

**MINUTES OF THE NOVEMBER 10, 2009
CONSTRUCTION CONTRACTORS BOARD
LOCKSMITH CERTIFICATION PROGRAM MEETING**

The Construction Contractors Board held a Locksmith Certification Program meeting on Tuesday, November 10, 2009, in the Santiam Room, West Salem Roth's IGA, 1130 Wallace Rd. NW, Salem, Oregon.

Committee Members: Co-Chairs Dennis Schad and Jon Mangis, William Blanchard, Ernie Blatz, Simon Blatz, William Curtis, Kristina Leipzig, and Christopher Tardiff.

Staff: Administrator Craig P. Smith, Education Manager Gina Fox, Information Technology Manager Shelly Wiles, CSU/Licensing Manager Kristie Patton, Licensing Supervisor Karen Taylor, Field Investigations Manager Robert Rambo, Communications Specialist Tori Garcia, Education Assistant Holly Eilertson, and Board Secretary Catherine Dixon.

Guests: Gary Frazier, Dave Drag, Jeff Matthews, Terry Henderson, Mitchell Obrist, Cathy Henderson, Bryan Donnell, Liz Gaiser, Judith Morgan, William Peters, Ted Prader, David Welch, Bruce McNeal, Michael Haas, Tom Jackson, Larry Mann, James Bowman, Jim King, Ralph Forrest-Ball, and Mark Higgins.

A. Introductions:

Craig P. Smith, Administrator, Construction Contractors Board (CCB) opened the meeting.

Committee members and CCB staff introduced themselves. The Committee members verified their mailing addresses.

B. State of Oregon Ethics Rules:

Administrator Craig P. Smith discussed the need to follow the ethics rules. LSAC members are here to serve all Oregonians, not any association or group they may be a member of. In short, you can't make decisions that are designed to make you money.

Assistant Attorney General Katharine Lozano, discussed ethics rules with the Committee. Since many of you have not served on a Board or subcommittee before, I will give you a brief overview. As a member of the Locksmith Advisory Committee you are held to a higher standard than an ordinary citizen. Oregon is a transparent and public minded state. Transparency in government is a big deal in Oregon which is reflected in the public records and public meeting laws. Public meeting laws are ORS 192.610 to 192.690. The public needs to know what kinds of decisions the government is making and can see how the process works. Can't take any votes or make any decisions in a private session; that always has to be done publically in view of the public. The only time you can have a private session that the public is not welcomed and even in those sessions the media can attend, are for special exceptions like written advice from your lawyer, but you can't make any decisions or take any votes on any issue, you can only discuss the issues. There are strict rules that have to be followed and things must go in a certain order. There is a specific time for the public to speak.

Public records are a little more complicated and found in ORS 192.410 to 192.505. Again we are looking at transparency in government. Public can be fully informed about how their government works is very important. Basically it says that any kind of documents you are generating in your capacity as a state official are public records with some limited exceptions. If you are making notes on this agenda about what someone is telling you and how it is influencing you and what you think you might want to vote later and why, realize that is something that has to be made accessible if it is requested. All the paper has to come back and then disseminated, if requested. As public officials what you do in this capacity, with some exceptions, is public knowledge. You can't make money off this deal; serving on LSAC. You have to be mindful of: 1) you are not getting any input from industry, from locksmiths, from people in other industries that is going to look like that influenced how you are deciding. If you are associated with some group and that groups issue comes up in a meeting, you better recues yourself from that decision and probably from that discussion. Because you don't want to look like you are trying to influence government because of your personal ties. You can't take gifts or extend money from people in the business that you could be regulating in your meetings. In January there will be a change regarding the normal types of gifts you would receive if everyone shows up to a meeting. Right now take nothing. If the Ethics Commission were to investigate you and you told them well it is okay my lawyer told me that I could do this; that will not save you in court. If you are worried if this is a violation of Oregon ethics or could this be construed as taking a bribe, or getting a benefit that everyone can't have you need to ask the Ethics Commission. They are the only people that can give you the answer that you can rely on. If you are careful and don't try to advocate for anyone in your private sector when you are here at the meetings and don't try to accept, not just money, but even gifts, trips, dinners, anything like that that no everyone could have access to.

