

ELEVATOR MECHANICS LICENSING BOARD
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: February 5, 2021

Time: 1:00 p.m.

Place: Virtual Videoconference Meeting – Zoom Webinar
<https://dcca-hawaii-gov.zoom.us/j/97852533882>

Present: Robert Greig, Industry Member, Chairperson
Evan Fong, Industry Member, Vice-Chairperson
Jammie Garcia-Paahana, Industry Member
Mark Baker, Industry Member
Dennis L. Mendoza, Department of Labor and Industrial Relations (“DLIR”) Designee
Kedin C. Kleinhans, Executive Officer
Christopher Leong, Esq., Deputy Attorney General (“DAG”)
Jenny Yam, Secretary
LaJoy Lindsey, Secretary
Erin Emerson, Secretary

Guest: Mark Yamane, Elevator Contractors Local 126
Relley Araceley, Executive Officer

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”).

A short video was played to explain the meeting procedures and how members of the public could participate in the virtual meeting.

Call to Order: Chairperson Greig called the meeting to order at 1:07 p.m., at which time quorum was established. All Board members confirmed that they were present.

Introduction of New Board Members: Chairperson Greig welcomed Mr. Baker, an industry member, and Mr. Mendoza, DLIR designee ex-officio member, to the Board.

Mr. Baker and Mr. Mendoza thanked the Board for the warm welcome and introduced themselves.

Election of Officers: Executive Officer Kleinhans explained that HRS §436B-6(a) requires Board to annually elect one member as Chairperson and one member as Vice-Chairperson. The floor was opened for nomination for the office of Chairperson and Vice-Chairperson.

It was moved by Mr. Fong, seconded by Mr. Baker, and unanimously carried to nominate Chairperson Greig to continue as Chairperson.

It was moved by Chairperson Greig, seconded by Mr. Baker, and unanimously carried to nominate Mr. Fong as Vice-Chairperson.

Approval of Minutes:

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

It was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to approve minutes of the open session and executive session of the February 7, 2020 Board meeting.

Licensing:

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

At 1:14 p.m., it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to enter into Executive Session pursuant to HRS §92-5(a)(1), to consider and evaluate personal information relating to individuals applying for professional licensed cited in HRS §26-9, and, pursuant to HRS §92-5(a)(4), to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. (Note: Board members and staff entered into Microsoft Teams):

EXECUTIVE SESSION

At 1:14 p.m., the Board experienced technical difficulties due to audio feedback.

At 1:45 p.m., it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried for the Board to move out of Executive Session. Board members and staff returned to the Zoom meeting.

Upon return to open session a roll call was taken. All Board members confirmed that they were present.

a. Ratifications

It was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to ratify the following list of issued apprentice registration, temporary permit and licenses.

Apprentice Registration:

- i. AGBAYANI, Justin L (#R200319007) eff. 3/16/2020

Temporary Permit:

- i. BLEYLE, Erik M. (#T200825003) eff. 8/25/2020 – 11/25/2020

Issued License:

- i. CHOY, Jonathan M. (EVM-562) eff. 7/1/2020
- ii. CORPUZ, Dennis F. (EVM-566) eff. 9/16/2020
- iii. KAIKAKA, Kailone Y. (EVM-564) eff. 7/20/2020
- iv. LOUIS-SOARES, Justin F. (EVM-563) eff. 7/1/2020
- v. RUDOLFO, Landon K. (EVM-565) eff. 7/20/2020
- vi. TOMAS, Cameron C. (EVM-567) eff. 9/18/2020
- vii. WAGNER, Jason W. (EVM-568) eff. 11/16/2020

b. Applications – Exam and License Elevator Mechanic

After discussion, it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to approve the following applicants to sit for the State examination:

- ii. IKEDA, Bryan K.
- iii. MORITA, Daniel K.
- iv. SALVACION, Michael P.

After discussion, it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to approve the following applicant to sit for the State examination subject to the Board's receipt of a:

- i. CHO, Adam S.M. – complete Experience Verification Form
- v. STEPHENS, Nicholas – complete Employment History section on the application form

After discussion, it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to approve the following applicants to sit for the State examination:

- vi. YOSHIKAWA, Tyson, Y.

