

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



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EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

August 16, 2012

The Texas State Board of Examiners of psychologists met in Austin, Texas on August 16, 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.; Carlos Chacón; Angela A. Downes, J.D.; John R. Huffman, 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.

Thursday, August 16, 2012

1. The meeting was called to order at 9:01 a.m. by Dr. Branaman.
2. The Board moved into Item II, Public Comments.
 - A. Carol Grothues, Ph.D., spoke regarding the suggested rules submitted by the Texas Psychological Association (TPA).
 - B. Paul Andrews, Ph.D., wanted to thank Ms. Lee for her dedication to the Board. He also spoke regarding the suggested rules submitted by TPA.
3. The Board moved into Item III, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071 at 9:11 a.m.
4. The Board returned from Executive Session at 10:06 a.m.

333 Guadalupe, Suite 2-450, Austin, Texas 78701
(Administration) 512-305-7700 (Enforcement) 512-305-7709 (TDD) 1-800-735-2989
(Fax) 512-305-7701 <http://www.tsbep.texas.gov>

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5. The Board moved into Item IV, Action on matters considered in Executive Session - no action taken at this time.

6. The Board moved into Item V, Minutes.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE MINUTES OF THE MAY 3, 2012 BOARD MEETING WITH CHANGES. THE VOTE WAS UNANIMOUS.

7. The Board moved in Item VI, Chair's Report - Dr. Branaman.

A. Dr. Branaman stated that Ms. Couch resigned due to family reasons.

B. Dr. Branaman introduced the new public member, John Huffman, J.D. from Dallas.

C. Dr. Branaman noted the progress of the FY 2012 Board goals.

D. The Board discussed the proposed letter to Dr. Paul Andrews regarding an Attorney General's opinion that the Board requested in the matter of whether a mental health professional who is treating an adult patient must report any abuse or neglect, as those terms are defined in Chapter 261 of the Texas Family Code, that the mental health professional has cause to believe occurred during the adult patient's childhood.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED LETTER. THE VOTE WAS UNANIMOUS.

E. The Board reviewed the proposed Newsletter Article - Attorney General Opinion concerning Reporting of Child Abuse if indicated by an Adult Patient who was the Victim of the Child Abuse.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED NEWSLETTER ARTICLE. THE VOTE WAS UNANIMOUS.

F. Dr. Branaman stated that the annual Association of State and Provincial Psychology Boards' (ASPPB) conference would meet in October and that various items would be discussed such as license portability, tele-psychology, supervision guidelines and social media. Dr. Branaman requested that Dr. Baker represent the Board at this meeting.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO ALLOW DR. BAKER TO REPRESENT/VOTE FOR THE BOARD. THE VOTE WAS UNANIMOUS.

- G. Dr. Branaman assigned new committee chairs:
 - i. Application Committee - Dr. Rosenstein
 - ii. Enforcement Committee - Dr. Baker
 - iii. Compliance Committee - Ms. Black
 - iv. Oral Examination Committee - Dr. Baker and Dr. Rosenstein
 - v. Written Examination Committee - Dr. Mock
 - vi. Personnel Committee - Ms. Campbell
 - vii. Technology Committee - Mr. Chacón
 - viii. Customer Service Committee - Mr. Huffman
 - ix. Budget and Rules Committee - Dr. Branaman
 - x. Legislative Committee - Ms. Downes

8. The Board moved into Item VII, Executive Director's Report - Ms. Lee.

A. Ms. Lee discussed personnel issues:

- i. Ms. Lee stated it was a pleasure serving with this Board; Dr. Branaman thanked her for all of her years of service.
- ii. Ms. Lee reported that there had been turnover in a licensing coordinator position and that Monica Fiero, formerly the part-time front desk person, had now assumed that position.
- iii. Christina Limon, Administrative Assistant in Enforcement, is now part-time so that she could go back to college.
- iv. Ms. Lee reported that current vacancies in Board staff would be filled in the fall unless the Legislature requires cuts in next fiscal year's funding.

