

**Texas State Board of Examiners
of Psychologists
MINUTES**

February 9, 2012

The Texas State Board of Examiners of Psychologists met in Austin, Texas on February 9, 2012. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; Jeffrey Baker, Ph.D.; Donna L. Black, M.A.; Jo Ann Campbell, M.S.; Doris Couch; Angela A. Downes, J.D.; Lou Ann Todd Mock, Ph.D.; and Leslie Rosenstein, Ph.D. Also in attendance were Sherry L. Lee, Executive Director; and Darrel Spinks, General Counsel. Carlos Chacón was absent from the meeting.

Thursday, February 9, 2012

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. Dr. Branaman introduced new Board member Ms. Doris Couch and stated that Ms. Donna Black and Ms. Jo Ann Campbell had been reappointed to the Board by the Governor.
3. The Board moved into Item II, Public Comments.
 - A. Bryce Benjet, Hull Henricks, LLP, spoke in favor of allowing LSSPs to use the NCSP credential.
 - B. Paul Andrews spoke against allowing LSSPs to use the NCSP credential.
 - C. Richard Phenis, Ph.D., spoke regarding use of psychology test by Master's level practitioners.

- D. Bethany Williams, Ph.D., spoke regarding the use of psychology tests by Master's level practitioners.
 - E. Jacqueline Philips-Sabol spoke against the use of neuropsychological tests by Master's level practitioners and the use of NCSP credential.
 - F. Kerry O'Mahar spoke regarding the neuropsychological rule.
- 4. The Board moved into Item III, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071 at 9:34 am.
 - 5. The Board returned from Executive Session at 9:50 am.
 - 6. The Board moved into Item IV, Action on matters considered in Executive Session - no action taken at this time.
 - 7. The Board moved into Item V, Minutes.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO APPROVE THE MINUTES OF THE NOVEMBER 3, 2011 BOARD MEETING. THE VOTE WAS UNANIMOUS.
 - 8. The Board moved in Item VI, Chair's Report - Dr. Branaman.
 - A. Ms. Lee discussed the FY 2012 Board goals.
 - B. Ms. Lee discussed staffing issues and progress on imaging of files.
 - C. Dr. Baker stated that he is serving on the two committees: the Mid-Year Planning Committee and a Competency Assessment Committee in New Orleans for the Association of State and Provincial Psychology Boards (ASPPB).
 - 9. The Board moved into Item VII, Executive Director's Report - Ms. Lee.
 - A. Ms. Lee introduced Monica Fiero as the new part-time front desk assistant.

- B. Ms. Lee stated that staff had their Christmas party at Threadgill's Restaurant and thanked the Board.
- C. Ms. Lee stated that the new agency carpet had been installed and that this was a significant accomplishment and a needed expenditure.
- D. Ms. Lee stated that Ms. Jennifer Noack, Fiscal Manager, had attended the Texas Association of Business Administrators' conference and that Mr. Darrel Spinks, General Counsel, had attended mediation training provided through the UT Law School.
- E. The Health Professions Council is focusing on refining the operations of the new data base system.
- F. Ms. Lee stated that she and Mr. Spinks had attended the Texas House Committee on Public Health hearing regarding reports of child abuse by employees at state facilities.
- G. Ms. Lee stated that there could be legislation in the next session regarding Behavioral Analyst licensing that may involve the Board.
- H. Ms. Lee asked Ms. Jennifer Noack to provide an update on the Health Professions Council's (HPC) new shared computer system:
 - i. The system is relatively stable, but there have been periods where the system was down.
 - ii. The data center has a fifth server for testing for the data base. The data center has a new contract with another vendor which will delay the agency's testing. The new DIR contract could have a higher cost for hosting the servers and this would affect next biennium budget.
 - iii. There will be changes to the online component and we are anticipating another UAT training during the summer.