Executive
Officer's
Report:

A. Current Temporary Permittees

Executive Officer Kleinhans asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans reported there are currently no temporary permits issued.

B. Results of the State Elevator Mechanic License Examination Administered in May 2020, June 2020, July 2020, August 2020, and November 2020

Executive Officer Kleinhans asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans reported the results of the State Elevator Mechanic License Examination for May 2020, June 2020, July 2020, August 2020, and November 2020, and indicated no exams were administered in September 2020, October 2020, December 2020, and January 2021.

<u>May 2020</u>	<u>June 2020</u>	<u>July 2020</u>	<u>August 2020</u>	<u>November 2020</u>
6 attempts	2 attempts	1 attempt	2 attempts	1 attempt
4 passed	2 passed	1 pass	2 passed	1 passed
2 failed	0 failed	0 fail	0 failed	0 failed

Legislative
Session 2021:

A. Bills Relating to the Elevator Industry

- i. House Bill No. 1004 // Senate Bill No. 1158
Relating to the Boiler and Elevator Safety Law

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans indicated these bills are similar to the bills the Board voted to track last year:

After discussion, it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to track House Bill No. 1004 and Senate Bill No. 1158.

B. Bills Relating to Board Meetings and Board Members

- i. HB No. 503 // HB No. 677 // HB No. 880 // SB No. 661
Relating to Board Meetings, Sunshine Law, Sunshine Law Boards
- ii. Senate Bill No. 9
Relating to Board Members
- iii. Senate Bill No. 393 // Senate Bill No. 456
Relating to Public Agency Meetings and Records
- iv. Senate Bill No. 439 // Senate Bill No. 442
Relating to Sunshine Law Boards
- v. Senate Bill No. 592
Relating to the Uniform Information Practices Act
- vi. Senate Bill No. 610
Relating to Boards and Commissions

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans indicated these bills facilitate Board meetings via interactive conference technology, and recommended the Board track these bills.

After discussion, it was moved by Vice-Chairperson Fong and seconded by Mr. Baker, and unanimously carried to track the various bills relating to Board meetings, members, and interactive conference technology.

New Business: A. Board Delegation

i. Legislative Session 2021

The Board will consider designating a Board member or members less than quorum to provide general subject matter information and/or testimony to the Legislature.

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans stated that designating a Board member may not be necessary if the Board will only track bills this session. The Board did not designate a member.

ii. Approval of Applications for Board Ratification

The Board will consider delegating authority to a Board member or members less than quorum to approve applications for Board ratification.

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans explained that the Board may consider delegating the review and approval of applications for elevator mechanic examination and licensure to a Board member because (1) meetings are held quarterly, and (2) the current pandemic may impact quorum; however, any questionable applications, e.g. an applicant answered 'Yes' to being convicted of a crime, would still require full Board review at a scheduled meeting.

After discussion, it was moved by Vice-Chairperson Fong and seconded by Mr. Baker, and unanimously carried to delegate Vice-Chairperson Fong the authority to approve applications for Board ratification, provided the applications do not require full Board review, e.g. 'Yes' to being convicted of a crime.

B. Revisions to Elevator Mechanic Exam & License Application Forms

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans reported members requested revisions to the Elevator Mechanic application form – in particular, the verbiage on the Experience Verification form, page 7 of the application PDF, requires the supervisor to “Describe in detail” the work performed by the applicant; however, the Employment History portion of the application, page 6 of the application PDF, only requires the applicant to “Describe your training as an elevator mechanic”.

It was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to amend the verbiage on the Employment History section of the application to “**DESCRIBE IN DETAIL** your training as an elevator mechanic”.

Amendments
to Hawaii
Administrative
Rules Chapter
16-81 Draft 6:

Chairperson Greig asked if any members of the public would like to provide oral testimony on this agenda item. There was none.

