere from 2 to 72 hours. It gives more flexibility for an operator.

Dr. Yates said that we have allowed the applicants to use the calculator during the exam. If we replace the calculator related questions with different questions, he asked what type of questions will be used, and would they have to go back to using math without the help of a calculator.

Mr. Otani said that Florida has math questions for calculating volume. When the calculator is used, all they are doing is punching in numbers. The new questions that were developed help to verify the applicant understands what those different input numbers mean. For example, in trying to determine the temperature, it requires understanding where you take the measurement for that temperature. These new questions require that whomever is taking the test truly understands the fumigation process and is not just pressing buttons.

Ms. Simmons asked if the app is used on site or prior to going on site.

Mr. Otani said that the app is primarily used by the fumigator to help calculate the fumigant based on the environment. For example, in Lanikai there is sand and in Mililani there is clay or soil. This is a factor in the calculation. This also helps the operator to explain to the customer why the price for that specific job may be different than the price the customer says their friend paid in another area on the island.

Mr. Montalbo agrees with Mr. Otani that the proper information and variables need to be entered in to the calculator to accurately calculate the fumigant required.

Dr. Yates agreed it is a good idea and asked, if we change the questions, as Florida has, how that impacts the training in Hawaii.

Mr. Otani said it does not affect the basic training that is being done. The current training should be to ensure that operators have a good understanding of the fumigation process and all the factors that affect the process.

Dr. Yates asked Mr. Otani if he had gone through the questions and if he could send a copy for the Board to review.

Mr. Otani said that he will provide the Board with the contact information for the Florida Department of Agriculture as he does not have the actual questions.

Chair Manago said that we need to ensure that the questions include the equipment that is used in Hawai'i.

Mr. Otani said that can all be considered in the question development.

Dr. Takeshima stated that the Hawai'i Department of Agriculture is transitioning from the original slide rule into using the app.

Ms. Tamanaha stated that when we receive the Florida Department of Agriculture contact information from Mr. Otani, Ms. Green will reach out to them for more information for the Board to review, after which we can discuss it with Prometric.

Chair Manago thanked Mr. Otani for his testimony.

Mr. Russo raised his hand to provide oral testimony.

Mr. Russo stated he strongly supports Mr. Otani's testimony and would prefer the second option presented by Mr. Otani. From an educational perspective, it is more effective for someone to enter data by first understanding the inputs and why the type of ground matters in relation to the quantity of product and the price. Mr. Russo also noted that they have only 2 or 3 of these calculators which is not enough for a big company to help train.

Chair Manago thanked Mr. Russo for his testimony.

It was motioned by Mr. Montalbo, seconded by Mr. Lau and unanimously carried to consider updating the fumigation questions on the PCO and PCFR exam to amend the calculation questions that currently require the use of the fumigation calculator.

Announcements:

a. Next Meeting:

Monday, November 23, 2020
Location: To Be Determined

Chair Manago asked if there was anything further to discuss.

Vice Chair Montalbo responded that he had a call earlier this week from another pest control company and they are looking at getting their license to do fumigation in Hawaii. They are supposed to have at least one year of supervision experience and asked how they would get that.

Chair Manago answered that it would be from working at another company.

Vice Chair Montalbo said that if you want to perform fumigations and you do not yet have your fumigation license, you can get your job experience working with another company but asked how you get that management experience or if your management experience could be from your other branches.

Ms. Tamanaha stated that this was one of the items the Board previously discussed amending in Section 17 of the Administrative Rules. The Board would need to determine what they are going to do to address this issue and how they would want to do so, as then it would need to be placed in the Rules. Currently, the Rules state that you need two years and, of that, at least one at the supervisory level. The Board previously discussed if it could include supervisory experience in other branches, so the Board should review his section and make a determination. She referred the Board to the appropriate section:

§16-94-17 Experience requirement. (a) An applicant for an individual operator license or responsible managing employee license, or both, shall have had the following experience:

(1) At least one year of specialized field experience as a certified commercial applicator within the past four years immediately preceding the filing of an application in the branch in which the license is sought;

(2) At least one year of on-site field supervision actively directing pest control projects whether applying for more than one branch

(3) At least one hundred jobs as an applicator in the specific branch during the one-year specialized field experience period provided that if restricted use chemicals are used, the applicant shall have been the certified applicator of record.

Vice Chair Montalbo asked if they could be an applicator for another PCO, for the applicator experience, and have their license tied to that entity.

Ms. Tamanaha answered yes, they can work for another company, but the company needs to have the appropriate license to train, as well as ensure that it is in compliance with Department of Agriculture requirements.

Adjournment: There being no further business to discuss, the meeting adjourned at
3:47 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

10/08/20

- Minutes approved as is.
- Minutes approved with changes, see minutes of 11/23/20 .