



COMMONWEALTH of VIRGINIA
Department of Professional and Occupational Regulation

Terence R. McAuliffe
Governor

Todd Haymore
Secretary of
Commerce and Trade
Jay W. DeBoer
Director

DISCUSSION ITEMS FROM THE VIRGINIA REAL ESTATE BOARD
EDUCATION COMMITTEE

NOTE: Items listed in chronological order beginning with the most recent committee meeting.

May 3, 2017 Meeting:

High error rates for course completion uploads.

Section staff tracked the error rate for course completion uploads by providers in order to determine which providers have the most trouble uploading accurate data. Staff will contact providers with (1) high error rates in a single upload and (2) significant errors over an extended period. The goal is to help providers submit more accurate data, which will save time for staff and providers and reduce difficulties for licensees when renewing, activating, or staying active after their first year of licensure.

How to provide video content for review.

Prior to the meeting, staff provided committee members access to an online course with video content for review. Mr. Williams asked members how they would like to receive video content in the future. The members asked to be provided access to all the video presented in a course, but requested that the main content of video segments be provided in bulleted form. This would allow them to review the video if they desire, but would also provide an overview of the information for easier review. Mr. Williams asked the committee for patience as the section takes on this new task/procedure. The committee members agreed flexibility is needed during the early stages.

Updating of applications.

Staff presented the committee a draft update to the Pre-License Instructor application and the CE Course Approval application. The instructor application listed all the pre-

license course areas, and the course approval application included all the CE course subjects listed in the continuing education regulation. It also included a new way to accurately capture additional information on how a course will be delivered.

The committee members were very pleased with these updates and believe the updates will make their job easier while also helping education providers get more of their courses approved.

Update on a consistency tool.

Because of all the improvements to the committee's processes, updates to the applications, and the development of the "Discussion Items" document, the Committee is much more consistent in its approvals and denials of education related applications. Mr. Williams asked that the committee not pursue creating a separate consistency "tool," but rather continue improving its processes and communication. The committee agreed to not pursue the creation of a separate "tool."

"Discussion Items" document posting update.

A document called "Discussion Items from Previous Committee Meetings" is now posted on the Real Estate Board's website under the "Education and Exams" tab in the "Education Providers" section. The goal is to update this document after each Board meeting with the discussion items from the most recent Education Committee meeting and from one additional historical meeting. The current document includes discussion items as far back as the committee meeting on March 16, 2016.

"How To Apply" Handout.

Staff developed an "infographic" handout on how to apply for a Salesperson and Broker license. Staff will post the information on the Department's website and make it available for download in a pdf format. Having the information in a pdf document will enable staff to email it to potential applicants for licensure and be a useful tool for education providers. Committee members suggested it be sent out to brokers.

March 15, 2017, Meeting:

"Livestreaming" and Video Courses: are they acceptable and how does the Committee want to review the material?.

Staff shared with the Committee that there is an increasing number of schools that want to stream their classroom courses either to a satellite location staffed by a proctor or to

an individual's home. The Committee decided that in order for this method of teaching to be acceptable as a "classroom" course, attendance must be monitored closely and accurately, the student must have the ability to interact with the instructor, and the instructor must be able to see the student(s). Only courses taken at proctored locations can count towards satisfying educational requirements placed upon a licensee by a Consent or Final Order. Staff will update the applications to include the "livestream" option. Until the applications are updated, staff can approve the use of "livestreaming" to providers who already have an approved classroom course if the providers verify they meet the requirements listed above.

Mr. Williams asked the committee members how they would like to receive the material for courses that are in a video format. After much discussion, the committee members decided that they would like to review an example of a course offered in a video format before deciding. Mr. Williams will forward them a proposed video course to review. The committee will revisit this issue at its next meeting.

Progress report on the development of a tool to help the committee and education providers determine if a course meets approval requirements, and a progress report on application updates.

Although a tool has not been developed to help the committee in the course approval process, progress has been made. Staff have been researching the issue and come up with some helpful ideas. Staff shared with the committee the "Discussion Items" document (see below) and a recent example where the Committee had been consistent in its approval process even though the provider did not initially believe that was the case. Staff will conduct more research and then forward some draft ideas to Mr. Odem. He and staff will work to draft "tool" for the Committee's review.