B. The Board reviewed the proposed Newsletter Article regarding - Professional Names in the Practice of Psychology.

A MOTION WAS MADE BY MS. CAMPBELL AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEWSLETTER. THE VOTE WAS UNANIMOUS.

C. The Board reviewed letters received from the following individuals:

i. Paul Andrews, Ph.D. - regarding rule making.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

ii. Stephanie Campbell - regarding late fee.

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

iii. Rika N. Collado, Psy.D. - regarding refund of oral examination fee.

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

iv. Judith K. Gellhausen, M.A. - request for late fee.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MR. CHACÓN TO APPROVE THE DRAFTED RESPONSE. THE VOTE WAS UNANIMOUS.

v. Janice Gloster, Ph.D. - regarding supervision.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE DRAFTED RESPONSE. THE VOTE WAS UNANIMOUS.

vi. Spencer Lloyd Schein, Ph.D. - regarding EPPP examination.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

vii. Thusnelda M. Valdes, Ed.D.- regarding renewal of license online.

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

D. Ms. Lee stated that the Office of the Attorney General (OAG) had a new task to maintain a Consumer Information Website with information on consumer privacy rights regarding protected health information. Also the OAG is required to collect enforcement information for certain health regulatory boards.

E. The Board reviewed the proposed Policy changes:

- i. Continuing Education for Professional Reviewers.

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

- F. Ms. Lee asked Ms. Jennifer Noack, Fiscal Manager, to provide an update on the Health Professions Council's (HPC) new shared computer system:

- i. No current issues at this time.
- ii. No meeting is scheduled for the end of the fiscal year.
- iii. Some text on the Board's website was changed to clarify online renewals in regard to licensees' email addresses.

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

- A. The Board reviewed Proposed Rule(s):

- i. 463.1, Types of Licensure.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED AMENDMENT. THE VOTE DID NOT PASS WITH DR. MOCK, MR. HUFFMAN, MS. CAMPBELL, MS. BLACK AND MS. DOWNES VOTING AGAINST THE MOTION.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE DID NOT PASS WITH MR. CHACÓN, MS. BLACK, MR. HUFFMAN, MS. CAMPBELL AND DR. MOCK VOTING AGAINST THE MOTION.

- ii. 465.38, Psychological Services for Public Schools.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE CARRIED WITH MS. BLACK AND MS. CAMPBELL ABSTAINING FROM VOTING.

- iii. 463.2, Application Process.

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

- iv. 465.15, Fees and Financial Arrangements.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS CARRIED WITH DR. ROSENSTEIN ABSTAINING FROM VOTING.

- v. 465.18, Forensic Services.

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

C. The Board reviewed Adopted Rule(s):

i. 461.19, Petition for Rulemaking.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO ADOPT THE NEW RULE. THE VOTE WAS UNANIMOUS.

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

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO ADOPT THE NEW RULE. THE VOTE CARRIED WITH MS. BLACK ABSTAINING FROM THE VOTE.

iii. 465.9, Competency.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO ADOPT THE AMENDMENT TO THE RULE. THE VOTE WAS UNANIMOUS.

iv. 465.12, Privacy and Confidentiality.

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

v. 465.33, Improper Sexual Conduct.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO ADOPT THE AMENDMENT TO THE RULE. THE VOTE WAS UNANIMOUS.

vi. 465.38, Psychological Services for Public Schools.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO ADOPT THE AMENDMENT TO THE RULE. THE VOTE CARRIED WITH MS. BLACK VOTING AGAINST THE MOTION AND DR. ROSENSTEIN ABSTAINING FROM THE VOTE.

vii. 469.1, Timeliness of Complaints.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO ADOPT THE AMENDMENT TO THE RULE. THE VOTE WAS UNANIMOUS.

viii. 470.21, Disciplinary Guidelines.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MR. CHACÓN TO ADOPT THE AMENDMENT TO THE RULE. THE VOTE CARRIED WITH DR. ROSENSTEIN VOTING AGAINST THE MOTION.

