

## BOARD OF COAL MINING EXAMINERS

### SUMMARY OF MEETING

February 4, 2020

**The following is a summary of the December Meeting:**

- I. The Meeting was called to order at 9:08 a.m. by Board Chairman, Randy Moore. Members polled indicating their presence were Bennie Johnson Jr., Douglas Deel and Larance Eugene Middleton. Also present were DMME Regulatory Board Administrator, Mary Gibson; and DMME Hearings Coordinator, Darlene Gibson. Those absent was Board Member: Phillip Hale and DMME Deputy Director, Bradley “Butch” Lambert.
- II. Motion and seconded to accept the February 4, 2020 meeting agenda by Bennie Johnson, Jr. and Douglas Deel, respectively. All members present were in favor to approve.
- III. Motion and seconded to approve the December 3, 2019 meeting summary by Douglas Deel and Larance Eugene Middleton, respectively. All members present were in favor to approve.
- IV. Review of the Virginia Substance Abuse Cases (Closed Session)  
Motion and seconded to approve to enter into Closed Session at 9:10 a.m. by Douglas Deel and Bennie Johnson, Jr. respectively. All members present were in favor to approve. Of the cases that resulted in hearings, evidence were 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/or took other disciplinary actions including revocation of all certifications held by miners.
- V. Open Session reconvened at 11:14 a.m. by the reading of the certification statement of compliance with the Virginia Freedom of Information Act by Bennie Johnson, Jr. Randy Moore, Chairman confirmed the statement to be true. The following Board members were polled by Darlene Gibson certifying the statement to be true as follows: Bennie Johnson, Jr., Douglas Deel and Larance Eugene Middleton.

Summary of Closed Session Activity was read into record by Regulatory Board Administrator, Mary Gibson for the following docket items:

#08154-23 Review only

#10222-11 Attended

#11095-13 Review only  
#17038-05 Revoke  
#18065-02 Review only  
#19155-02 Attended  
#19253-02 Attended  
#19337-01 Attended  
#19337-03 Revoke  
#19337-04 Revoke  
#19337-05 Revoke  
#19337-06 Revoke  
#19337-07 Revoke  
#19337-08 Revoke  
#20035-01 Reschedule  
#20035-02 Reschedule  
#20035-03 Attended  
#20035-04 Reschedule

Motion and seconded to approve by Bennie Johnson, Jr. and Douglas Deel, respectively; with all members present in favor to approve for Regulatory Board Administrator, Mary Gibson to follow-through on the actions agreed upon during closed sessions.

VI. Open Agenda items were discussed as follows as presented by Regulatory Board Administrator, Mary Gibson and Board Chairman, Randy Moore:

- a. A copy of a *projected KY law* in regards to employment-related drug screens was distributed to the Board. The projected law, if passed by the General Assembly for the Commonwealth of Kentucky would allow any employee who utilizes CBD oil and test positive for Cannabidiol or Tetrahydrocannabinol or if any such person assisting a licensed hemp grower shall not be terminated or refused employment.

Having a concern of the projected law, the Board discussed the necessity of creating an official statement from the Board. The statement would provide the Board's position on any individual testing positive for Tetrahydrocannabinol (THC) regardless of any admission of the use of CBD oil will be considered as a failed drug screen for THC unless the individual provided medical documentation stating the individual has an approved FDA prescribed medication that contained THC.

Prior to any official statement being prepared, Chief Randy Moore would consult with the Attorney General Representative to ensure the legality of the statement.

- b. Ms. Mary Gibson voiced concerns of her ability to share information to the Inspector(s) or Supervisor(s) obtained from individuals having met in confidence where statements or complaints were made of any particular company having known drug activity occurring.

The current practice in place is any information discussed during such meetings are considered confidential and is not shared. However; information discussed or reported outside these meetings are considered an official complaint from a confidential informant and reported to the appropriate Inspector or Supervisor for further investigation.

It was the Board's opinion that should any type of statement or complaint be made; regardless of the setting, that could be considered a potential danger to any individual or group should be referred to the Inspector or Supervisor to allow an investigation to occur to determine the validity of the statement or complaint along with the appropriate action being made.

- c. To ensure violators would adhere to the random drug screens, it was discussed the inspectors has the ability to specifically go to the individual on the job and inform them of their requirement for the random screening. The inspector(s) would inform the individual(s) of the time allotted to arrive at the appropriate facilities for the screening to occur. This would assist in the elimination of any individual stating they never received a call or refusing the call.
- d. Mr. Eric Frye, Attorney representing David Inscore had requested the March, 2019 minutes be amended to state the case against Mr. Inscore was dismissed in December, 2019. After discussion, the Board concluded during the December, 2019 meeting, the case against Mr. Inscore was not considered dismissed but rather that no further action was taken and that Mr. Inscore be removed from probation therefore; no amendment would be made as requested.

VII. Next Meeting  
March 3, 2020

VIII. Adjournment  
Motion and seconded to adjourn the meeting at 12:02 p.m. by Bennie Johnson, Jr, and Larance Eugene Middleton, respectively. All members present were in favor to approve.