"Discussion Items" document.

While doing research on the issue of consistency in course approval, staff determined that having all the discussion items reviewed at the committee meeting in one document would be extremely helpful. Not only would it help the Committee make consistent decisions, it would also help staff and providers navigate the application process more easily and consistently. Mr. Williams provided the committee members with a draft document with the Discussion Items from the last four committee meetings. He shared that the document will hopefully be posted on the Department's website and updated after every committee meeting with the most recent Discussion Items as well as with the items from one additional archived meeting.

January 25, 2017, Meeting:

Taking Pre-license courses at multiple Schools.

Staff shared with the Committee that there is an increasing number of individuals who complete their pre-license requirements at multiple schools. Staff recommended that when this occurs that the Board be tasked with reviewing the courses completed to ensure all the required courses were taken. If they were, the Board will issue an exam approval letter. Board staff will investigate/determine if there is a need, and/or a way, for the applicant's picture to be uploaded to PSI. The committee approved this approach.

The type and number of hours in Consent and Final Orders.

Staff shared with the Committee that there are times when licensees are unable to meet the terms of their Final Orders and Consent Orders because the course(s) they are required to complete in a classroom are not offered. Staff asked the Committee members to try and stick to general Continuing Education (CE) and Post-Licensing categories. The Committee members emphasized that they want mandated education to relate to the licensees' offense as closely as possible, but that they will be mindful of licensees' ability to take the mandated classroom course(s).

Only approving continuing education topics as outlined in 18 VAC 135-20-101 bullet 1 (p10) vs. approving additional "discretionary" topics as referenced in bullet 2 and 54.1-2105, and "real estate related" duplicate courses.

Mr. Williams shared with the Committee the May 22, 2014, Guidance document "Continuing Education General Elective Courses," and one of the member's request for information regarding courses the Committee denied in the past because they did not fit the continuing education criteria. The Committee discussed "what is the criteria?" and received educational provider input on this issue. Mr. Williams was asked to work with Mr. Odems to construct a tool(s) to help the Committee approve and deny CE courses more consistently. The Committee also requested changes to the course application.

Teaching an expired and a mismarked course by mistake.

Staff shared a provider's request to allow approximate 18 individuals credit for completing a course that expired the previous month. The provider mistakenly taught the course, and it was not the applicants' fault. The Committee granted permission for the individuals to receive credit and gave Board staff the authority to approve similar situations in the future without bringing the situation to the Committee's attention. The Committee gave the Board Administrator the same authority to make adjustments to an

individual's record when a provider mistakenly offered a "real estate related" course to a licensee instead of a "mandatory" course when the content of the courses were exactly the same.

To prevent future mistakes by providers and licensees related to taking the "real estate related" version of a course instead of the "mandatory" version, the Committee will no longer approve "real estate related" versions of "mandatory" courses. The Department's computer system will roll "mandatory" courses over to "real estate related" credit in the future when all the mandatory CE requirements are met.

Incomplete vs inadequate (e.g., transcripts for waiver, experience), and pre-license inst. application change.

Mr. Williams shared with the Committee that an increasing number of pre-license instructor applicants who request a waiver of the requirements are not able or do not provide education transcripts. After discussing the issue, the Committee and staff decided to modify the pre-license instructor application with the hopes of helping waiver applicants fully understand what the Committee will be looking for when determining if the applicant meets the pre-license instructor requirements.

October 25, 2016, Meeting:

Discussion with PSI regarding the professionalism of proctors.

Department staff contacted PSI after receiving a complaint that a PSI staff member engaged in an unprofessional conversation about a Real Estate school with one of the exam applicants. PSI contacted site proctors and reiterated its professional standards. Department staff confirmed with at least one proctor that they had been contacted by PSI management. PSI apologized for any issue(s).

Mandatory subjects being designated as "Real Estate Related".

