

**MINUTES OF THE JANUARY 5, 2010  
CONSTRUCTION CONTRACTORS BOARD  
LOCKSMITH ADVISORY COMMITTEE MEETING**

The Construction Contractors Board held a Locksmith Advisory Committee meeting on Tuesday, January 5, 2010, in the Santiam Room, West Salem Roth's IGA, 1130 Wallace Rd. NW, Salem, Oregon.

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

**Staff:** Craig P. Smith, Administrator; Gina Fox, Education Manager; Richard Blank, Enforcement Manager; Kristie Patton, CSU/Licensing Manager; Nancy Weber, Consumer Education Representative; Education Assistant Holly Eilertson; and Board Secretary Catherine Dixon..

**Guests:** Terry Henderson, Gary Frazier, Martin L. Daniels, Bruce McNeal, Jeff Matthews, Ralph Forrest-Ball.

**a. Review and Approve December 1, 2009 Minutes:**

Co-Chair Jon Mangis opened the meeting. The minutes of the December 1, 2009, LSAC meeting were approved.

**b. Staff Reports:**

1. Online Application:

Kristie Patton, CCB Licensing Manager, discussed the draft rules with LSAC members. The rules were:

- 812-0030-0200, General Application Requirements: This rule will be revised to follow the online process.
- 812-030-0210, Certificate Issuance: The effective date of the certificate will be the date the applicant meets all the requirements for certification.

Ms. Patton handed out a draft of a wall certificate and pocket card.

The certificate is issued to the individuals. The certificate is non-transferrable.

- 812-030-0220, Requirements for Certificate of Renewal: The renewal fee will be \$60 for two years. Ms. Patton reported that she hopes to have an online renewal process established within the next two years.
- 812-030-0230, Certificate Renewal, Effective Date; Effect of Lapse: Ms. Patton reported that the certificate is good for two years. If a certificate is lapsed for two years or more, the applicant must start the process over, which includes taking the test again, and will be issued a new certificate number. CCB sends out renewal notices and then an expiration notice if the certificate is not renewed.
- 812-030-0250, Application, Renewal and Certification Fees: Ms. Patton reported that the certification process is planned to be a three step process:

- 1) The applicant will fill out the application online and pay a \$60 fee. There will be required fields, where the applicant cannot proceed until the form is properly completed. There will be prompts to help the applicant through the form.

The applicant will be required to “self-certify” their criminal history within certain parameters.

If the applicant reports a criminal conviction of a specific type in the last seven years, they will not be able to proceed, and will be instructed to send their documentation to CCB. Applicants will be advised that providing false information to the Board is against the law and may subject the applicant to a \$5,000 fine and revocation of the applicant’s CCB license **and** the Oregon Locksmith Certification sought by the applicant.

We plan that the online application will be ready on February 1, 2010, after the Board adopts the proposed rules.

- 2) The applicant will pay a \$60 testing fee and take the online test.
- 3) Once the applicant has passed the test they pay a \$60 fee to obtain the certificate, which is good for two years.

The total cost to obtain their first certification will be \$180 total.

- 4) Renewals will cost only \$60.

Ms. Patton reported that LSAC members may be asked to come in and take the online test as a sample group to make sure it is working properly before it goes live, but this issue has not been determined.

#### Display of Locksmith Certificates:

William Blanchard asked if the business will need to display on the wall a wall card for each employee? Staff replied that there is no requirement at this time, but it is something that could be considered for the future.

#### Pictures on Certificates:

Simon Blatz asked if the certificates (ID cards) would have pictures on them, like the electricians who go somewhere and have pictures taken for their ID cards. Staff reported that not at this time, however, in the future perhaps CCB could obtain statutory authority to have access to the DMV photos to print on the certificates.

#### Continuing Education:

Simon Blatz asked whether there will be continuing education requirements. Staff replied not at this time, but this is something to look at in the future. Continuing education requirements will be controversial and a lot of thought needs to go into setting up continuing education process.

Currently CCB licensees are required to take continuing education on their CCB license. Locksmith classes will be allowed as electives.

