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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

TIME: 10:32 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

May 24, 2023

State Board of Crane Operators
May 24, 2023

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BOARD MEMBERS:

Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs - Absent
Andrew S. Goulet, Chair, Professional Member
F. Allan "Buddy" Mauger Jr., Vice Chair, Public Member
Daniel J. Mitchell, Professional Member
Brian M. Schmoyer, Professional Member
Steven M. Kuncelman, Professional Member

BUREAU PERSONNEL:

Dean F. Picarella, Esquire, Senior Board Counsel
Paul J. Jarabeck, Esquire, Senior Board Prosecutor
Gregory Liero, Esquire, Board Prosecution Liaison
Jessica Harris, Board Administrator
Amanda Li, Board Administrator
Marc Farrell, Esquire, Regulatory Counsel,
Office of Chief Counsel, Department of State

ALSO PRESENT:

Eric Fidler, Director of Public Safety, Grove U.S. L.L.C.
Matthew Shaw, Program Coordinator, National Commission for the Certification of Crane Operators
Carianne Rawlings, Engineering Manager, Manitowoc Cranes
Robert Ritter, Product Engineering Manager, Manitowoc Cranes
Joshua Chard, Director, Product & Corporate Safety, Altec Industries

1 ***

2 State Board of Crane Operators

3 May 24, 2023

4 ***

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

13 ***

14 The regularly scheduled meeting of the State
15 Board of Crane Operators was held on Wednesday, May
16 24, 2023. Andrew S. Goulet, Chair, Professional
17 Member, called the meeting to order at 10:32 a.m.

18 ***

19 [Dean F. Picarella, Esquire, Senior Board Counsel,
20 informed everyone that the meeting was being
21 recorded, and voluntary participation constituted
22 consent to be recorded.

23 Mr. Picarella also noted the Board entered into
24 Executive Session for the purpose of conducting
25 quasi-judicial deliberations on a number of matters

1 currently pending before the Board and to receive
2 advice of counsel.]

3 ***

4 Roll Call/Introductions

5 [A roll call of Board members was taken by Ms.
6 Harris. She also provided an introduction of
7 attendees.]

8 ***

9 Approval of minutes of the January 25, 2023 meeting

10 CHAIR GOULET:

11 The next item on the agenda is approval
12 of the January 25, 2023 minutes. I'll
13 entertain a motion.

14 MR. MAUGER:

15 I'll make a motion to approve the
16 minutes as written.

17 MR. SCHMOYER:

18 Second.

19 CHAIR GOULET:

20 Call the Board.

21

22 Mr. Goulet, abstain; Mr. Mauger, aye;

23 Mr. Mitchell, aye; Mr. Schmoyer, aye;

24 Mr. Kuncelman, abstain.

25 [The motion carried. Andrew Goulet and Steven

1 Kuncelman abstained from voting on the motion.]

2 ***

3 Report of Prosecutorial Division

4 [Gregory S. Liero, Esquire, Board Prosecution

5 Liaison, presented the Consent Agreement for Case No.

6 21-71-004300.]

7 MR. PICARELLA:

8 Based on discussions in Executive
9 Session, I believe the Board Chair
10 would entertain a motion to approve the
11 Consent Agreement at Case No. 21-71-
12 004300.

13 CHAIR GOULET:

14 Do we have a motion?

15 MR. MAUGER:

16 I'll make a motion to approve.

17 CHAIR GOULET:

18 I'll second that. Ms. Harris, please
19 call the roll.

20

21 Mr. Goulet, aye; Mr. Mauger, aye; Mr.
22 Mitchell, aye; Mr. Schmoyer, aye; Mr.
23 Kuncelman, aye.

24 [The motion carried unanimously. The Respondent's
25 name is James P. Young, L.C.O., Case No. 21-71-

1 004300.]

2

3 Report of Board Chair

4 [Andrew S. Goulet, Chair, Professional Member,

5 informed Board members that he reached out to Dr.

6 Joshua Chard from Altec to speak on dual-rated ASME

7 B30.5 and ANSI A92.2 equipment to see where the

8 equipment falls underneath the licensing act in

9 Pennsylvania.]

10

11 [Joshua Chard, Director, Product & Corporate Safety,

12 Altec Industries, experienced technical

13 difficulties.]