Staff shared with the Committee that providers will often submit the same CE course for mandatory credit as well as "real estate" related. Staff shared that this causes confusion with agents and that when they call DPOR staff about their concerns the agents are told that they need to contact the school if they have any issues with how the course they took is labeled, approved, or reported. Staff will not change scores or course numbers based on conversations with agents, only based on documentation from a provider.

"Carryover" methodology chart.

Mr. Williams provided the Committee, and at the instruction of the Committee - the audience, an initial version of a "Carryover" methodology chart for Continuing Education. After discussing the date(s) listed on the handout versus the dates the providers had in mind, staff proposed that they review and possibly revise the handout based on the feedback from the Committee and providers. Staff will report back to the Committee/Board as soon as possible on their progress. UPDATE: Mr. Williams provided the full Board, at its October 26, 2016, meeting, an updated version of the chart; which the Board approved for use and publication.

Tracking course completion upload issues: looking for patterns.

In order to help staff, providers and agents, staff tracked the number of issues with individuals' records when their education scores were uploaded by providers. During a 20 day period, there were over 1,300 problems with individuals' scores. The most troubling was that over 600 of those problems were duplicate scores. Staff will work with providers to improve the accuracy of the data they submit.

Payment, Education, and Affirmation: What education providers need to know about individual license renewals starting in 2017.

Mr. Williams shared with the Committee and audience that the failure of Supervising Broker of branch offices to affirm that agents work at their branch when the agents' license come up for renewal in 2017 will more than likely generate calls to the providers. There is a good chance agents will believe that there is a problem with their education if the agent has completed his or her education and paid their renewal fee on time, if their licenses do not automatically renew. They will more than likely not think to check with their Supervising Broker to see if an "affirmation" was sent to the Board. Mr. Williams encouraged the providers to ask agents if they work for a branch, and if they do encourage them to talk to their Supervising Broker. Under no circumstance should any agent's education be resubmitted to DPOR, unless a DPOR staff person instructs the provider to do so.

Acceptable documentation of teaching qualifications for "18 VAC 135-20-360. Proprietary school standards, instructor qualifications and course requirements" as they pertain to applicant 0230001409.

In the past, staff have deemed certain instructor applications incomplete if the applicant did not provide a copy of an actual teaching certificate or license from the Commonwealth of Virginia as proof of the applicant's qualifications. After further review of the regulations, it was decided that other forms of documentation are acceptable. Based on this review, an additional application was presented to the Committee for review that should have been a part of the initial agenda. The Committee reviewed and approved the application.

September 6, 2016, Meeting:

What constitutes a “resumé”?

The Board received an application that it deemed incomplete and returned to the provider because the “resumé” for the instructors was insufficient. The provider stated that she had always provided “Bio’s and Bar Cards” with applications and that they had been acceptable in the past. The Committee members reviewed what had been originally submitted and agreed that it was insufficient. Although the providers do not have to provide education and experience information in a resumé format, detailed information on instructors’ education and experience is required.

Accepting a course taught prior to the issuance of a “pending Board approval” letter.

The Board has always informed providers that a course cannot be offered prior to the issuance of a “pending Board approval” letter. However, a provider asked permission to make an exception. A provider offered a course which was discontinued because it did not originally include “flood content;” however, the course had not expired. Although the original course outline did not include the flood content, the instructor (who is approved to offer courses with the flood content) did include the flood content. The provider does have a pending Board approval letter for a course that does include flood content and asked the Board if the 17 individuals who took the course that was discontinued could be provided credit for the course since they received the correct course content. The Committee approved the request.

Additional Instructor application change.

Mr. Williams asked a provider to use a test version of an additional instructor application based on discussions at the last Committee meeting. The Committee reviewed the test version and found it very user friendly for them. Mr. Williams will get more feedback from the providers on the proposed changes. If the feedback is good, the test version will be fully implemented in the near future and placed on the Board’s website for use.

Do you have to pass an exam to get credit for a course?

An educational provider asked the Board for guidance on whether or not individuals have to pass a course; and if they do, what is a passing score? After discussion amongst the committee members and input from the educational providers, the Committee reiterated its stance that each provider, since it is the subject matter expert,

should determine what is a “passing” score for a course but that an assessment must be done when an exam or test is referenced in the Board’s regulation in relation to any type of education.