Executive Officer Kleinhans stated that the agendas previously filed indicated Draft 5; however, the correct draft number is Draft 6. DCCA reviewed the Board’s previous Draft 5 and suggested the following amendments for clarity [additions underlined, and deletions bracketed with strikethrough]:

Page 81-4, section 16-81-4(a), moving the following provision into a new section 16-81-4.1 titled Exemptions:

However, the following interior cab work shall not be considered "elevator mechanic" work provided such work is performed in compliance with all applicable laws and rules of the department of labor and industrial relations, is performed by appropriately licensed contractors, and does not penetrate the interior cab shell or adversely affect the operation or safety of the elevator:

- (1) Routine janitorial cleaning such as vacuuming and polishing;
- (2) Painting and any work related to the preparation of the cab interior to be painted; or
- (3) Flooring and any work related to the preparation of the flooring surface to which materials, such as carpeting, will be adhered.

Page 81-5, section 16-81-4(c)(2), splitting the two experience pathways into two appropriate paragraphs and indicating the experiencing verification form is prescribed by the Board:

Submit ~~[documentary proof on a form provided by the board]~~ one of the following documents verifying that the applicant has satisfactorily completed at least the ~~[two]~~ four years of required experience as an apprentice elevator mechanic under the direct supervision of a licensed elevator mechanic:

- (A) Documentary proof on a form prescribed by the board; or
- (B) In the case of an applicant that completed a formal apprenticeship program as defined in section 81-3, a certificate of completion from the formal apprenticeship program;

Page 81-10, section 16-81-11(a) to indicate the form is prescribed by the Board:

(a) A forfeited license may be restored by filing the form [~~provided~~ prescribed] by the board, along with all required documents, and by paying the applicable renewal and penalty fees.

Page 81-10, section 16-81-11(c) to provide clear reasons the Board may waive the requirement to retake the examination. Executive Officer Kleinhans stated the following language is an example that the Board may consider:

(c) The board may waive the requirement to retake the exam where the person failed [~~for good and valid reasons,~~] to restore a license more than a year after the date of forfeiture, provided the individual submits to the satisfaction of the board proof the individual was unable to timely submit a renewal application due to incapacity, undue hardship, or any other serious extenuating circumstances. [~~Good and valid reasons shall be determined and approved by the board.~~]

Page 81-12, amending the title of Subchapter 5 to Disciplinary Action; Hearing, for formatting purposes. Additionally, moving section 16-81-23 into 16-81-22(b) for formatting purposes.

Page 81-14, amending the title of Subchapter 6 to Practice and Procedure, for formatting purposes. Additionally, moving section 16-81-26 into a new 16-81-30 for formatting purposes.

Executive Officer Kleinhans stated Vice-Chairperson Fong pointed out the proposed verbiage of “shall” on page 81-6, section 16-81-5(e), may cause concern; and accordingly, the verbiage was amended to “may” considering an apprentice may register with the Board to gain hours prior to his/her start date of the formal apprenticeship program:

...provided that the starting date of the four-year experience requirement for an apprentice elevator mechanic enrolled in a formal apprenticeship program may be the date of the apprentice elevator mechanic's enrollment into the formal apprenticeship program.

Vice-Chairperson Fong asked whether the statutes only require apprentice elevator mechanics to work for at least 4 years under a supervision of a licensed elevator mechanic and if there were any language in reference to work hours.

Executive Officer Kleinhans clarified that HRS §448H-6 require apprentice elevator mechanics to work for at least 4 years under a supervision of a licensed elevator mechanic and the amendment to HAR §16-81-3 propose the definition:

"Formal apprenticeship program" means a training program for the elevator industry comprised of no less than 8000 hours of training that is recognized by the board and either:

- (1) The Hawaii department of labor and industrial relations; or
- (2) A state apprenticeship agency recognized by the Office of Apprenticeship of the United States Department of Labor.

Chairperson Greig stated that HAR §16-81-3 did not specify the type of training an apprentice shall receive.

Executive Officer Kleinhans stated there are several proposed amendments to clearly indicate that training must be under direct supervision, and noted this section did include the verbiage "direct". He provided an example the Board may consider to clarify the matter amending HAR §16-81-3 to:

"Formal apprenticeship program" means a training program for the elevator industry comprised of no less than 8000 hours of training under the direct supervision of a licensed elevator mechanic. The training program shall be [that is] recognized by the board and either:

- (1) The Hawaii department of labor and industrial relations; or
- (2) A state apprenticeship agency recognized by the Office of Apprenticeship of the United States Department of Labor.