14

15 Mr. Kuncelman informed everyone that a few

16 manufacturers are offering a defined crane as dual

17 rated, meeting both the ASME B30.5 crane standard and

18 the A92.2 aerial lift standard. He explained that it

19 is being brought up for discussion because the piece

20 of equipment looks and functions just as a crane but

21 also meets the aerial lift standard with the push of

22 a button on the load indicator (LMI) inside of the

23 cab.

24 Mr. Kuncelman noted that there is no way of

25 really telling this piece of equipment apart from

1 that of a normal crane and expressed concern as to
2 whether the piece of equipment is being used properly
3 to not fall under the Pennsylvania crane license or
4 standards.

5 Mr. Picarella asked how the configuration occurs
6 and whether one of them would require a license while
7 the other one would not.

8 Mr. Kuncelman addressed his experience, noting
9 the equipment requires their license until the button
10 is pushed in the cab to set it to another standard
11 that is no longer included in their licensure. He
12 commented that how someone uses equipment dictates
13 whether or not it falls under requiring a crane
14 license or not.

15 Mr. Kuncelman explained that it is still a crane
16 and falls under that whether someone pushes a button
17 making it an aerial lift or not. He expressed
18 concern with not requiring a license to ensure
19 individuals are qualified to utilize the equipment
20 correctly.

21 Mr. Picarella asked how someone would make a
22 determination as to whether a piece of equipment is
23 configured to be operated as a crane that would
24 require a license or one being used in a manner that
25 would not require the operator be licensed.

1 Mr. Kuncelman explained that someone would have
2 to physically get in the cab and look at the LMI,
3 which is a computer that relays all of the
4 information the crane is putting out to the operator.

5 He mentioned that is not required to be operational
6 all of the time and could be switched out of crane
7 mode and be legal if there is a Pennsylvania
8 compliance officer present.

9 Mr. Kuncelman further explained that an
10 individual utilizing the equipment from remote
11 control in the basket itself would not have the
12 ability to push that button. He stated many machines
13 are not being run by remote control but are being run
14 from the cab and being operated in crane mode because
15 of difficulty being operated in aerial mode.

16 Mr. Kuncelman mentioned that they negate to put
17 them in that mode and operate them as a crane and is
18 a way to saying they do not require a license in
19 their pocket because they are running a bucket truck
20 when hoisting personnel. He suggested educating
21 compliance officers to check and verify compliance
22 when operating it from a remote-control position
23 because they do not have access to changing the
24 parameters of the machine.

25 Mr. Picarella asked whether the machines have any

1 type of log or computer program that shows how it was
2 being operated and when it was switched.

3 Mr. Kuncelman noted he did not have the answer
4 but would be a question for the manufacturer as to
5 whether their system has capabilities of logging
6 flight time and configuration.

7 Mr. Picarella mentioned the importance of finding
8 a way to educate the industry and investigators
9 regarding how to decide which configuration is being
10 used on a case-by-case basis.

11 Eric Fidler, Director of Public Safety, Grove
12 U.S., L.L.C., commented that National Crane, which is
13 a brand of The Manitowoc Company's products, offers
14 dual-rated machines as an option. He noted other
15 manufacturers are offering a product that is deemed
16 only an A92 machine that has a load chart and lifting
17 capacities but is not describe as a crane. He also
18 noted the requirement that the machine has to be
19 reconfigured when using it and changing from a crane
20 to an aerial work platform (AWP).

21 Mr. Fidler explained that the reconfiguration
22 includes attaching the baskets, performing the
23 required inspections, and programming the computers
24 as necessary, noting the logic of the computer would
25 function differently when it is in that aerial lift

1 mode. He mentioned that it is going to be a mixed
2 bag as to whether they have data recordings but
3 believed the majority are going in that direction.

4 Mr. Fidler stated the way to know whether it is
5 to be used as a crane is whether or not it is
6 handling personnel because it would be deemed an A92
7 application if it has people in a basket and is a
8 dual-rated machine. He explained that the stability
9 and structural analysis of the structures and the
10 stability of the crane are based on the A92 standard
11 and anyone who is identifying the machine as dual
12 rated would have to certify to both standards based
13 on the application and configuration.

14 Mr. Picarella asked whether there was any type of
15 fail safety mechanism when not being operated
16 properly.

17 Mr. Fidler believed that it would vary by
18 manufacturer and was not aware of anybody who has any
19 sensors, noting it is the operator's responsibility
20 on their product to ensure they properly reconfigure
21 the machine to aerial lift mode and nothing to detect
22 and force that to happen through sensors.