In terms of HB 3127, it is pretty standard for a new area of regulation and is fairly broad. Over time it may change. The bill includes general requirements for licensures of individuals and businesses, testing requirements, protected title, continuing education requirements, professional conduct requirements, and exemptions.

C. CCB Implementation Plan Review:

Administrator Smith discussed the implementation plan with LSAC members. HB 3127 requires that the program be available by January 1, 2010; which is a short time frame to comply with. The rulemaking hearing will be held at the January 27, 2010, Board meeting.

If there is controversy over the rules in January, the program will be delayed several months.

The legislation was sought by industry, not CCB.

On July 1, 2010, Oregon law will prohibit locksmith work or advertising without a license, unless you fit one of the exemptions.

CCB Website:

Administrator Smith reported that CCB has locksmith information on its website under "Certificates/Licenses". The locksmith certification program will be implemented by administrative rules that hopefully will be approved by the Board on January 26, 2010.

There are three basic elements:

1. Testing,
2. Grandfathering, and
3. Criminal Background Checks.

The implementation plan is a living document that changes, dates in the plan will change.

Testing:

Administrator Smith reported that there are several testing solution options.

1. The ALOA test or other association's test,
2. CCB write a test, or
3. Bill Phillips author of a "Complete Book of Locksmithing" has indicated that he would allow CCB to use the test he wrote at the end of his book.

Administrator Smith reported that CCB prefers not having to write a test, but it could be done. Staff researched what other states are doing and found that Alabama is in the process of setting up a locksmith program as well. They are contracting with Bill Phillips to use his test.

A few years ago, a legislator suggested that CCB test to 100. How this works is that the person keeps answering test questions until they are able to answer every question correctly. There is no pass or fail. Staff believes this option is worth further research to see what the various options are to testing to 100.

It now appears that option number three above is the best solution.

D. Public Comment:

Jeff Matthews: Mr. Matthews stated that the company he works for performs work outside the normal locksmith work. Most of the 25 employees have not taken locksmith courses; they are service technicians on electronic lock systems. The company has employees working at several locations. They work mostly on bank vaults and on federal property. I have concerns over the 25 employees having to take further training in order to take the test, which is a financial burden.

Gary Frazier: He agrees with Jeff Matthews. He is interested in grandfathering. The company also has remote technicians that work on banks and credit unions and schools. He is concerned that most of the work they do is putting in hardware. He would like to see an example of a test. He believes the ALOA test is fine. Another concern is that the employees work on electronic lock system, installations and do not take locks apart. The employees may need to take classes in order to pass the test, which cause a financial burden to the company. Most of the employees are hands on learners and are not good at sit down tests. He would like to see an open book test.

Mitch Obrist: I just heard about the new requirements about a week ago. I am not a member of any association. I don't have a set fee I charge my customers, I charged based on their ability to pay. I may not be able to pass the test; I am not a good test taker. I feel that there needs to be more diversity on the LSAC, most of the members are PLA members. I do general locksmith stuff. I have heard good stuff about the LSAC members doing good work.

Michael Haas: I have a lot of issues with the new requirements. Locksmith work is not construction work and should be a standalone license. I feel this program should be separate from CCB licensure. I don't know how I will be able to pay for both licenses in this economy. The CCB's current test is hard and doesn't apply to what I do. CCB has exemptions for some so why don't locksmiths have an exemption from CCB licensure.

Terry Henderson: My concern is the cost of insurance and bonds for each individual locksmith working for the company; with each person needing a separate bond and insurance. Our county has 15 percent unemployment rate. This legislation was passed because of scam locksmiths. I think that LSAC membership needs more geographic diversity. Another concern is who is going to provide the continuing education.

