

1 NEW YORK STATE DEPARTMENT OF STATE
2 DIVISION OF LICENSING SERVICES

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REAL ESTATE APPRAISAL BOARD MEETING

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Minutes of meeting, held via Webex on

8

Tuesday, June 11, 2024, commencing at 1:00

9

p.m.

10 A P P E A R A N C E S:

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BOARD MEMBERS:

12

Neil Garfinkle, Secretary

13

Dherminder Bhasin, Board member

14

Dale Burnett, Board member

15

David Dworkin, Board member

16

Thomas Grzebinski, Board member

17

Sandhya Espitia, Board member

18

Caroline Burton, Board member

19

DEPARTMENT OF STATE:

20

Jodi DeLollo

21

Candice Burchett

22

Heidi Hicks

23

John Clements

24

Emily Lupe

25

Jack Bilello

Matthew Wolf, Esq.

David Mossberg, Esq.

Imani Hayes, Transcriber



1 MR. GARFINKLE: I'd just like to first
2 welcome -- did we do a roll call first? Yeah, so
3 if we could just do a roll call. And I guess
4 I'll go through the names. So we have Jodi
5 DeLollo in Albany, myself, Dherminder Bhasin.
6 Okay. Dale Burnett is here.

7 MR. BHASIN: Here.

8 MR. GARFINKLE: Dave Dworkin is here.
9 Thomas Grzebinski.

10 MR. GRZEBINSKI: Here.

11 MR. GARFINKLE: Chrystalia King, not
12 here. Trisha Ocona indicated that she was not
13 feeling well. Shawna Menifee is not here. Diane
14 Ramirez, Greg Weston is not here. Sandhya
15 Espitia is here, and Caroline Burton is here.

16 Additionally, do we have any other -- I
17 guess we'll introduce -- if the staff in Albany
18 could introduce themselves, we'd appreciate that.

19 MS. BURCHETT: I'm Candy Burchett,
20 Department of State.

21 MS. HICKS: Heidi Hicks, Department of
22 State.

23 MR. CLEMENT: John Clement, Department
24 of State.

25 MS. LUPE: I'm Emily Lupe, Department



1 of State.

2 MR. GARFINKLE: Terrific, I think
3 Buffalo already introduced themselves. And then
4 if members here in New York State --

5 Jack, we'll start with you.

6 MR. BILELLO: I'm Jack Bilello with the
7 Department of State.

8 MR. WOLF: Matthew Wolf with the
9 Department of State.

10 MR. MOSSBERG: David Mossberg with the
11 Department of State.

12 MR. GARFINKLE: Terrific. Did we miss
13 anyone? Okay.

14 I'd like to start by welcoming our new
15 Board member, Tom Grzebinski.

16 Tom, welcome to the Board. If you don't
17 mind, if you could just say something quick about
18 yourself, we'd appreciate that.

19 MR. GRZEBINSKI: Absolutely. I look
20 forward to working and learning and growing and
21 just helping make the overall real estate market
22 even better. I'm really focused on the money
23 aspect of it, in terms of continuing to guide and
24 things of that nature.

25 MR. GARFINKLE: Terrific. Tom, are a



1 real estate broker? What's your --

2 MR. GRZEBINSKI: I'm a real estate
3 broker by trade. I've financed commercial real
4 estate here in Upstate New York for twenty-plus
5 years. And my kids -- three kids and a wife,
6 we've lived here our entire life.

7 MR. GARFINKLE: Great. Thank you, Tom.
8 Welcome to the Board.

9 MR. GRZEBINSKI: I appreciate it.
10 Thank you.

11 MR. GARFINKLE: We have -- fortunately,
12 we have eight members of the fifteen. So we have
13 a quorum today. So congratulations to all of us.

14 MS. BURTON: That's what? Two years in
15 the making?

16 MR. GARFINKLE: I'm glad that we
17 finally -- yeah, that they've been able to do
18 that. I had previously sent out meeting
19 summaries. If I can just have -- if someone
20 could make a motion to approve the meeting
21 summaries?

