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: 10:33 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2525 North 7th Street

CoPA HUB, Eaton Conference Room

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

January 29, 2025

State Board of Crane Operators
January 29, 2025

BOARD MEMBERS:

Elizabeth Bailey, Esquire, Public Member
Matthew Eaton, Deputy Commissioner, Bureau of Professional and Occupational Affairs, on behalf of Arion R. Claggett, Acting Commissioner
Andrew S. Goulet, Professional Member - Absent
Steven M. Kuncelman, Chair, Professional Member
Daniel J. Mitchell, Vice Chair, Professional Member
Brian M. Schmoyer, Professional Member

BUREAU PERSONNEL:

Dean F. Picarella, Esquire, Board Counsel
Cathy A. Tully, Esquire, Counsel Division, Department of State
Gregory Liero, Esquire, Board Prosecution Liaison
Jessica Harris, Board Administrator
Marc Farrell, Esquire, Regulatory Counsel, Office of Chief Counsel, Department of State
Carlton Smith, Deputy Chief Counsel, Prosecution Division
Deena Parmelee, Legal Office Administrator 1, Department of State

ALSO PRESENT:

Lauren Gusherowski, Sargent’s Court Reporting Service, Inc.

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State Board of Crane Operators

January 29, 2025

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

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[Dean F. Picarella, Esquire, Board Counsel, noted the meeting was being recorded and continued participation constituted consent to be recorded.

He also noted the Board entered into Executive Session for the purpose of conducting quasi-judicial deliberations on a number of matters that are currently pending before the Board and to receive the advice of counsel.]

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The regularly scheduled meeting of the State Board of Crane Operators was held on Wednesday, January 29, 2025. Steven M. Kuncelman, Chair,

Professional Member, called the meeting to order at 10:33 a.m.

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Roll Call/Introductions

[A roll call of Board members and introduction of attendees was taken by Ms. Harris. A quorum of Board members was present.]

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Approval of minutes of the November 27, 2024 meeting

MR. PICARELLA:

Do any of the Board members have any changes to the minutes of November 27, 2024? Seeing none.

I believe the Board Chair would entertain a motion to approve the minutes of the November 27, 2024 meeting of the State Board of Crane Operators as presented.

CHAIR KUNCELMAN:

Could I get a motion for approval of the minutes from the November meeting?

MR. MITCHELL:

I'll make that motion to approve the minutes.

MR. SCHMOYER:

I'll second.

MS. HARRIS:

Ms. Bailey, aye; Mr. Eaton, aye; Mr. Kuncelman, aye; Mr. Mitchell, aye; Mr. Schmoyer, aye.

[The motion carried unanimously.]

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Report of Prosecutorial Division - No Report

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Report of Board Counsel - Proposed Adjudication & Order

MR. PICARELLA:

Item 2 is the Proposed Adjudication and Order for Case No. 20-71-009702, Jeff R. Rotz.

Based upon discussions in Executive Session, I believe the Board Chair would entertain a motion to direct Board Counsel to draft the Final Adjudication and Order in this matter consistent with the Board's discussions in Executive Session.

CHAIR KUNCELMAN:

Could I get a motion to approve?

MR. MITCHELL:

I'll make the motion.

MR. SCHMOYER:

I'll second this motion.

MS. HARRIS:

Ms. Bailey, aye; Mr. Eaton, aye; Mr. Kuncelman, aye; Mr. Mitchell, aye; Mr. Schmoyer, aye.

[The motion carried unanimously.]

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Report of Board Counsel - Sunshine Act & Recusal Presentation

[Dean F. Picarella, Esquire, Board Counsel, provided a presentation on the Pennsylvania Sunshine Act and Recusal Guidelines. He stated the purpose of the Sunshine Law is the right of the public to be present at all meetings of agencies and to witness deliberations, policy, formulation, and decision-making, which is vital to the democratic process. He noted secrecy undermines the faith of public in government.

Mr. Picarella explained that meetings must be open to the public after notice when deliberations or official action takes place. He provided definitions of agency, deliberations, and official action.

Mr. Picarella addressed public notice, where an

agency shall give public notice of its first regular meeting of each calendar year, not less than three days in advance of the meeting, and shall give public notice of the schedule of the remaining regular meetings.

Mr. Picarella discussed special meetings, where an agency shall give public notice of each special meeting at least 24 hours in advance. He noted public notice is not required in the case of an emergency meeting or a conference.

Mr. Picarella stated public notice includes the place, date, and time of the meeting in a newspaper of general circulation in a political subdivision of where the meeting is being held and posted at the principal offices of the agency holding the meeting or public building in which the meeting is being held. He also mentioned that a notice is sent to interested parties. He provided an overview of Act 65 of 2021 concerning public notice.

Mr. Picarella addressed the recording of votes and requirement of minutes for all open meetings. He mentioned the only applicable exceptions to open meeting requirements are Executive Sessions and conferences, noting deliberation of agency business may not occur at a conference. He explained that

executive session may be held to discuss personnel issues, consulting with an attorney or professional advisor, and reviewing and discussing agency business that would violate a lawful privilege or lead to disclosure of information or confidentiality protected by law if held in public.