§ 54.1-2105.03. Continuing education; relicensure of brokers and salespersons:

The following language was added to § 54.1-2105.03 in July of 2016, “D. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship as demonstrated to the Board.” Mr. Williams shared with the Committee that the 2 individuals have asked the Board for an exemption, and that this will be brought up at the Board meeting. The Committee and providers discussed the topic thoroughly. The Committee members had concern about a licensee’s ability to practice real estate if the individual was not able to complete the required amount of continuing education. No decisions or recommendations were made by Committee.

Procedural Updates:

Mr. Williams shared with the Committee that providers will soon have the ability to upload applications via the same process they upload course completion information instead of emailing them. Since the application files can be very large, emailing them is often times problematic. Mr. Williams also shared that staff will be looking at ways to reduce the number of errors received during course completion uploads. Staff will start tracking the reasons for the errors (e.g., duplicate information, data format issues, etc.) and proceed accordingly (e.g., retraining, corrective action, etc.). Finally, Mr. Williams shared that a diagram will be shared in the near future showing the education “carryover” methodology. The hope is that the diagram will help the providers and licensee’s understand how carryover will work.

July 13, 2016, Meeting:

The use of pre-license instructors who are NOT certified by the Board.

The Board received a pre-license broker course application that listed 9 instructors, 4 of whom were not certified to teach a pre-license course. The Board previously approved the course for CE with the same instructors; however, the committee decided to approve the course on the condition that all its instructors be certified. The educational provider was in attendance at the committee meeting and agreed to submit pre-license instructor applications for the uncertified instructors.

Offering 15 hours of pre-license credit for attending only a portion of an approved 60 hour course.

The Board has only approved 1 pre-license education course for 15 hours of credit. Many individuals who are getting licensed by reciprocity or who were licensed when salespersons only needed 45 hours of pre-license education often times need another 15 hours of pre-license education. In the past, the Board has accepted a letter from 2 education providers who offer a 60 hour pre-license course stating that a person has attended 15 hours of a 60 hour approved course. Additional providers are starting to do this. The committee decided to honor letters from the two providers from whom it accepted in the past until the next Board meeting, if the letter states that all topics required by the Board's regulation were covered. However, the Board will not accept any letters after September 7, 2016, the date of the next Board meeting. Since the Board has no way to determine what portion of a 60 hour course is being taught in these instances, after September 7, 2016, it will only accept 15 hours from a Board approved 15 hour pre-license course.

Modifying the Additional Instructor for CE/PLE application.

Mr. Williams proposed modifications to the additional instructor application. The goal is to help the committee members more efficiently compare an instructor's experience and expertise to the course's content. When new applications are published, the older version of the application is accepted for at least 30 days.

Electronic Proctoring

An educational provider asked the Board to approve the use of electronic proctoring. A representative from the provider presented information to the committee on the process. Committee members asked pertinent questions related to access and security. The committee is recommending to the Board that the provider be allowed to implement this process for pre-license education. Future education providers who would like to implement electronic proctoring will have their process reviewed on a case-by-case basis when the first course application is received from a provider.

Brokers from other states applying to be a salesperson in Virginia.

North Carolina has been the only state where a broker, and only a "provisional broker," can apply to be salesperson in Virginia by reciprocity. The committee discussed the pros and cons of allowing brokers from other states, and "full" brokers from North Carolina, the option of applying for a salesperson license in Virginia. After much discussion, the committee recommends all brokers from any state be allowed to apply as a salesperson in Virginia by reciprocity. This means that if a broker from another state wants to be a salesperson in Virginia, he or she would still have to provide

evidence of completing 60 hours of equivalent salesperson pre-license education, but ONLY have to take the state portion of the salesperson examination.

May 4, 2016, Meeting:

Review of Mississippi's Broker Pre-License Education Requirements

After reviewing Mississippi's pre-license education requirements, the committee decided to grant Mississippi brokers 45 hours of pre-license education credit towards Virginia's 180 hour requirement. In order to meet the remaining 135 hours of Virginia's broker pre-license education requirement, a Mississippi broker must complete a Board-approved 45-hour broker pre-license education course in "Real Estate Brokerage" and two other Board-approved 45-hour broker pre-license education courses.