22 MS. BURTON: I make that motion.

23 MR. GARFINKLE: Okay. Ms. Burton,
24 thank you.

25 MR. BURNETT: Second.



1 MR. GARFINKLE: Okay. Thank you. So
2 now, we're --

3 COURT REPORTER: I'm sorry. Who
4 seconded?

5 MR. BURNETT: Dale Burnett.

6 MR. GARFINKLE: Thank you. So now,
7 we're going to do the Department and subcommittee
8 reports.

9 Jack, if you could (indiscernible) give
10 us the enforcement report.

11 MR. BILELLO: Yes, of course. So I'm
12 here to report the following today --

13 COURT REPORTER: I'm sorry. I'm sorry,
14 one moment. Can you guys hear me?

15 UNIDENTIFIED SPEAKER: Yes.

16 COURT REPORTER: This is the court
17 reporter. Your audio is going in and out. I
18 can't capture everything. Do you want to proceed
19 this way?

20 MS. BURTON: Is it --

21 COURT REPORTER: Every time someone
22 speaks, it's like cutting them in and out. I'm
23 not sure (audio interference).

24 UNIDENTIFIED SPEAKER: I mean, we can
25 try to bring the microphone closer to the --



1 UNIDENTIFIED SPEAKER: No, no, no.

2 UNIDENTIFIED SPEAKER: -- like towards
3 the --

4 MR. GARFINKLE: Is it possible to put
5 everyone on mute other than New York while
6 we're -- while we're doing that? Could we do
7 that? Could we try to put everyone else on mute?

8 MS. BURTON: Are we able to do that,
9 Liz?

10 MS. CASEY: Yes, I've muted everyone
11 except for New York at this point.

12 MR. GARFINKLE: Okay, Liz. And then
13 when we do Emily and Heidi, we can -- we can mute
14 New York and let's see -- and then go to Albany.
15 We'll see if that works.

16 MS. CASEY: Okay.

17 MR. GARFINKLE: Okay. Thank you.

18 MS. CASEY: Thank you.

19 UNIDENTIFIED SPEAKER: How would we
20 know, though, if the court reporter can't hear if
21 she's on mute?

22 MR. GARFINKLE: Well, I'm hoping that
23 she comes back in and lets us know how it's
24 working.

25 UNIDENTIFIED SPEAKER: No, but if Liz



1 muted her --

2 COURT REPORTER: Even with --

3 MR. GARFINKLE: What?

4 COURT REPORTER: Even with your -- even
5 with you talking right now, it's still going in
6 and out. I can't capture everything you're
7 saying.

8 MR. GARFINKLE: So I think -- you know
9 what, my feeling is do the best you can and I
10 guess we'll take some notes, and we'll do it that
11 way. We'll do it the old-fashioned way.

12 MR. BURNETT: It's still recorded,
13 right?

14 MR. GARFINKLE: Yeah, it --

15 COURT REPORTER: I have -- okay. I
16 have my backup audio and stuff on still. So if
17 you want to proceed, that's fine.

18 MR. GARFINKLE: Yes, so we'll proceed.
19 Thank you.

20 COURT REPORTER: Okay. You're welcome.

21 MR. BURNETT: We would just -- I guess,
22 we would just ask that -- if she has access to
23 the -- to the Zoom. It's recorded, if --

24 UNIDENTIFIED SPEAKER: Yeah, it will be
25 on -- it should be actually live-streamed, and it



1 will also be posted on the Department's YouTube
2 page following the meeting.

3 MR. GARFINKLE: Okay. So I think we
4 should be good.

5 So Jack, if you could share with us
6 your enforcement report?

7 MR. BILELLO: Sure. So this is Jack
8 Bilello. In the enforcement report, I have to
9 report the following: During the period of June
10 1st, 2023, through June 4th, 2024, the Department
11 opened 640 real estate complaints. During that
12 same timeframe, the Department of State
13 Enforcement Unit closed 455 real estate
14 complaints. And currently, the Department of
15 State is investigating, as of today, 700 real
16 estate complaints.

17 And that is the report for today.

18 MR. GARFINKLE: Okay. Jack, do you
19 know -- and you may not. But how many licenses
20 were actually revoked or suspended in that time?

21 MR. BILELLO: That, I do not know.

22 MR. GARFINKLE: Okay. So maybe we
23 could do that next time?

24 MR. BILELLO: Sure.

25 MR. GARFINKLE: Okay.



1 MR. BURNETT: So I just want to make
2 sure I understand the two. I'm pretty sure I've
3 asked this dumb question in the past. So there
4 was 600 new, 400, 200 -- so there was 500
5 existing rolling in?