23 Mr. Mitchell commented that the Magni rotating
24 telehandler has radio frequency identification (RFID)
25 on the back of each attachment that communicates with

1 the computer when coupled with an attachment that
2 must be confirmed by the operator. He explained that
3 it would display different load charts depending on
4 the attachment, so it could not be run as a crane
5 with a platform on it and vice versa.

6 Mr. Kuncelman commented that it is up to the
7 discretion of the crane operator to make sure he has
8 it configured correctly in order to be operating
9 under that standard.

10 Mr. Picarella stated the Board would have to make
11 decisions on a case-by-case basis moving forward
12 depending on the facts presented.]

13

14 Report of Board Counsel

15 [Dean F. Picarella, Esquire, Senior Board Counsel,
16 Referred to 16A-7104 regarding licensure by
17 endorsement and provided the final annex and preamble
18 for adoption. He informed Board member of changes to
19 the annex since approved by the Board as a proposed
20 regulation. He noted the addition of the word
21 "discipline" under § 6.16(c), "or disciplinary action
22 by a jurisdiction" under subsection (a)(3), and "is
23 not impediment to licensure" under subsection (a)(4)
24 to cross reference that back to the actual sections.

25 Mr. Picarella addressed comments from the House

1 Professional Licensure Committee and Independent
2 Regulatory Review Commission (IRRC), along with
3 providing a final preamble incorporating those
4 changes. He discussed a comment by the House
5 Professional Licensure Committee under § 6.16 (a)(1),
6 which requires the applicant provide a copy of the
7 current law and regulations, including scope of
8 practice in the jurisdiction where the applicant
9 holds an active license.

10 Mr. Picarella explained that the committee
11 expressed concern that this was not part of the
12 legislation and should be Board Counsel's
13 responsibility to research the laws and regulations
14 of the jurisdiction from which the applicant is
15 applying. He stated the Board is declining to change
16 that language, noting the Board has not received any
17 applications under Act 41.

18 Mr. Picarella explained that other board
19 applicants have been able to provide boards with
20 necessary laws and regulations quickly and easily.
21 He also noted it is the applicant's burden to prove
22 to the Board that they meet the qualifications for
23 licensure.

24 Mr. Picarella further explained that the fee
25 would be spread amongst all applicants if Board

1 Counsel is given the burden to research laws and
2 regulations for jurisdictions. He stated applicants
3 generally have access to laws and regulations of the
4 jurisdiction where they are licensed but would be
5 costly to the Board. He also stated having the
6 applicant provide the initial information is the most
7 expedient approach.

8 Mr. Picarella noted the House Professional
9 Licensure Committee commented on § 6.16(a)(4), where
10 on the proposed document it stated the applicant
11 could not have been disciplined by the jurisdiction
12 that issued the license, certificate, or
13 registration. He noted the committee suggested
14 clarifying the types of discipline and providing a
15 time frame.

16 Mr. Picarella addressed the Board's response
17 where, rather than naming specific types of
18 discipline because jurisdictions tend to have
19 different names for disciplinary actions, the Board
20 opted to mirror the language from the legislation.
21 He noted the Board does not think it is necessary to
22 amend regulations to distinguish between formal
23 discipline and a complaint since a complaint is
24 neither formal or informal discipline.

25 Mr. Picarella also explained that the Board does

1 not wish to specify the time frame when the
2 discipline occurred, instead believes it is
3 appropriate to evaluate discipline on a case-by-case
4 basis. He noted it is indicated in § 6.16(d), where
5 the Board is authorized to determine that discipline
6 is not an impediment to licensure under 63 Pa.C.S. §
7 3111, and in determining whether the discipline is an
8 impediment to licensure, it is duty-bound to apply
9 the case law and other applicable laws. He noted the
10 Board may consider the facts and circumstances
11 surrounding the prohibited act or disciplinary action
12 and any other information relating to the fitness of
13 the individual for licensure.

14 Mr. Picarella addressed the House Professional
15 Licensure Committee's (HPLC) comment regarding
16 § 6.17(b)(1), noting the provision would allow the
17 Board to issue a provisional license for less than a
18 year and asked why the Board would need to do so. He
19 noted 63 Pa.C.S. § 3111 (b)(2) requires the Board to
20 establish an expiration date for provisional licenses
21 in its regulations, where the Board, along with most
22 other boards and commissions under the Bureau of
23 Professional and Occupational Affairs has determined
24 that expiration of one year is generally an
25 appropriate time frame for most applicants.