Inactive Certifications:

Christopher Tardiff asked whether an inactive status has been considered. Staff replied that the benefit of an inactive license may not be worth the cost of its development at this time; but that it was something we could look at in the future.

Military Services:

William Blanchard asked what happens if the locksmith gets deployed. Staff replied that CCB already has rules in place for persons who are on active duty in the armed forces.

2. Criminal History Self Certification and Criminal Convictions Bar/Check:

Richard Blank, Enforcement Manager, discussed the enforcement rules with LSAC members. Mr. Blank reported that it is important to him to be able to fully explain the draft rules to LSAC members.

If a locksmith violates the statutes or rules, Enforcement will issue a civil penalty. Mr. Blank discussed the rules:

- 812-0030-0000, General Definitions: Mr. Blank read the definitions.
- 812-0030-0100, Potentially Disqualifying Crimes: Locksmith applicants will be required to disclose certain criminal convictions within the last seven years. If the locksmith fails to do so, their certification can be revoked, and once revoked they cannot get that certification number back. The State of Oregon has a law that an agency cannot arbitrarily deny issuing a license or certificate and that the crime must tie back to the business activity. (For an explanation of the crimes see ORS 163.)
- 812-030-0110, Fitness Determination—Criminal Offense: Mr. Blank reported that the standards we are establishing tie the crimes to issuance of a certificate. It is the applicant's responsibility to provide CCB with the information requested.

Staff reported that the locksmith applicant must disclose any convictions within the last seven years. CCB will analyze the information provided, and following the rules, make a finding based upon the rules whether the individual is unfit. When CCB denies issuance of a certificate, the party can request a hearing. CCB has gone through this process with CCB licensees and has lost at hearing in some instances. CCB may still have to issue a certification even if the person has committed one of the crimes listed in the rules. These cases are very time consuming and very expensive to defend. The applicants will be self-certifying that the information they provide is accurate, should CCB find out false information has been provided, it is very serious. The certification can be revoked and the applicant will be fined up to \$5,000 per offense.

William Blanchard asked what about Auto Auctions, they don't have a CCB license because what they do does not require a CCB license; they don't work on structures, only cars. They have a locksmith on staff are they exempt from CCB licensure? Staff replied that under the new statutes, they most likely would need a CCB license.

The group discussed that the cost of having to have a CCB license and a locksmith certification may drive some locksmiths out of business. The new requirements may also limit entry into the locksmith field due to costs. While others stated that the CCB license provides a bond and insurance coverage for consumers and that many of the locksmiths were already required to have a CCB license prior to the statute change.

- 812-0030-0240, Requirement that Locksmith Own or Work for a Licensed Contractor. Staff reported that the locksmith is required to either own or work for a CCB licensed contractor.

William Blanchard suggested requiring the business to send a form to CCB listing the certified locksmiths that work for a business. The electricians have a required form they must send in. What is a business contracts out and uses subcontractors to do the work, and the subcontractor is a CCB licenses. Would the business need a CCB license? .

The group discussed various scenarios where a business subcontracts out the work to be performed and whether a CCB license would be required. The group discussed national service providers and nationwide firms, would they need a CCB license?

Staff reported that the business would most likely need a CCB license, which is not a new requirement. Out of state companies are required to obtain a CCB license to do work in Oregon. If the out of state company is contracting or bidding to do locksmith work in Oregon, they will need a CCB license and have a certified locksmith as an employee or owner of the business.

William Blanchard suggested sending a letter out informing locksmiths of the requirements. Staff suggested having the locksmith associations send a letter to their members. This is not a new requirement.

3. Standards of Professional Conduct:

- a. Richard Blank, Enforcement Manager, discussed the standards of professional conduct rules (OAR 812-030-0300) with LSAC members. When a locksmith obtains their certificate they will have certified that they will comply with the requirements in OAR 812-030-0300.
- b. The group expressed concerns that having a requirement to establish and record the client's authority to order the work was too cumbersome and time consuming.