6 MR. BILELLO: Yeah. So -- yeah, we
7 definitely had open complaints prior to receiving
8 those new ones.

9 MR. BURNETT: Uh-huh.

10 MR. BILELLO: But yeah, as of today --
11 as of today's day, we have literally 700 real
12 estate complaints are being investigated.

13 MR. BURNETT: Okay.

14 MR. GARFINKLE: Thank you, Jack.

15 MR. BILELLO: You're welcome.

16 MR. GARFINKLE: So we'll go to Emily
17 Lupe for the processing report.

18 So if we could make Albany live?

19 MS. CASEY: I apologize. I am unable
20 to do it on my end. I keep hitting unmute for
21 Albany, and it's saying request sent. I think it
22 might have to be hit on the screen. There we go.

23 MS. BURCHETT: Can you hear us?

24 MS. CASEY: Yes.

25 MR. GARFINKLE: We can hear you.



1 MS. CASEY: Yes. Thank you, Candy.

2 MS. BURCHETT: You're welcome.

3 MS. LUPE: Good afternoon. Included in
4 the materials you were provided is a report of
5 the number of current real estate licensees for
6 April of 2023 and April of 2024. The report
7 groups licensees into broker and branch office
8 licenses and salesperson licenses. The totals
9 are listed by county. The numbers are fairly
10 consistent. The total number of licensees in
11 2024 is slightly lower than 2023. At the same
12 time, however, the overall change is about three
13 percent.

14 MR. GARFINKLE: Does anyone have any
15 questions for Emily?

16 Okay. With that, we'll go to Heidi for
17 the examination report.

18 MS. HICKS: Okay. The following are
19 statistics from the first quarter of 2024: The
20 real estate salesperson examination was
21 administered to 4,830 individuals with a pass
22 rate of fifty-four percent. The real estate
23 broker examination was administered to 328
24 individuals with a pass rate of fifty-three
25 percent. Compared to the last quarter of 2023,



1 the pass rates have remained fairly consistent
2 with a two percent decrease for sales and a three
3 percent increase for broker.

4 That's all I have.

5 MR. GARFINKLE: Heidi, are we back on
6 schedule now with respect to people being able to
7 take the exams when they want to? Right? For a
8 while, it was kind of spaced out, but can
9 everyone -- is the availability now --

10 MS. HICKS: Yeah, I believe so. We
11 have plenty of space, plenty of locations.

12 MR. GARFINKLE: I'll tell you, it's
13 very busy out here when we just came up. So it's
14 good. Okay. Very good.

15 Okay. Under new business, I'm going to
16 hand it to David Mossberg to discuss New York
17 Attorneys for Continuing Education.

18 MR. MOSSBERG: All right. So this has
19 been something that I think we had discussed
20 briefly at prior meetings, though there wasn't a
21 quorum. Which is -- there's a provision in the
22 New York Real Property Law that concerns
23 continuing education requirements for real estate
24 brokers and sales people.

25 And there's a sentence in there that



1 discusses the faculty requirements. And the law
2 states that, you know, it shall be taught by
3 qualified faculty with attorneys presenting legal
4 subjects.

5 There was a question presented to the
6 Department about whether or not that sentence is
7 limited to attorneys licensed to practice within
8 the State of New York or any bar-admitted
9 attorney in any jurisdiction. Or would that
10 individual be qualified or be an appropriate
11 person to teach these courses?

12 So I've looked at the law, and
13 basically, the opinion that we have in the
14 Counsel's Office side is that there's definitely
15 an ambiguity but that, in all likelihood, that
16 phrase was intended to be limited only to New
17 York attorneys practicing within New York State.

18 The justification for that, in part, is
19 that this law was originally passed in 1977. It
20 hasn't been amended since. So thinking about
21 what the legislature would have thought when they
22 use that phrase in 1977, when there's no Zoom,
23 virtual meetings, or anything like that, it would
24 have been likely that they would have anticipated
25 the attorney to have a practice within New York



1 State.

2 In addition, there are other provisions
3 within the same article of law, within Article
4 12-A, which discusses attorneys and attorneys at
5 law. And they've been court cases and opinions
6 of the Office of the Attorney General that have
7 said that that should be applied only to New York
8 attorneys.