- I. The Board reviewed the online Newsletter articles:
 - i. Rule Changes Concerning Forensic Services.
 - ii. Increased Costs to Licensees for Failure to Obtain Continuing Education.
 - iii. Additional Waivers for Oral Examination.
 - iv. Professional Reviewers Needed for TSBEP.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE DRAFTED NEWSLETTERS. THE VOTE WAS UNANIMOUS.

- J. The Board reviewed letters received from the following individuals:
 - i. Ganel Caldwell, M.Ed., M.S. - regarding Texas education laws.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS. MS. BLACK OFFERED TO WRITE A NEWSLETTER ARTICLE FOR CLARIFICATION OF TEXAS EDUCATION LAWS.

- ii. Denika Y. Douglas, Ph.D. - regarding refund renewal fee.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE DRAFTED RESPONSE. THE VOTE WAS UNANIMOUS.

- iii. Michael Jones, Ph.D. - regarding forensic questions.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. BAKER TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- iv. Sue Majors - regarding retiring license in good standing.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE DRAFTED RESPONSE. THE VOTE WAS UNANIMOUS.

- v. Katherine Pang, Ph.D. - regarding supervised experience.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY MS. DOWNES TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- vi. Faye Reimers, Ph.D. - regarding extension of examination

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BAKER TO APPROVE THE DRAFTED RESPONSE. THE VOTE WAS UNANIMOUS.

- viii. Jennifer Riggs - regarding interventionists.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- ix. Loretta Zayas-Revai, M.S. - regarding disciplinary action.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. MOCK TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- x. Sarah Griesemer, Ph.D. - regarding supervision.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY DR. MOCK TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- xi. Nellie Butze, RN - regarding medicare.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY DR. MOCK TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE CARRIED WITH DR. ROSENSTEIN ABSTAINING FROM VOTING.

The Board adjourned for a break at 10:40 a.m.

The Board reconvened at 10:50 a.m.

10. The Board moved into Item VIII, Rules Committee - Dr. Branaman.

A. Dr. Branaman reviewed the Attorney General's opinion that the Board requested an opinion on the use of the title "psychologist."

A MOTION WAS MADE BY DR. ROSENSTEIN THAT THE BOARD MAKE AN AMENDMENT TO CLARIFY THAT LSSPS MAY PUBLISH THAT THEY HAVE BEEN NATIONALLY CERTIFIED IN SCHOOL PSYCHOLOGY BY NASP WHEN PRACTICING WITHIN THE SCHOOL. THERE WAS NO SECOND ON THE MOTION.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL THAT THE BOARD REPROPOSE THE CHANGE TO BOARD RULE 465.38 THAT HAD BEEN PREVIOUSLY TABLED "AN LSSP WHO HAS ACHIEVED CERTIFICATION AS A NATIONALLY CERTIFIED SCHOOL PSYCHOLOGISTS (NCSP) MAY USE THIS CREDENTIAL ALONG WITH THE LICENSE TITLE OF LSSP."

AFTER MUCH DISCUSSION THE VOTE CARRIED WITH DR. BAKER AND DR. ROSENSTEIN OPPOSING AND MS. COUCH ABSTAINING FROM VOTING.

B. The Board reviewed Proposed Rule(s):

i. 463.31, Use of Titles during Practicum, Internship, and Supervised Experience when Applicant Holds another License.

A MOTION WAS MADE BY DR. BAKER AND THEN DR. BAKER WITHDREW HIS MOTION AND THE RULES COMMITTEE WILL LOOK FURTHER AT THIS RULE.

ii. 465.2, Supervision.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS UNANIMOUS.

iii. 465.11, Informed Consent/Describing Psychological Services.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS UNANIMOUS.

- iv. 465.13, Personal Problems, Conflicts and Dual Relationship.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS UNANIMOUS.

- v. 465.18, Forensic Services.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS UNANIMOUS.

- vi. 465.33, Improper Sexual Conduct.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. COUCH TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS UNANIMOUS.

- vii. 470.13, Entry of Appearance in Contested Case; Contents of Responsive Pleading.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS UNANIMOUS.