DAG Leong concurred with the example Executive Officer Kleinhans provided.

Vice-Chairperson Fong asked whether the current statutes or rules allow someone to obtain licensure if they completed the 8000 hours of training in less than 4 years.

Executive Officer Kleinhans responded that the statutes supersede the administrative rules, and the proposed amendments to HAR §16-81-3 clarify the required 4 years of training pursuant to HRS §448H-6.

The Board recognized Mr. Marc Yamane to provide his public comment:

Mr. Yamane asked to clarify if the amendments requiring training to be under the "direct" supervision of a licensed elevator mechanic supersedes the statutory requirements.

Executive Officer Kleinhans responded that HAR §16-81-3 currently provides separate definitions of "direct supervision" and "general supervision", which states:

"Direct supervision" means that a licensed elevator mechanic is on the premises where the work is being performed and is supervising and directing the work of the apprentice.

"General supervision" means that a licensed elevator mechanic is supervising the apprentice and is in the same or adjacent building or

buildings, or that the apprentice is in the immediate vicinity of the licensed elevator mechanic on the maintenance route. General supervision applies only to work by the apprentice elevator mechanic which involves cleaning, oiling, greasing, and painting.

He added that the proposed amendments require training to be “direct” and accordingly fall under the existing definition provided in HAR §16-81-3.

Mr. Yamane asked Executive Officer Kleinhans to clarify which proposed amendment changes “shall” to “may”.

Executive Officer Kleinhans reported the proposed HAR §16-81-5(e) would inadvertently require the “starting date of the four-year experience requirement” to be the “starting date of the formal apprenticeship program”, and in some cases the apprentice elevator mechanic may have already registered to begin training under a licensed elevator mechanic prior.

Mr. Yamane expressed his concern if the amendment required the Board to credit training gained in an out-of-State apprenticeship program not recognized by the Board.

Executive Officer Kleinhans stated that the verbiage “may” provides the Board discretion to determine if hours are to be credited.

Mr. Yamane thanked the Board and Executive Officer Kleinhans for their time.

After discussion, it was moved by Vice-Chairperson Fong, seconded by Mr. Baker, and unanimously carried to approve Draft 6 proposing amendments to Hawaii Administrative Rules Chapter 16-81 and the recommended amendments to the definition of “formal apprentice program” as follow (underlined material added, while bracketed material is to be deleted):

“Formal apprenticeship program” means a training program for the elevator industry comprised of no less than 8000 hours of training under the direct supervision of a licensed elevator mechanic. The training program shall be [that is] recognized by the board and either:

- (1) The Hawaii department of labor and industrial relations; or
- (2) A state apprenticeship agency recognized by the Office of Apprenticeship of the United States Department of Labor.

Open Forum: Mr. Yamane asked when the public hearing will be scheduled to adopt the amendments to Hawaii Administrative Rules Chapter 16-81.

Executive Officer Kleinhans stated that rule changes require review and approval from various agencies before a public hearing may be scheduled, and he estimated that the rule revision process may take approximately one year.

Mr. Yamane noted that House Bill No. ("HB") 90 – Relating to government, will transfer authority over the boiler and elevator safety law from DLIR to DCCA.

Executive Officer Kleinhans thanked Mr. Yamane for bringing HB90 to the Board's attention and will include the bill on the Board agenda for the next meeting.

Next Meeting: Friday, April 23, 2021
1:00 p.m.
Virtual Videoconference Meeting – Zoom Webinar

Adjournment: There being no further business to discuss, the meeting was adjourned at 2:47 p.m.

Reviewed and approved by:

Taken and recorded by:

/s/: Kedin C. Kleinhans

/s/: Jenny Yam

Kedin C. Kleinhans, Executive Officer

Jenny Yam, Secretary

KCK: jy

3/5/21

[X] Minutes approved as is.

[] Minutes approved with changes; see minutes of _____.