Accurate Reporting of Data

Board staff is working with schools to ensure they accurately report information to PSI and the Board. Proprietary school staff shared concerns about the photograph upload process to PSI and the difficulties they were having. Board staff will investigate the issue.

Agenda Lay Out and Application Updates

Mr. Williams discussed modifications to the agenda layout and asked for feedback from the Committee. Education applications are under review for updates. Staff will get provider feed back to ensure the applications are complete and clear. Committee members shared some suggestions on improvements to the agenda formatting and providers shared some suggestions for improving the applications.

"Expired/Active"

An educational provider stated there is confusion regarding the Department's website listing a licensee as "Expired/Active" when the individual's license is expired for less than 30 days. Board staff shared that the regulation states an individual cannot practice licensed real estate if the individual's license is expired, but that the Department's system does not place a licensee "inactive" until the license has been expired for 30 days.

March 16, 2016, Meeting:

Carryover CE Credits for New Salesperson

Brenda Heffernan addressed the Committee on carryover CE credits for new salespersons. After discussion, the Committee made the following recommendation:

If a new salesperson completes all of the required 30 hours of post-licensing education, and then completes any continuing education courses in the last 6 months of his first licensure period, the continuing education hours can be carried over into the next two-year renewal period.

Test-Out Option for Continuing Education Requirement

Ms. Martine shared information on implementing a test-out option with the Committee. After discussion, the Committee decided not to pursue the option further.

Principal Broker Accountability

The Committee asked staff to investigate adding language to the self-audit form and/or to the Broker Management/Supervision course regarding specific regulations concerning Broker supervision and management.

January 20, 2016

Test-out Option for Continuing Education (CE) Requirement

Chairman Hoover asked for input from education providers on this subject. Mark Courtney indicated that one school of thought is to provide licensees with an assessment of their subject knowledge and then design the CE test-out requirement based on meeting the deficiencies revealed through the assessment. Kevin McGrath of Long and Foster Real Estate opposes a test-out option as it would fail to meet the needs of the constantly changing real estate industry. Barbara Castillo of the Fredericksburg Association of Realtors® opposes an online test-out option but indicated a correspondence test-out option may work. Mr. Hoover asked Board staff to provide the Committee with the best viable CE test-out option for its next meeting.

Principal Broker Accountability

Mr. Hoover then asked for input from education providers on the subject of principal broker accountability. He indicated that principal brokers failing to exercise adequate responsibility is a major nationwide problem, and he would like the Board to come up

with solutions to address this problem in Virginia. Deana Wilson of Alpha College of Real Estate suggested the Board develop two to three hours of mandatory content to include in eight-hour Board-approved Broker Management and Agent Supervision courses. By doing this the Board can provide principal brokers with instruction designed to improve broker accountability. Mr. Hoover asked Board staff to determine how this can be accomplished and report back to the Committee at its next meeting.

Senior Director Mark Courtney then introduced Shannon Webster, the new DPOR Director of Examinations, and updated the Committee on the progress that the Board's examination vendor (PSI Exams) has made in updating the real estate salesperson and broker license examinations. PSI Exams will convene a panel of subject matter experts to draft a survey that will be sent to all real estate licensees in late February-early March. The panel of subject matter experts will then reconvene in Spring 2016 to evaluate the survey responses, and will then complete their work in Summer 2016.

The Committee then discussed an email from real estate licensee Max Williams who expressed concern on how the subject of "Preferential Advertising" was covered in a Board-approved Fair Housing Continuing Education course. Fair Housing Director Liz Hayes advised the Committee that real estate advertising is problematic if used in a discriminatory manner, and it is best for education providers to use general, rather than specific, terms when referring to property types or landmarks such as schools or places of worship.

THE DISCUSSION ITEMS FROM PREVIOUS REAL ESTATE BOARD COMMITTEE MEETINGS WILL BE ADDED TO THIS DOCUMENT IN THE FUTURE.