C. The Board reviewed Adopted Rule(s):

- i. 461.7, License Statuses.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE ADOPTED RULE. THE VOTE WAS UNANIMOUS.

- ii. 463.30, Licensing for Military Spouses.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO APPROVE THE ADOPTED NEW RULE. THE VOTE WAS UNANIMOUS.

- iii. 469.6, Temporary License for Persons in Other States.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE ADOPTED RULE. THE VOTE WAS UNANIMOUS.

The Board recessed for lunch at 11:58 p.m.

The Board reconvened from lunch at 1:25 p.m.

- D. The Board discussed and considered an amendment to Board rule 465.9 concerning neuropsychological evaluations.

AFTER MUCH DISCUSSION A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED AMENDMENTS TO BOARD RULE 465.9. THE MOTION WAS DEFEATED. DR. BAKER, DR. MOCK AND DR. ROSENSTEIN VOTED IN FAVOR AND DR. BRANAMAN, MS. BLACK, MS. CAMPBELL AND MS. DOWNES VOTED AGAINST THE PROPOSED RULE. MS. COUCH ABSTAINED FROM VOTING.

AFTER FURTHER DISCUSSION ADDRESSING LIMITS OF COMPETENCY THROUGH TRAINING STANDARDS, A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED AMENDMENTS TO BOARD RULE 465.9, WITH CHANGES. THE MOTION WAS DEFEATED. DR. BAKER, DR. MOCK AND DR. ROSENSTEIN VOTED IN FAVOR AND MS. BLACK, MS. CAMPBELL, MS. COUCH AND MS. DOWNES VOTED AGAINST THE PROPOSED RULE. DR. BRANAMAN ABSTAINED FROM VOTING.

- 11. The Board moved into Item IX, Enforcement Committee - Ms. Black.
 - A. Ms. Black wanted the agency to look into obtaining an online Westlaw subscription for the General Counsel. Mr. Spinks stated that this would be researched.
 - B. Ms. Cynthia Barber, Enforcement Manager presented dismissals for Board ratification:
 - i. 2011-00201;
 - ii. 11-157;
 - iii. 11-146;

- iv. 2011-00203;
- v. 12-0008;
- vi. 11-125;
- vii. 11-159;
- viii. 2011-00202; and
- ix. 2012-0001;

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE DISMISSALS. THE VOTE WAS UNANIMOUS.

- x. 12-044; and
- xi. 12-045

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO APPROVE THE DISMISSALS. THE VOTE CARRIED WITH DR. MOCK, DR. BAKER AND MS. COUCH ABSTAINING FROM VOTING.

- C. Ms. Barber reviewed the Status Report.
- D. Ms. Barber discussed the Projected Time Schedules.
- E. The May 2012 IFC attendees will be Dr. Rosenstein, Ms. Black and Mr. Chacón.
- F. The August 2012 IFC attendees will be Dr. Branaman, Ms. Campbell and Mr. Chacón.
- G. The October 2012 IFC attendees will be Dr. Mock, Dr. Baker, Dr. Branaman and Mr. Chacón.
- H. The February 2013 IFC attendees will be Dr. Baker, Ms. Campbell and Ms. Couch.
- I. Mr. Spinks presented the Agreed Orders for the Board's approval:

- i. The Board reviewed Agreed Order No. 11-136-13298, in the matter of William M. Moss, M.A.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. COUCH TO APPROVE THE AGREED ORDER.

- ii. The Board reviewed Agreed Order No. 11-121-8677, in the matter of Annette G. Raj, M.A.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND DR. ROSENSTEIN ABSTAINING FROM VOTING.

- iii. The Board reviewed Agreed Order No. 11-090-1905, in the matter of Rebecca Smith Sterling, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

- iv. The Board reviewed Agreed Order No. 12-024-12061, in the matter of LaDonna Dahl, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. COUCH TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BAKER ABSTAINING FROM VOTING.