Mr. Picarella further explained that official actions on matters discussed in Executive Session shall be taken at the open meeting.

Mr. Picarella addressed legal challenges, noting anyone can challenge a meeting based on a violation of the Sunshine Act but must be filed within 30 days of the date of the meeting or discovery of any action in which the Sunshine Act was violated. He also discussed penalties for violating the Sunshine Act.

Mr. Picarella stated all board business, deliberations, and official action should be conducted in open meetings and that board members should not discuss agency business, especially Executive Session matters, outside of an official board meeting.

Mr. Picarella noted regulations, policies, etc., delegated to a committee, should take place in an open meeting with appropriate public notice. He mentioned that administrative functions,

prosecutorial functions, and reviewing applications are not subject to open meeting requirements.

Mr. Picarella addressed mandatory recusals, where a Board member may have a prosecutorial role or direct personal or financial interest in the outcome of the matter.

Mr. Picarella addressed strongly suggested recusals, where a board member has a personal affection for someone or outside knowledge and cannot make a fair and unbiased determination.

Mr. Picarella noted that discretionary recusals are when a Board member cannot hear and dispose of the case or participate in a decision on a subject fairly and without prejudice. He encouraged Board members who are uncertain whether to recuse themselves to discuss the matter with counsel privately.

Mr. Picarella addressed abstention, noting abstention means someone is withholding their vote but does not affect quorum requirements. He noted the Board member is unable to vote with recusal and can affect the quorum requirement.

Mr. Picarella discussed conflicts of interests, where no member of any professional examining or licensing board shall at the same time be an officer

or an agent of any statewide association or organization representing the profession or the occupation subject to the board's actions.

Mr. Picarella further explained that a member of the licensing board or commission designated as representing the public at large shall be a private citizen and shall not be a member of any profession or occupation regulated by the licensing board, commission, or Bureau of Professional and Occupational Affairs. He noted they cannot be related to or part of an immediate family of any member of the profession or occupation to be licensed or regulated by that particular board or commission.

Mr. Picarella stated public members may not be affiliated in any way with the profession or occupation to be licensed or regulated or hold any other appointed or elected public office or position within the commonwealth, another state, or the United States government during their appointed terms. He noted that any person not meeting the standard shall be ineligible for membership on the board or commission as a public member.]

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Report of Acting Commissioner - No Report

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Report of Board Chair

[Steven M. Kuncelman, Chair, Professional Member, appointed Elizabeth Bailey as an alternate for the Probable Cause Screening Committee until Brian Schmoyer's term ends, where she will then take over that position for the remainder of her term.]

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Appointment - Annual Prosecution Report

[Carlton Smith, Esquire, Deputy Chief Counsel, Prosecution Division, presented the Annual Prosecution Report. He reported 2,653 active licensees for the State Board of Crane Operators. He noted 76 cases were opened in 2024, which is a slight increase from 2023 at around 56 cases. He reported 83 cases are currently open and 48 were closed in 2024.

Mr. Smith mentioned the average age to close a case was around 440 days in 2024, noting prosecution would like to have a case disposed of within 365 days.

Mr. Smith addressed discipline cases and reported 2 fines, 1 reinstatement, 3 suspensions, and 4 voluntary surrenders.

Mr. Smith also addressed cases without discipline, including prosecution not warranted and

warning letters. He noted prosecution looks at the strength of the case, evidence to prove the case, and witnesses for prosecution not warranted. He also noted prosecution looks at the strength of the case, evidence to prove the case, discipline history, and seriousness of the allegations for warning letters. He noted 18 warning letters and 14 prosecution not warranted cases were issued in 2024.]

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Report of Board Administrator - Alternate November 2025 Meeting Date

[Jessica Harris, Board Administrator, referred to prior Board discussion regarding choosing another date for the November 26 Board meeting because the date immediately precedes Thanksgiving. She provided alternate dates in November and December, but Board member decided to keep the current meeting date on November 26, 2025.]

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Miscellaneous - 2025 Board Meeting Dates

[Jessica Harris, Board Administrator, noted the next scheduled Board meeting date is March 26, 2025.]

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Adjournment

CHAIR KUNCELMAN:

Motion to adjourn the meeting?

MR. MITCHELL:

I make a motion.

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[There being no further business, the State Board of Crane Operators Meeting adjourned at 11:09 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.

Lauren Gusherowski,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF CRANE OPERATORS
REFERENCE INDEX

January 29, 2025

TIME	AGENDA
10:00	Executive Session
10:30	Return to Open Session
10:33	Official Call to Order
10:33	Roll Call/Introductions
10:34	Approval of Minutes
10:37	Report of Board Counsel
10:57	Report of Board Chair
10:58	Appointment - Annual Prosecution Report
11:04	Report of Board Administrator
11:08	Miscellaneous
11:09	Adjournment