C. Discussion of Email and Social Media in the Practice of Psychology - Mr. Spinks.

i. Mr. Spinks stated that he had checked other regulatory Boards to see if those Board had any guidelines regarding email and social media with no success.

ii. Dr. Baker will bring back information on these topics from the ASPPB Convention.

D. The Board reviewed the Proposed Rule Review plan.

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

E. Review of Rule Changes suggested by Texas Psychological Association (TPA).

i. 461.11, Continuing Education.

NO MOTION WAS MADE REGARDING THE PROPOSED AMENDMENT. A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. MOCK TO REFER THE SUGGESTED AMENDMENT TO THE RULES COMMITTEE FOR REVIEW. THE VOTE WAS UNANIMOUS.

ii. 465.22, Psychological Records, Test Data and Test Protocols.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO PROPOSE THE SUGGESTED AMENDMENT WITH CHANGES. THE VOTE WAS UNANIMOUS.

iii. 469.1, Timeliness of Complaints.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO PROPOSE THE SUGGESTED AMENDMENT. THE VOTE WAS UNANIMOUS.

iv. 469.5, Complaint Disposition.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. CAMPBELL TO REJECT THE SUGGESTED AMENDMENT. THE MOTION CARRIED WITH DR. ROSENSTEIN ABSTAINING FROM VOTING.

v. 465.2, Supervision.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO PROPOSE THE SUGGESTED AMENDMENT. NO VOTE WAS TAKEN. THE BOARD RECOMMENDED THIS SUGGESTED AMENDMENT BE REFERRED TO THE RULES COMMITTEE.

10. The Board moved into Item IX, Enforcement Committee.

A. Ms. Cynthia Barber, Enforcement Manager presented dismissals for Board ratification:

- i. 12-216;
- ii. 12-112;
- iii. 12-0004;
- iv. 12-084; and
- v. 12-0054

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE THE DISMISSALS. THE VOTE CARRIED WITH MR. HUFFMAN ABSENT FROM VOTING.

- vi. 11.129

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. CAMPBELL TO APPROVE THE DISMISSAL. THE VOTE CARRIED WITH MR. HUFFMAN ABSENT FROM VOTING.

- vii. 12-083;
- viii.12-219;
- ix. 12-063;
- x. 12-214;
- xi. 12-081; and
- xii. 12-157

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO APPROVE THE DISMISSALS. THE VOTE WAS UNANIMOUS.

- xiii.11-205; and
- xiv. 12-003

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

B. Ms. Barber reviewed the Status Report.

C. Ms. Barber discussed the Projected Time Schedule.

D. October 2012 IFC attendees will be Dr. Mock, Dr. Baker and Ms. Downes on the 23rd and Mr. Chacón on the 24th.

- E. February 2013 IFC attendees will be Dr. Baker, Ms. Campbell and Mr. Huffman.
- F. May 2013 IFC attendees will be Dr. Baker, Ms. Black and Ms. Downes.
- G. August 2013 IFC attendees will be Dr. Branaman, Dr. Mock and Mr. Chacón.
- H. October 2013 IFC attendees will be Dr. Baker, Ms. Campbell and Mr. Chacón.
- I. Mr. Spinks presented the Agreed Orders for the Board's approval:

- i. The Board reviewed Agreed Order No. 12-160-4363, in the matter of Susan R. Jennings, Ph.D.

A MOTION WAS MADE MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BAKER ABSENT FROM VOTING.

- ii. The Board reviewed Agreed Order No. 2012-00176-298, in the matter of Virginia Johnson Enrico, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BAKER ABSENT FROM VOTING.

- iii. The Board reviewed Agreed Order No. 12-026-10766, in the matter of Jo Baxter Green, Ph.D.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. CAMPBELL TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. ROSENSTEIN, MS. BLACK AND MR. CHACÓN ABSTAINING FROM VOTING AND DR. BAKER ABSENT FROM VOTING.

- iv. The Board reviewed Agreed Order No. 12-086-6311, in the matter of Beryl Jay Rushefsky, Ph.D.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY DR. MOCK TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. ROSENSTEIN, MS. BLACK AND MR. CHACÓN ABSTAINING FROM VOTING AND DR. BAKER ABSENT FROM VOTING.