- v. The Board reviewed Agreed Order No. 11-207-10999, in the matter of Fabian Aguirre, M.A.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MS. COUCH TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

- vi. The Board reviewed Agreed Order No. 11-141-3857, in the matter of Johnny Kenneth Burkhalter, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

vii. The Board reviewed Agreed Order No. 12-040-2060, in the matter of Jean S. Walker, M.S.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

viii. The Board reviewed Agreed Order No. 2011-00182-1792, in the matter of Frank Edward Saucedo, M.A.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

ix. The Board reviewed Agreed Order No. 2011-00179-9397, in the matter of Lisa Ann O'Donnell, M.A.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

x. The Board reviewed Agreed Order No. 11-139-13018, in the matter of Marta Elena Otero, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

xi. The Board reviewed Agreed Order No. 11-092-4485, in the matter of JoAnn C. Ondrovik, Ph.D.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

xii. The Board reviewed Agreed Order No. 12-007-268, in the matter of JoAnna Jones Ellis, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

xiii. The Board reviewed Agreed Order No. 11-076-12625, in the matter of Rachel Tova Winer, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. COUCH TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

xiv. The Board reviewed Agreed Order No. 2011-00188-2165, in the matter of Jim Larkin Holston Cox, Ph.D.

A MOTION WAS MADE BY MS. CAMPBELL AND SECONDED BY DR. MOCK TO APPROVE THE AGREED ORDER. THE VOTE WAS UNANIMOUS.

xv. The Board reviewed Agreed Order No. 11-140-15876, in the matter of Victoria Angela Fitzgerald, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN AND MS. CAMPBELL ABSTAINING FROM VOTING.

xvi. The Board reviewed Agreed Order No. 12-089-12322, in the matter of Sunny Ellen Lusk, M.A.

A MOTION WAS MADE BY MS. COUCH AND SECONDED BY DR. MOCK TO APPROVE THE AGREED ORDER.

12. The Board moved into Item X, Compliance Committee - Ms. Campbell.

A. Ms. Barber stated seven cases were being monitored.

13. The Board moved into Item XII, Legal Matters/General Counsel Report/Assistant Attorney General - Mr. Spinks.

- A. Mr. Spinks stated that he had three cases pending at SOAH; two more that would be sent to SOAH; and two that were disposed of today.
 - B. Mr. Spinks stated that the request for an Attorney General opinion regarding the duty to report child abuse may not meet the June 17, 2012 deadline.
 - C. Mr. Spinks discussed the Attorney General opinion regarding e-mail or other electronic communications could constitute a "walking quorum."
14. The Board moved into Item XIII, Legislative Committee - Ms. Downes - no items to discuss.
15. The Board moved into Item XIV, Budget Committee - Dr. Branaman.
- A. Ms. Lee discussed the 1st Quarter Performance Measures. She noted that the FY 12 target for new licenses issued was 550, and that licensing staff have already licensed 232.
16. The Board moved into Item XV, Written Examinations Committee - Dr. Mock - no items to discuss.
17. The Board moved into Item XVI, Oral Examination Committee - Dr. Rosenstein.
- A. Dr. Rosenstein stated that vignettes for neuropsychology had been reviewed and some new vignettes were written at a vignette writing workshop.
 - B. Ms. Lee stated that thank you letters had been sent out to the examiners.
18. The Board moved into Item XVII, Technology Committee - Mr. Chacón.
- A. Ms. Lee reviewed the latest online renewal statistics.
 - B. Ms. Lee reviewed updates to the Board's website.

C. Ms. Lee discussed the Policy on Use of Licensee Email Addresses and the Emailed Newsletter.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. COUCH TO APPROVE THE PROPOSED POLICY. THE VOTE WAS UNANIMOUS.

19. The Board moved into Item XVIII, Applications Committee - Dr. Baker - no items to discuss.
20. The Board moved into Item XIX, Personnel Committee - Ms. Campbell - no items to discuss.
21. The Board moved into Item XX, Customer Service Committee - Mr. Escareno - no items to discuss.
22. The Board moved into Item XXI, Future Issues.
23. The meeting was adjourned at 3:00 p.m. by Dr. Branaman.