9 And the reason being is that New York
10 attorneys are subject to the jurisdiction of the
11 courts of New York State. They've been vetted by
12 the Appellate committees when they've got their
13 law license. So they've been able to demonstrate
14 sort of the trustworthiness and the character
15 requirements stats by licensing.

16 So given that we believe that the most
17 reasonable interpretation of that statute, based
18 on other authority as well as the intent, is to
19 limit it, what we wanted to present to the Board
20 for consideration is whether or not the Board
21 wants to clarify this issue through the
22 regulatory process.

23 So we don't have a draft regulation or
24 anything to present now. We don't know really
25 whether or not this is a big concern, whether or



1 not there are a lot of attorneys not practicing
2 in New York that are trying to become continuing
3 education instructors. But because this was a
4 question that was presented to the Department, we
5 wanted to present it to the Board so that, if the
6 Board wanted us on the council side to start
7 working on a regulatory ruling, we can and then
8 we would clarify what we believe was the intent.
9 Which is, if you're going to be teaching one of
10 the various legal subjects required for
11 continuing ed, that you be a New York State
12 licensed, admitted attorney.

13 So that's the purpose of this item on
14 the agenda. It was to present this to the Board
15 so that the Board can discuss it and, if
16 appropriate, advise on whether or not a
17 rulemaking might be appropriate.

18 So I'll open it up to the Board
19 Members.

20 MR. BURNETT: Is there any incidents
21 where we know of, in practice, someone teaching a
22 course that is some Maryland bar attorney?

23 MS. BURTON: Can we have an update on
24 that?

25 MR. MOSSBERG: So this was presented --



1 from my understanding -- and again, this has been
2 on the agenda for some time, so I don't know if
3 the information is current. But it's my
4 understanding that there may -- it hasn't been
5 verified to me that -- it may have been a single
6 instance of somebody out of state who had
7 applied. I don't know if that individual is
8 still an instructor. I don't know if that
9 individual went and, through reciprocity or other
10 vehicle, got a New York license. But I don't
11 know.

12 MR. BURNETT: It seems hard -- I hate
13 to make work, but it seems hard not to clarify
14 it. It doesn't seem like -- actually, it
15 probably makes sense to clarify it in peacetime,
16 like, before it does happen and there's an issue.
17 But that's just my thought.

18 MR. MOSSBERG: I mean, it's up to,
19 obviously, the Board. You know, a rulemaking
20 like this would require Board vote approval, and
21 then it would go through the entire regulatory
22 process. So --

23 MS. ESPITIA: How long will it take for
24 the changes to be in place?

25 MR. MOSSBERG: On average, the



1 regulatory rulemaking process, I would say a
2 minimum of six months. Because what would happen
3 is, if the Board felt that this was a significant
4 enough issue to be addressed by a rulemaking, at
5 the next Board meeting -- hopefully by then,
6 myself or perhaps another attorney from our
7 office would present the rulemaking, the actual
8 text.

9 In this instance, it's probably not
10 going to be all that difficult to write a rule
11 that just clarifies, pursuant to RPL 440 to
12 whatever the rule is, that the attorney has to be
13 a bar-admitted attorney. So we'll probably be
14 able to present that at the next meeting if the
15 Board wanted to clarify this issue.

16 MR. GARFINKLE: So I'm recusing myself,
17 substantively, from this conversation. I'm an
18 attorney. I have a real estate school. So I'm
19 not --

20 But from a procedural perspective, it
21 seems to me, Dale, that if they go the regulatory
22 route, there will be a public comment period.
23 And then if someone wants to weigh in and say,
24 look, I'm not in favor of this, then we'll hear
25 about it.



1 So I think that's probably -- it makes
2 sense that that's probably the best way to go.
3 And it may take up to six months, but at least
4 there'll be an opportunity for the public to
5 comment, any trade associates, whoever would like
6 to comment on it. And then we will vote as a
7 Board, right?

8 MR. MOSSBERG: Right. So what would --
9 so customarily, what would happen is we would
10 present the actual text change to the added Title
11 19 to the Board for a vote. In past experience,
12 the vote has usually been something to the effect
13 of that the Board authorizes the Secretary of
14 State to take any and all action necessary to
15 propose the rule and also adopt as a measure
16 following the public comment period if there's no
17 revisions required. If during that public
18 comment period, which is required, if something
19 comes back where we need to suggest a change,
20 we'll come back to the Board and then the Board
21 will have to vote a second time. But usually,
22 it's presenting it in one meeting for the Board
23 and adopting after the public comment period.