- c. It may not be practical to have such a requirement. Several possible solutions to revise 812-030-0300(3) were suggested and concerns raised:
    - Combining (a) and (b) by making positive identification and recording the information.
    - Deleting (b) because the locksmiths obtain a signature on their work orders.
    - Should photo identification be defined?
    - What if the identification is expired?
    - Perhaps add language like “such as state issued identification”.
    - What if the order is faxed or phoned in to cut keys and mail them to the party, how would you get a signature?
    - Add to (3)...involving physical security “at the customer’s location”.
    - Require to identify who the work is done for and they sign an authorization to do the work.
    - Audience member stated that their office has gone paperless and dispatch sends them out to a jobsite, there is nothing for the customer to sign. Hospitals and medical offices under long term contract don’t want their employees signing work orders.
  - d. The group drafted the following suggested language.

“(3) When gaining entry to public or private property a certified locksmith shall:

    - (a) Make positive identification of the client and record the client’s signature on the invoice or work order.
    - (b) Retain, for three years, the signed authorization or work order.”
  - e. It was determined that staff will draft revised rule language incorporating some of the suggestions. The revised language will be reviewed at the next meeting.
  - f. This rule may have to be separated from all other rules because the Board (CCB) may wish to vote on it separately.
4. Penalty Structure:  
Richard Blank, Enforcement Manager, discussed the standards of professional conduct rules (OAR 812-030-0300) with LSAC members.

Kristina Leipzig asked if settlements or lowering of the fines would be available to law violations.

Staff replied that yes, the agency always offers settlement and lower penalties. If the person cooperates with the agency and complies with the settlement agreement, the fines can be lowered.

Agency staff are still working on the draft penalty rules and will most likely move the penalty rules to the agency’s current penalty matrix rule 812-005-0800.

The rules will be revised to distinguish between things the locksmith must comply with, and things that the business must comply with.

The group asked whether the CCB has authority to issue multiple fines for multiple ads or multiple jobs. Staff reported that the agency does have authority to issue multiple civil penalties. The agency looks at the circumstances of the situation do determine if the enforcement action should be “aggregated” based upon the seriousness of the violation and the mitigating factors in each case.

It was determined that 812-030-0400 (1) and (2) change to read: third or subsequent offense, \$5,000.

5. Testing:

- a. Gina Fox Education Manager discussed the testing rule 812-030-0010 with LSAC members. OAR 812-030-0010(4) will be moved to 812-030-0250 where fees are listed for consistency and clarity. Ms. Fox reported that the testing subcommittee has met twice.
- b. The testing subcommittee has added the 2009 Professional Locksmith Dictionary that is available online free to the publications used for the test questions.
- c. We will start with 100-125 questions. Each test will contain either 60 or 80 questions, which is something LSAC will need to determine at the next meeting. Test questions will not be revised but will be retired and a new rewritten test question will replace the old question.
- d. The applicant will complete the application process and then pay the \$60 testing fee and be given an account number to access the test. The applicant will either pay by credit card or debit card.
- e. Staff reported that the online test will have a summary screen at the end that will list the questions that were answered incorrectly and will have clues on where the question comes from. The person can then decide whether to continue testing or return to the test another day. The test questions will be randomly scrambled and the answers will also be in different orders. The test will remember where the person left off so when they return to the test, it will continue where the person left off.
- f. For those that do not have access to a computer or the internet, they can use their public library or come to the CCB and use a computer. Perhaps CCB field investigations personnel will be able to assist the party, this is to be determined.

**c. Public Comment:**

**Bruce McNeal:** I missed the last meeting and would like a brief answer on what happened with the do not duplicate key issue. And, secondly how is this going to prevent places like Fred Meyer and other places from copying do not duplicate keys?

Administrator Smith replied that it was taken off the agenda and said we would not write regulations about that right now and we will come back to that after the program is implemented due to the amount of controversy regarding the issue.

**Mark Daniels:** The electricians license thing. It is questionable if you have Class A or Class B electrical license, you are not going to do any of this. Administrator Smith replied that was not in our control that is something that the Legislature did because of lobbyist for that particular interest group. We could seek a change from the Legislature.