1 Mr. Picarella stated, in the interest of public
2 safety, the Board has determined that providing some
3 discretion to the Board is necessary, where the
4 remaining licensure requirements do not require a
5 full year to complete the remaining licensure
6 requirements. He noted it is in the public's interest
7 to ensure that a licensee becomes qualified or
8 competent as expeditiously as possible.

9 Mr. Picarella stated the Board anticipates this
10 discretion would be utilized in a situation where an
11 applicant's obligations to meet the licensure or
12 competency requirements are minimal.

13 Mr. Picarella addressed the fourth comment by
14 HPLC suggesting an amendment to § 6.17(d) to remove
15 the language precluding the issuance of more than one
16 provisional license. He noted a provisional license
17 is an unrestricted license that is issued to an
18 applicant to provide a short period of time to an
19 applicant to practice while simultaneously working to
20 meet the Board's licensure by endorsement
21 requirements.

22 Mr. Picarella explained that, while the Board is
23 reluctant to issue an unrestricted license to an
24 applicant who has not met the licensure standards or
25 who has not proven competency, the General Assembly

1 gave boards the discretion to do so as long as there
2 was an expiration to that provisional license. He
3 noted the provisional license is meant to be a
4 temporary license, on a short-term basis, to allow an
5 applicant to begin practicing while completing
6 remaining licensing requirements.

7 Mr. Picarella stated the Board's regulations
8 allow for requests for an extension up to 1
9 additional year, and the Board believes the time
10 frame is more than sufficient. He noted the Board is
11 concerned that allowing multiple provisional licenses
12 could be used as a mechanism to circumvent licensure
13 standards.

14 Mr. Picarella also noted an applicant may apply
15 for a crane operator's license through § 6.11 or §
16 6.15 after a provisional license expires; however, if
17 the applicant does not meet the licensure standards
18 after having a provisional license and having the
19 option to apply for an extension, the applicant would
20 not be eligible to apply for or receive an additional
21 provisional license.

22 Mr. Picarella stated the Board determined
23 protection of the public warrants the limitation of
24 one provisional license per applicant to ensure the
25 citizens of this commonwealth are receiving services

1 from qualified and competent licensees.

2 Mr. Picarella informed Board members that IRRC
3 would consider HPLC comments and the Board's response
4 to the issues raised in determining whether the
5 regulation is in the public interest.

6 Mr. Picarella referred to IRRC's comments under
7 § 6.16(a)(1)(i), requires an applicant to submit a
8 copy of the applicable law or regulation regarding
9 licensure requirements and scope of practice in the
10 jurisdiction that issued the license and
11 § 6.16(a)(1)(iii), requires that the copy of the
12 applicable law or regulation must include its
13 enactment date, where the requirements seem to place
14 a substantial burden and possible costs on
15 applicants.

16 Mr. Picarella referred to the response to the
17 HPLC comment, where the applicant is in the best
18 position to obtain the documents and placing the
19 burden on the Board to obtain would not only lead to
20 additional costs that would need to be applied to
21 application fees but would also significantly
22 increase the processing time for the applications.

23 Mr. Picarella stated the Board could review
24 documents provided by the applicant with their
25 application immediately without having to gather and

1 review information from one or more sources before
2 even being able to begin processing the application.
3 He noted the Board, after considering all options,
4 believed the requirement that the applicant obtain
5 the laws and rules from their state, jurisdiction, or
6 country is the most appropriate, efficient, and cost-
7 effective manner.

8 Mr. Picarella addressed another question from
9 IRRC asking what standard would be used to determine
10 whether a jurisdiction is substantially equivalent
11 for the applicant to show competency under
12 § 6.16(a)(2) and also commented that the provision
13 seems to place an additional burden on the applicant
14 and/or the Board, as the experience may have occurred
15 in several different jurisdictions.

16 Mr. Picarella referred to the Board's response,
17 where the provision in conjunction with the
18 substantial equivalency requirement under
19 § 6.16(a)(1), if the licensing jurisdiction where the
20 applicant has a current license in good standing and
21 has licensing standards substantially equivalent to
22 those established by the Board under section 502 of
23 the act and § 6.11 relating to general requirements,
24 substantial equivalency would also be established
25 under this section.

1 Mr. Picarella noted that, once the substantial
2 equivalency of the original issuing jurisdiction is
3 established, all experience gained after that
4 licensure, regardless of where the experience is
5 obtained, would be counted for purposes of this
6 section.