Liz Gaiser: I work for Locks on Wheels and work out of my car. I think PLA is a good association and I am going to join. I would like to see grandfathering because I don't want to take the test. I do not work on safes or electronic locks. The do not duplicate key issue should be put into the ethics rules.

Judith Morgan: I like the idea of test to 100. Keep the test simple. It is a waste of time to argue with statutes we can't change. Make the program fair for everyone with the test to 100. These are hard economic times and locksmiths are not wealthy. I am concerned about the cost of insurance, bonds, and application fees. I would like to see more diversity on LSAC as well. How do we contact locksmiths across the state.

Bruce McNeil: In 1981 I worked to get legislation passed to set up a locksmith certification program. Since CCB doesn't enforce their rules and regulations, I don't see how CCB will enforce the locksmith regulations either. Most locksmiths in my area are not licensed and no one is cracking down.

Jim King: I have enforcement issues. I am against licensing but I am willing to accept it. I favor grandfathering. I do general locksmith work. I feel that continuing education is too diverse and too many things to incorporate into a test. Most of the classes given by ALOA are at national meetings and the classes I could teach. Continuing education is hard to find and most are given out of state, which is a hardship. A test would not be too hard to come up with.

Ralph Forrest-Ball: I am a member of PLA and joined because I support the bill. I think the test to 100 is a good idea, but we need to tell people which questions they get wrong. Enforcement is not perfect CCB can't be everywhere. We need rules. The CCB test does not apply to locksmiths. I liked the test, it was a good test and covers things that every business needs to know. I have a concern with high security and do not duplicate keys. Consumers think that "do not duplicate keys" are high security and they are not;

high security is different. Many consumers do not know that high security is available to them.

Mark Higgins: I am concerned about criminal background checks, because the locksmith can open locks. Locksmiths will have ID showing they are a locksmith and can open cars and locks, people will think they have been checked out. The ID will help so no one gets arrested unlocking a car for a consumer. I would like CCB to have the ability to run background checks through the State Police.

Tom Jackson: I was not notified about the new regulations or this meeting. CCB even told me there were no meetings when I called, that there would not be anything until January. I have not taken any courses on locksmiths. I have no problem with a test if we can use a book. I am concerned; we carry CCB dual endorsement for residential and commercial plus locksmith. I can't pass the additional costs on to my customers, they are strapped as well. The fee of \$300 seems steep for a locksmith license. The continuing education requirements will put a financial burden on every locksmith. The issue of not duplicating keys marked "do not duplicate", I work with schools and if we can't duplicate the key for the school, they will have to pay to have the locks rekeyed to get additional keys made.

Bryan Donnell: The test to 100 sound good, but I am concerned, why bother if everyone passes. It is smoke and mirrors to me. You need some type of sectional testing. Insurance costs are another concern; it is hard to do business in Oregon because of the fees and insurance requirements.

James Bowman: I am concerned about the requirements for a personal bond we are already bonded and insured with our CCB license. What if some of the employees have bad credit, the rate will go up for all the employees for a bond.

CCB Administrator Smith: There is no requirement in Enrolled HB 3127 for individual employees to have a bond or insurance. Some of things mentioned here today are not in the enrolled bill.

The group reported that a letter was mailed out and a copy of the introduced bill earlier this year. CCB Administrator Smith responded that the enrolled bill is very different from the bill that was initially introduced and suggested that the group pick up a copy of the final version of HB 3127.

James Bowman: Why can't I use my 1990 Apprenticeship certificate (pocket card) and be grandfathered in for carry this certificate. I think locksmiths should be waived from having a CCB license because we will have a locksmith certificate, bond and insurance on top of the CCB license. In regards to the "do not duplicate" key issue, I can read the key and make a copy without duplicating it. I sell high security keys, do not duplicate does not do anything. In California each locksmith has its own required number stamp that is stamped on each key made. This would allow a way to track who made the key. Good moral character needs to be defined. I don't think that locksmiths need continuing education.

