

BOARD OF COAL MINING EXAMINERS

SUMMARY OF MEETING

DECEMBER 7, 2010

The following is a summary of the December 7, 2010 Meeting:

- I. Meeting called to order at 9:00 AM by Frank Linkous, Chairman. Members present were Frank Linkous, Joseph Buchanan, Gerald Kendrick, Arvil McConnell, and Ricky O'Quinn. Also present were Mary Gibson, Regulatory Boards Administrator, Butch Lambert, DMME Deputy Director, and Sharon Pigeon, Assistant Attorney General.**
- II. Opening statement delivered by Frank Linkous, Chairman**
- III. Motion made and seconded to accept December 7, 2010, meeting agenda and approve November 2, 2010, meeting summary. All members were in favor to approve.**
- IV. Review of Virginia Substance Abuse Cases (Closed Session)**

Of the cases that resulted in hearings, evidence was taken by the Board in closed session, pursuant to Virginia Code §§ 2.2-3711(A)(4) and 45.1-11.35(E). In the closed session, the Board worked out agreements, allowing individuals to return to work conditionally, and took other disciplinary actions including revocation of all certifications held by miners.

V. Open Agenda

The Board voted to approve policy regarding substance abuse reports from Kentucky for two classifications: individuals who hold no Virginia certifications and individuals who hold Virginia certifications as follows:

Holds No Virginia Certifications

- Send letter advising not eligible for certifications in Virginia (files blocked) until Kentucky issues have been resolved.**
- Require "Letter of Good Standing" (LOGS) from Kentucky which clearly addresses that there are no stipulations outstanding in resolution of case with Kentucky. The individual is responsible for obtaining and submitting the LOGS to Virginia Board.**

Holds Virginia Certifications

- **Suspend certifications pending appearance before the Board. If revoke, retest will be required.**
- **In addition to Virginia Board requirements, require LOGS from Kentucky stating that substance abuse issues have been resolved, prior to issuing certification.**

The Board voted to approve a general guidance policy on releasing information to an individual from his substance abuse file as follows: anything generated in correspondence to him and drug screening results ordered by the Board will be released to the individual. Notes and references from internal use for the Board's closed session hearing will not be provided. These guidelines are supported by the stipulations of the Freedom of Information Act which allows for a special exemption on these confidential files.

Mary Gibson reported on submitting the grant report to the Attorney General's office. Mary provided the substance abuse case recap spreadsheet.

The Board reviewed applicable laws to determine how to address reporting to the Board of violations of companies' substance abuse policy and program procedures of alcohol standards which are more stringent than the legal blood level of 0.08 percent. For individuals suspended, discharged or denied employment by action of the employer, until the statute can be changed to better suit requirements, the Board will address case by case, and maintain their position that if the level is not beyond that which is recognized for driving impaired, that standard will not be applied in mining. Such cases will be suspended for seven days and notified to appear before the Board at the next scheduled meeting. A letter will be drafted for review by the Board at the January, 2010 meeting.

Joe Buchanan expressed his appreciation to Ms. Gibson for her work and support.

Mr. Linkous thanked the Board for their time and heartfelt efforts in their contributions which may not be fully recognized by most.

VI. Next Meeting

Next meeting will be January 4, 2011.

VII. Adjournment

Meeting adjourned at 2:20 PM.