24 MR. GARFINKLE: So what do we need to
25 do today? Do we just need to instruct you to



1 pursue that? Do we need to take a vote on that
2 piece, or can the Board --

3 MR. MOSSBERG: The Board would -- now
4 that there's a quorum, the Board can say, yeah,
5 we would like the Secretary of State's office to
6 prepare a proposal to clarify --

7 MR. GARFINKLE: Okay.

8 MR. MOSSBERG: -- this question
9 surrounding, you know --

10 MS. BURTON: Let's vote on that.

11 MR. MOSSBERG: -- the rule.

12 MR. GARFINKLE: So let me do it this
13 way. Is there any Board member that is opposed
14 to David and his team moving forward with respect
15 to clarifying this? Okay. Does that --

16 MR. MOSSBERG: Okay.

17 MR. GARFINKLE: That meets with --
18 okay.

19 MR. MOSSBERG: So hopefully, at the
20 next Board meeting, myself or somebody in our
21 team will be able to present the text. Again,
22 like, I don't imagine that the actual text of the
23 rule is going to be something long or complex.
24 It's not going to be like the real estate fair
25 housing rules or the advertising rules. It's



1 probably going to be very short and direct, but
2 it will hopefully clarify this issue.

3 MR. GARFINKLE: Okay. We're going to
4 give you one more thing to do, then, David.

5 MR. BURNETT: I feel bad.

6 MR. MOSSBERG: No, that's what we're
7 here for.

8 MR. GARFINKLE: Okay. And then I guess
9 the second item?

10 MR. MOSSBERG: So the second item is
11 somewhat related in terms of presenting this idea
12 to the Board to get a decision on whether or not
13 we should be presenting a proposed rulemaking at
14 a next meeting or a future meeting, which has to
15 do with student lists for schools.

16 So currently, there are -- one, two,
17 three, four -- five regulations that relate to
18 real estate schools requiring them to submit to
19 the Department of State. It's usually within
20 fifteen days following the completion of the
21 course -- the actual student roster.

22 The rule is -- requires it to be
23 submitted basically in paper form and requires
24 them to send us this list automatically. There
25 was a proposal by the Governor in the State of



1 the State Address from last calendar year that
2 thought it would ease burdens on schools, be more
3 environmentally friendly and more business
4 friendly to eliminate that mandate where they're
5 required to do that in every instance.

6 And the proposal would be rather to
7 allow them to maintain these records, which
8 they're currently required to do anyway so that
9 they would be available to the Department of
10 State, if we ever needed to conduct an audit, but
11 it eliminates this automatic mailing -- this
12 physical paper mailing process within fifteen
13 days.

14 So because there are these -- the
15 regulations are in Title 19, we would need to
16 present it to the Board to see whether or not the
17 Board likes this proposal or agrees with the
18 proposal such that the legal team could go back
19 and prepare a regulatory proposal to amend it in
20 line with the Governor's proposal to ease the
21 burden on schools and be more environmental
22 friendly.

23 MS. ESPITIA: I have a question on
24 that. How would you get the data otherwise?

25 MR. MOSSBERG: How would we -- well, so



1 when the applicant applies, they usually provide
2 their school certificate.

3 MS. ESPITIA: So you already have their
4 data?

5 MR. MOSSBERG: I believe so. I mean, I
6 think somebody from our Albany process --

7 MS. BURTON: I think --

8 MS. LUPE: Honestly, it's data that we
9 really don't need. We don't use it to cross-
10 reference or to qualify someone for a license.
11 They have to submit course certificates anyway.

12 MS. BURTON: That's right.

13 MS. LUPE: And it requires them to keep
14 it.

15 MR. MOSSBERG: Right.

16 MS. LUPE: Yeah. Yeah, so --

17 MS. BURTON: Okay.

18 MS. LUPE: -- it's really information
19 that we don't need. It was originally a
20 protection in case the school went out of
21 business, but we really have no mechanism to
22 track it anyway. So it's not real -- it's not
23 useful in most instances.