- v. The Board reviewed Agreed Order No. 11-101-14389, in the matter of David Dwain Landers, Ph.D.

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

- vi. The Board reviewed Agreed Order No. 12-196-12508, in the matter of Sharon Leigh Mohr Sperduti.

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

The Board recessed for lunch at 12:50 p.m.

The Board reconvened from lunch at 2:22 p.m.

11. The Board moved into Item X, Compliance Committee - Ms. Campbell.
 - A. Ms. Barber stated current cases were being monitored.
12. The Board moved into Item XI, Legal Matters/General Counsel Report/Assistant Attorney General - Mr. Spinks.
 - A. Mr. Spinks stated that there were two cases pending at the State Office of Administrative Hearings (SOAH.)
 - B. Mr. Spinks stated that members of the Health Professionals Council (HPC) made a written request to SOAH to adopt certain amendments to the Texas Administrative Code regarding SOAH's procedural rules.
13. The Board moved into Item XII, Legislative Committee - Ms. Downes - no items to discuss.
14. The Board moved into Item XIII, Budget Committee - Dr. Branaman.
 - A. Ms. Lee gave an overview of the Legislative Appropriation Request (LAR) for FY 2014 - 2015 biennium.
 - B. Ms. Noack, who recently attended a legislative conference, reported that a member of the Legislature had stated that this session will be better than last session since the shortfall is not as great as predicted.
 - C. Ms. Lee discussed the 3rd Quarter Performance Measures.
15. The Board moved into Item XIV, Written Examinations Committee - Dr. Mock - no items to discuss.
16. The Board moved into Item XV, Oral Examination Committee - Dr. Rosenstein.
 - A. Dr. Rosenstein stated that the July Oral Examination pass rate was 89%.
 - B. Dr. Baker stated that the oral exams began earlier due to the high amount of examinees (105).

- C. Dr. Rosenstein stated that 18 invitations for new examiners had been sent out, but no response had been received.
17. The Board moved into Item XVI, Technology Committee - Mr. Chacón.
- A. Mr. Chacón stated that the first email newsletter had been sent to the licensees.
 - B. Mr. Chacón reviewed the online renewal statistics.
 - C. Mr. Chacón reviewed the updates to the Board's website.
18. The Board moved into Item XIX, Customer Service Committee - no items to discuss.
19. The Board moved into Item XVII, Applications Committee - Dr. Baker - no items to discuss.
20. The Board moved into Item XX, Future Issues.
- A. Dr. Branaman is considering establishing ad hoc committees to receive feedback from various stake holders regarding continuing education and professional development, among other issues.
 - B. The Board discussed the TPA article regarding the actions and minimal discussions on important topics at the previous Board meeting.
 - C. A recommendation was made by Dr. Baker to examine the exemptions from the Oral Examination for members of the National Register.
 - D. A suggestion was made that the Board further clarify the waiver of certain licensing requirements for provisional licensure for applicants licensed with other states.
21. The Board moved into Item III, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.074 at 3:26 p.m.
22. The Board returned from Executive Session at 4:00 p.m.
- The Board adjourned for a break at 4:00 p.m.
- The Board reconvened at 4:10 p.m.
23. The Board moved into Item XVIII, Personnel Committee - Ms. Campbell.
- A. A recommendation was made that Mr. Darrel Spinks be the agency's new Executive Director.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO SELECT MR. DARREL SPINKS AS THE NEW EXECUTIVE DIRECTOR. THE VOTE WAS UNANIMOUS.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MR. CHACÓN THAT THE EXECUTIVE DIRECTOR'S SALARY BE \$72,000 PER YEAR. THE VOTE WAS UNANIMOUS.

B. Mr. Chacón wanted to thank Mr. Brian Creath, Executive Assistant for his contribution to the agency and Dr. Rosenstein acknowledged Mr. Creath's dedication and knowledge of the agency.

24. The meeting was adjourned at 4:13 p.m. by Dr. Branaman.