E. Testing:

Education Manager Gina Fox reported that there are several options for testing:

1. Staff have looked at the ALOA test. Their lowest level is certified-registered locksmith. This may be a possibility, but the cost of the test has to be reviewed by our Assistant Attorney General (AAG).
2. ILA has a test which seems to be more industrial.
3. Bill Phillips has written a book with a test at the end of the book. He has indicated that CCB may be able to use his test. Staff are working to obtain permission to use his test.
4. Testing to 100 seems the best option. There are risks with a pass or fail test because CCB would be denying a license to someone for failing to pass a test, which would require determining how to measure minimally competent locksmith knowledge and prove the test is appropriate.
5. CCB won't have the manual online, but the test could tell them what page to find the information on in the book.
6. CCB could write a test using the LSAC members. I would recommend not doing this because it is hard to keep updated.

The problems are that ALOA does not have an online test; it is a paper test at very limited locations and only at certain times. Legislators like to have the tests made available online or available at multiple locations covering the state geographically.

Action Item:

LSAC members discussed the testing options. LSAC members agreed that the book written by Bill Phillips and the test in his book were good and staff should pursue obtaining permission to use his test. They would like to see the test be an online test.

LSAC member Kristina Leipzig suggested having a verbal version of the online test as well.

F. Grandfathering:

Administrator Smith reported that the statute requires that the applicant has to have passed a test; therefore there would be no grandfathering.

LSAC members discussed perhaps accepting locksmiths that have passed the ALOA or ITL test.

G. Criteria for Criminal Records Checks:

CCB Licensing/CSU Manager Kristie Patton discussed the criminal records checks with LSAC members. Ms. Patton researched having the Oregon State Police conduct criminal background checks on applicants. The CCB has been informed that it does not have legal

authority to have Oregon State Police run a criminal background check. This would require a statute change.

Oregon State Police and CCB's Assistant Attorney General have given the agency suggested language to seek a legislative change next session.

CCB can do a self-certification like it does for its current licensees.

Administrator Smith reported that he is sorry this did not get included in the bill. We can seek a legislative fix next session. CCB can ask applicants if they have been convicted of certain crimes, perhaps in the last five years. If the person has had a conviction, they could appeal to the CCB Board to decide whether they could become certified. The question is do you want some kind of records check and if so, what. This gets complicated.

A member of the public suggested using Choice Point that the Little League uses this company to do records checks for people who work with the kids. Administrator Smith stated that staff will research this and report back at the next meeting.

Action Item:

LSAC members discussed criminal background checks and feel that it is important to conduct a criminal background check.

H. Standards of Professional Conduct:

Administrator Smith reported that standards of practice will need to be developed. We don't need a lot at this time. This item could be worked on in the spring, but we will need to develop some minimal standards. The more standards you write, the more controversial they will become. You might also want to develop some best practices which are recommendations and these could be placed on the website. Some associations already have best practices written that we would take a look at. Best practices are suggestions and fines are not issued if they are not followed.

After discussion by LSAC members it was determined that LSAC members would write up their suggestions for standards of practice and/or best practices and mail or email them to Cathy Dixon.

Action Item:

LSAC members felt it was important to have standards of practice regarding "do not duplicate keys" and not unlocking cars without showing ID.

I. Continuing Education:

Administrator Smith reported that he does not recommend requiring continuing education at this time. Locksmiths will already have to do continuing education under their CCB license and can take locksmith courses for their electives.

J. Next Meeting Date and Agenda Items:

The next meeting is December 1, 2009.

Agenda items: Exemptions, who is included and not included in the exemptions.

K. Adjournment:

The meeting adjourned at 2:00 p.m.

Respectfully submitted by Catherine Dixon, Management Assistant