24 MS. BURTON: It doesn't sound like
25 you're doing anything with it.



1 MS. ESPITIA: Yeah, exactly. Because
2 we need licensee data, not data. Right --
3 ultimately.

4 MR. MOSSBERG: Right. So if anything,
5 this data would be -- the utility to it would be
6 to confirm that the student applicant qualified
7 for the license. But if they're giving us the
8 certificates --

9 MS. BURTON: That's what I was saying.

10 MR. MOSSBERG: -- and we can always go
11 to the school afterwards.

12 MS. ESPITIA: New York licensees?

13 MR. MOSSBERG: Right.

14 MR. GARFINKLE: New York is still very
15 much an honor state.

16 MS. BURTON: Yeah.

17 MR. GARFINKLE: Meaning that it's a
18 representation by the licensee that they've done
19 what they're supposed to do. And then based on
20 either specific audit or random audit, it will be
21 determined whether they in fact did that. So
22 again, it's not really serving any utilitarian
23 purpose.

24 MS. ESPITIA: Yeah, I guess the issue
25 becomes how you instruct schools to keep that



1 data for data integrity purposes if there's an
2 audit at some point. Just like what kind of
3 governance do you want in place if you were to
4 open a claim or an audit on data that is not at
5 DOS anyone; it lives within the school.

6 MR. MOSSBERG: So we would be able to
7 incorporate into, like, the revised text, that we
8 would present, a retention schedule. So I
9 believe the schools --

10 MS. BURTON: Yeah.

11 MR. MOSSBERG: -- are currently
12 required to maintain these records anyway. So
13 that part of the law wouldn't change, but we
14 could clarify that to say that, like, that
15 obligation for the school doesn't change. So if
16 you know, Section 177.4, already required them to
17 keep it. Like, they're keeping it, the only
18 difference is they're not also mailing us their
19 copy.

20 MS. ESPITIA: Yeah, that makes sense.

21 MR. MOSSBERG: So we could certainly
22 clarify that. And again, the idea would be --
23 is, one, just to get a sense from the Board,
24 whether or not the Board wanted to move forward
25 with this proposal such that, at the next meeting



1 or future meeting, the Counsel's Office team can
2 present all of the changes.

3 So there will be a minimum of at least
4 five different regulatory proposed changes, just
5 because this requirement exists in at least five
6 different sections of the law. So some of the
7 changes are going to be a lot different based on
8 what the existing regulation says.

9 So in some instances, I can see that we
10 would be able just to repeal the entire section.
11 In other sections -- in other regulatory
12 proposals, I suspect that it wouldn't be a
13 repeal; it would be like an amendment. And then
14 we'd probably need to do something just to add a
15 new section to clarify, you know, any authorized
16 providers still required to maintain these
17 records pursuant to their current retention
18 schedule under the State Technology law, and they
19 would be able to maintain it in an electronic
20 digital format anyway. So it's really -- I think
21 the proposal by the Governor was really to make
22 things more efficient, more in line with probably
23 the way that the industry would like to do
24 things, which is electronic and --

25 MS. ESPITIA: Sure.



1 MR. MOSSBERG: -- and safe things like
2 that --

3 MS. ESPITIA: Yeah.

4 MR. MOSSBERG: - and the cost of
5 mailing and the risk of liability, if they didn't
6 do it within fifteen days.

7 MS. BURTON: Dave, it looks like David
8 is trying to get our attention.

9 Elizabeth, Can you unmute Rochester?

10 MS. CASEY: I'm going to try to unmute
11 everyone and then just mute the -- the other
12 individuals. It's not unmuting on my end.

13 Are you able to -- is there anything on
14 your end?

15 MR. GARFINKLE: David, do you have a
16 little white thing on your table?

17 MS. CASEY: And it's not unmuting? No?

18 MS. LUPE: Candy is looking into it.

19 MS. CASEY: I'm trying to unmute them
20 as well. Let me just double-check.

21 MS. LUPE: It looks like that worked.
22 Did that work?

23 MR. GARFINKLE: It looks like that
24 worked.

25 MS. LUPE: No?



1 MR. GARFINKLE: For --

2 MS. LUPE: It did, but then it went
3 back on.

4 MS. BURCHETT: Can you try one more
5 time pushing the button?

6 MS. LUPE: There we go.

7 MR. GARFINKLE: Oh, there we go.

8 MR. BURNETT: There we go.

9 MS. CASEY: Good? Okay.

10 MR. GARFINKLE: Yes. Go ahead, David.

11 (Pause)