7 Mr. Picarella referred to another question from
8 IRRC asking whether the Board has considered creating
9 and publishing an annual determination of those
10 jurisdictions in the United States, which have laws
11 and regulations substantially equivalent to
12 Pennsylvania.

13 Mr. Picarella stated the Board has not received
14 any applications for licensure by endorsement since
15 the inception of Act 41, noting not all jurisdictions
16 license crane operators but those that do
17 periodically update and change their licensing
18 requirements.

19 Mr. Picarella also noted the Board does an
20 individual assessment of the applicant at the time
21 the application is submitted to ensure the Board is
22 using the most accurate information available when
23 making decisions and to ensure that all crane
24 operators licensed through the regulation are
25 competent and safe to practice the profession.

1 Mr. Picarella stated the Board believed the
2 provisions in the final regulation balances the
3 protection of the public health, safety, and welfare
4 with the burden and cost to applicants and the Board
5 given the low volume of expected applications for
6 licensure by endorsement.

7 Mr. Picarella addressed IRRC's request to update
8 the Regulatory Analysis Form (RAF) at question 8 to
9 identify the specific statutory authority which
10 provides for its actual authority to promulgate the
11 regulations in the final RAF. He mentioned it has
12 already been completed as requested by IRRC to
13 include a list of specific persons and/or groups
14 involved in developing and drafting the proposal,
15 noting the Board has attached a list of stakeholders
16 to the final-form RAF.

17 Mr. Picarella stated IRRC also asked the Board to
18 provide a specific estimate of costs to the regulated
19 community for translation of an applicable law,
20 regulation, or rule and to address the cost of the
21 criminal history records check (CHRC) fee in the
22 Regulatory Analysis Form.

23 Mr. Picarella noted the Pennsylvania CHRC fee is
24 \$22.00 and Federal Bureau of Investigation fee is
25 \$18.00 and have been included in the Regulatory

1 Analysis Form where requested. He mentioned that the
2 Board is unable to determine with certainty the CHRC
3 fees that would be assessed by other states,
4 territories, or countries.

5 Mr. Picarella addressed a miscellaneous
6 clarification to the annex, noting 27 boards under
7 the bureau are drafting and publishing licensure by
8 endorsement regulations in an effort to keep language
9 in the regulations as consistent as possible. He
10 noted the Board is amending the regulations based
11 upon comments during the review process of other
12 regulations.

13 Mr. Picarella mentioned that the following
14 amendments are stylistic and do not have a
15 substantive impact on the regulations and include the
16 ones mentioned earlier in § 6.16, where the Board
17 added the term "discipline" to the heading to clarify
18 that subsection (c) applies to prohibited acts and
19 discipline.]

20 MR. PICARELLA:

21 Based upon that, I would ask that the
22 Board Chair entertain a motion to
23 direct Board Counsel to promulgate
24 Regulation 16A-7104 Licensure by
25 Endorsement as a final regulation of

1 the Board.

2 CHAIR GOULET:

3 Do we have a motion?

4 MR. SCHMOYER:

5 So moved.

6 MR. MAUGER:

7 I'll second that motion.

8 CHAIR GOULET:

9 Ms. Harris, please call the roll.

10

11 Mr. Goulet, aye; Mr. Mauger, aye; Mr.

12 Mitchell, aye; Mr. Schmoyer, aye; Mr.

13 Kuncelman, aye.

14 [The motion carried unanimously.]

15 ***

16 Report of Acting Commissioner - No Report

17 ***

18 Report of Board Administrator

19 [Jessica Harris, Board Administrator, requested

20 approval for the list of proposed 2024 meeting dates

21 and tentative meeting dates.

22 Chair Goulet suggested approval of the meeting

23 dates be tabled until the next meeting.]

24 ***

25 Adjournment

1 MR. PICARELLA:

2 Motion to adjourn?

3 MR. SCHMOYER:

4 I make a motion to adjourn.

5 CHAIR GOULET:

6 Thanks everybody. Have a safe holiday
7 weekend.

8 ***

9 [There being no further business, the State Board of
10 Crane Operators Meeting adjourned at 11:24 a.m.]

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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

May 24, 2023

TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:32	Official Call to Order
10:32	Roll Call/Introductions
10:36	Approval of Minutes
10:36	Report of Prosecutorial Division
10:40	Report of Board Chair
11:00	Report of Board Counsel
11:19	Report of Board Administrator
11:24	Adjournment

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