**Mark Daniels:** I had a Class B license for years and found that I didn't need it anymore because I was doing other things. Now I find out I should have kept it. I work on the lock side now, primarily with banks and I can understand the card access and that kind of thing. Christopher Tardiff replied that you could not advertise as a locksmith if you were just a Class B anyway. You can't hold yourself out as a locksmith being an electrician. Even if you are exempted, you can't say you are a locksmith. That is only for a person performing work within the scope of that license itself. It is not without the scope, rekeying a lock is not within the scope of an electrician license.

Administrator Smith: This is something the agency could flesh out on our website. It could be added to a frequently asked questions portion of the CCB locksmith page.

**Ralph Forrest-Ball:** I suggest that when it comes to the certificates there is one is small enough to fit into a wallet. I think there should be an administrative rule that the locksmith is required to carry it with them and show it to the customer upon demand; if the customer asks to see it. Another thought when talking about fines, it looks to me like we just agreed that you can be fined a \$1,000 for failing to get somebody's signature when unlocking their car. That seems a little disproportionate considering the other things that are listed in that section, it says in section 300, standards of professional conduct, most of the items in that section are pretty serious, such as taking money and refusing to do work, submitting an application with a false statement, false advertising and for the penalties to be all the same, I think that the penalty should be lower for section (f)(3), which is about getting proper authorization. Finally, about the test I wrote an email yesterday about the test that I am concerned that someone could pass the test by guessing randomly, which other people have mentioned that. This is something that we would like to avoid. It occurs to me that if the answers are going to be scrambled, then that means the first time through about one fourth of the questions, the correct answer will be A and then three-fourths of them A will be wrong. The second time through when your answering those 60 questions that are left over, about one-fourth of them are going to A; and then 45 of them will be wrong. The third time through about 11 of those the answer will be A. If you just keep guessing A every single time, if you press the A button about 500 times, you will pass the test. I know that there are some technical challenges to try to address that and I don't expect that it can be fixed instantly, but I do think this is something that needs to be addressed eventually. I suggest that we shouldn't

allow unlimited chances to answer each question. There should be some kind of a limit on how many guesses you get and I have made two suggestions of how that can work. One would be that you would only get four guesses per question and if you get it wrong all four times, the same question, then it would make you start over or something like that. My other suggestion was that it would let you guess more than four times on a single question, as long as your total number of guess, your average number of guesses did not exceed four per question. Either it should not allow you to guess four times on the same question or it should cut you off after a certain point and say look this person is just hitting random buttons over and over again. Specifically if you get halfway through the test and you have been guessing randomly, you would expect you have gotten about one fourth correct answers. If someone has gotten more than one-fourth of them correct, then I would say they are sincerely trying and let them keep going and try to improve their score and get it up to 100. If halfway through the test they have only gotten one-fourth correct, I think they should be kicked out and have to start over. If there was a check point halfway through that looked a have you gotten one-fourth of the answers correct, if not made you start over, then that would prevent someone from just hitting random buttons and passing the test that way. My feeling is that if test won't separate people who have studied from people who have not studied, if it won't separate people who are well prepared and people who are poorly prepared, if it won't separate people who are extremely knowledgeable and people who are newbies, if it won't separate good test takers from poor ones, the least we could do is separate the people who are sincerely trying from the people who are randomly guessing.

**William Blanchard:** Gina I think it would be far simpler for your IT people to set A and C to alternate and B and D to alternate or something like that. So that it is the same for the randomization but it alternates how it makes the answer. So if you guess A every single time, it would take eternity for you to pass the test.

**Gina Fox, Education Manager,** stated that these are things that we can look at in the future. Any changes to the current program will cause this test to not be ready on February 1, 2010. We will capture data for the first eight months or so and look at the data of people who have taken the test.

**d. LSAC Decisions on Draft Rules:**

Decisions on the draft rules were postponed until the next meeting on January 14, 2010.

**e. Adjournment.**

The meeting adjourned at 2:15 p.m. The next meeting is scheduled for January 14, 2010.

Respectfully submitted by Catherine Dixon, Management Assistant