12 MR. BURNETT: No, I think he's still --

13 MS. LUPE: Nope, can't hear him.

14 MS. BURCHETT: Okay. Try again.

15 Sorry.

16 MR. MOSSBERG: I think he still needs
17 to hit the button.

18 MS. LUPE: Yep.

19 MR. GARFINKLE: Yeah.

20 MS. CASEY: Yep.

21 MR. BURNETT: There has to be a button
22 on the screen. Maybe he can go -- maybe it's one
23 of these where you can touch it.

24 MR. GARFINKLE: I don't know.

25 David, do you see any button that you



1 can press that --

2 MR. BURNETT: Or maybe on the screen?

3 It might be a touch screen.

4 MS. BURCHETT: I'm not -- or I'm

5 texting -- or I'm emailing --

6 MS. LUPE: Okay.

7 MS. BURCHETT: -- Barbara (ph.) --

8 MS. LUPE: Okay.

9 MS. BURCHETT: -- right now.

10 MS. CASEY: I'm having a tough time

11 unmuting Buffalo.

12 Buffalo, are you able to unmute on your

13 end?

14 MR. GARFINKLE: Oh, Matt.

15 MR. WOLF: This is unmuted. Can you

16 hear me now?

17 MS. CASEY: Yes, we can hear you.

18 Thank you.

19 MR. WOLF: Alright, then I'm going to

20 put you back on mute on our side.

21 MS. CASEY: Perfect, thank you.

22 MS. BURTON: I wonder if it's the

23 equipment.

24 MR. GARFINKLE: David, do you want to

25 call my cell phone and then --



1 MS. BURTON: Put you on speaker?

2 MR. GARFINKLE: So David, my cell phone
3 number is 516 --

4 MR. BURNETT: Wait, that's going to be
5 public to every single person that's watching
6 this.

7 MR. GARFINKLE: Oh.

8 MS. BURTON: Oh, yeah.

9 MS. BURCHETT: I emailed my contact at
10 the -- in Rochester, and hopefully she can come
11 in and help.

12 MR. BURNETT: Your phone would have
13 become the public comment hotline.

14 MR. GARFINKLE: Yeah, I get enough
15 phone calls as it is. I'm going to be the answer
16 man for --

17 MR. BURNETT: Is there --

18 MS. LUPE: Can you just call the phone
19 number for the Webex?

20 MR. GARFINKLE: Well, let's -- I'll
21 tell you what. Let's continue on. We'll see if
22 we can figure this out.

23 So from my perspective, again, I'm
24 going to recuse myself substantively from this
25 conversation. But from a procedural perspective,



1 it seems to me that we should give you the
2 authority to go forward with this rulemaking
3 because you're going to still propose it to us,
4 and if then -- if we have any comments or
5 questions during that comment period, we can make
6 those comments at that point -- at that time.

7 MR. MOSSBERG: Correct. So when -- if
8 the Board agreed that this would be, obviously,
9 in the best interest of the licensing community
10 and also the schools -- that they wanted to
11 advance this, we would present it. The Board
12 would see all the proposed rule changes, could
13 ask any questions, and then it would go through
14 the --

15 MR. GARFINKLE: Okay.

16 MR. MOSSBERG: -- rest of the
17 rulemaking process.

18 MR. GARFINKLE: So based on that, is
19 there any Board member that is opposed to David
20 and, again, team going forward with creating this
21 proposed rulemaking?

22 David, give me a thumbs-up if you're
23 okay with this.

24 MR. MOSSBERG: The thump is up, it
25 looks like.



1 MR. GARFINKLE: Okay. Okay, so I think
2 we're good.

3 MR. MOSSBERG: So hopefully, we'll have
4 something for the next Board meeting.

5 MR. GARFINKLE: Okay. Thank you.

6 Is there any other new business that
7 anyone would like to bring up for this meeting?

8 Okay, if that's the case, we're going
9 to adjourn this portion of the meeting, and then
10 we are required to have a public hearing session.

11 (Proceedings concluded)

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C E R T I F I C A T I O N

I, Imani Hayes, certify that the foregoing transcript of proceedings was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

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