

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

February 25, 2016

MEMBERS OF THE BOARD

Tim F. Branaman, Ph.D., Chair
Dallas

Lou Ann Todd Mock, Ph.D., Vice Chair
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Jeff Baker, Ph.D.
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Angela A. Downes, J.D.
Dallas

John R. Huffman, J.D.
Southlake

Leslie D. Rosenstein, Ph.D.
Dallas

The Texas State Board of Examiners of Psychologists met in Austin, Texas on February 25, 2016. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; Donna L. Black, M.A.; Jo Ann Campbell, M.S.; Carlos Chacón; Angela A. Downes, J.D.; Lou Ann Todd Mock, Ph.D., Vice-Chair; and Leslie Rosenstein, Ph.D. Also in attendance were Darrel Spinks, Executive Director; and Brian Creath, Deputy Executive Director. The following Board member(s) were absent: Jeffrey Baker, Ph.D.; and John R. Huffman, J.D.

Thursday, February 25, 2016

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. The Board moved into Item II, Public Comments.
 - A. Brooke Roberts, M.A., TASP President, thanked the Board for all of the work that they do.
 - B. Carol Grothues, Ph.D., requested the Board consider proposing rules regarding psychopharmacology.
 - B. Paul Andrews, Ph.D., requested the Board look at post-doctoral supervision.
3. The Board moved into Item III, Minutes.

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A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. ROSENSTEIN TO APPROVE THE MINUTES OF THE NOVEMBER 19, 2015 BOARD MEETING WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

4. The Board moved into Item IV, Chair's Report - Dr. Branaman.

A. Dr. Branaman updated the Board regarding the Association of State and Provincial Psychology Boards (ASPPB):

i. Mid-Year meeting will be May 4-5, 2016 and requested that Dr. Mock represent the Board at the meeting.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO APPROVE DR. MOCK'S ATTENDANCE AT THE MID-YEAR MEETING. THE VOTE WAS APPROVED UNANIMOUSLY.

B. Mr. Spinks stated that the Sunset process was moving along and the review would begin in May 2016. Two Sunset staff members were in attendance today.

C. The Board reviewed the material from the 2015 Government Law & Liability Conference presentation regarding Board member Liability and Immunity.

D. The Board reviewed the proposed Board meeting/exam dates for 2016-2018.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED DATES. THE VOTE WAS APPROVED UNANIMOUSLY.

E. The Board discussed whether to prohibit concealed or open carry by members of the public at Board meetings.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO RESTRICT OPEN CARRY IN THE BOARD MEETING. THE MOTION FAILED WITH MS. CAMPBELL, MR. CHACÓN, DR. ROSENSTEIN AND MS. BLACK VOTING AGAINST.

F. Mr. Spinks reviewed the 2016 Small Agency Risk Assessment which is submitted yearly. The agency has not received any feedback from the State Auditor's Office.

G. Dr. Branaman discussed and made the following Board Committee assignments:

i. Applications Committee - Leslie Rosenstein, Ph.D. and Jo Ann Campbell, M.A.

- ii. Enforcement Committee - Jeff Baker, Ph.D. and Donna Lord Black, M.A.
- iii. Compliance Committee - Donna Lord Black, M.A.
- iv. Rules Committee - Tim Branaman, Ph.D.
- v. Oral Exam Committee - Leslie Rosenstein, Ph.D. and Jeff Baker, Ph.D.
- vi. Personnel Committee - Jo Ann Campbell, M.A.
- vii. Legislative Committee - Angela Downes, J.D.
- viii. Budget Committee - Tim Branaman, Ph.D.
- ix. Technology Committee - Carlos Chacón
- x. Written Exam Committee - Lou Ann Todd Mock, Ph.D.
- xi. Customer Service Committee - John R. Huffman, J.D.

H. Dr. Branaman stated that the Board needed to vote on a Vice-Chair. Dr. Branaman then nominated Lou Ann Todd Mock to continue serving as the Vice-Chair.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO NOMINATE DR. MOCK AS THE BOARD'S VICE-CHAIR. THE VOTE WAS APPROVED UNANIMOUSLY.

5. The Board moved into Item V, Executive Director's Report - Mr. Spinks.

A. Mr. Spinks discussed operational issues:

- i. Due to the data freeze on Versa, no programming changes can be made until the summer of 2016. Otherwise, no issues were reported.
- ii. Board was in compliance with the NPDB reporting requirements.
- iii. Board is in compliance with HB 300 reporting requirements.

- iv. Criminal Fingerprint History Check had a few minor issues. Mr. Spinks drafted instructions clarifying the registration process after changes were made by the vendor without any notification.
- v. Mr. Spinks stated that the agency was in compliance with the SAO report regarding the performance measures. Once the Strategic Planning process begins the performance measure definitions utilized by the Board and ABEST will be modified so that they align with one another. Mr. Spinks also presented for discussion and approval the procedure governing the review and entry of performance measure results in ABEST.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROCEDURE GOVERNING THE REVIEW AND ENTRY OF PERFORMANCE MEASURE RESULTS IN ABEST. THE VOTE WAS APPROVED UNANIMOUSLY.

- vi. Texas Workforce Commission reviewed the agency's Personnel Policies and Procedures. The TWC had a few recommendations, however the person that did the audit retired and all notes were lost. Mr. Spinks stated that they are trying to reschedule a new audit.
- vii. The Board reviewed the revised Personnel Manual.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE REVISED PERSONNEL MANUAL. THE VOTE WAS APPROVED UNANIMOUSLY.

- B. The Board reviewed proposed Newsletter Article(s):
 - i. Best Method for Contacting the Board.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEWSLETTER ARTICLE. THE VOTE WAS APPROVED UNANIMOUSLY.

- ii. 2015 Board Service Awards.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEWSLETTER ARTICLE. THE VOTE WAS APPROVED UNANIMOUSLY.

- C. The Board reviewed proposed Policy changes:

- i. Repeal Processing of CE Complaints and New Processing of PD Complaints.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO REPEAL AND APPROVE THE PROPOSED NEW POLICY. THE VOTE WAS APPROVED UNANIMOUSLY.

- ii. Repeal Telpractice: A Statement on the Delivery of Psychological Services Using Telephones, Teleconferencing, and Internet or Other Electronic Media and New Guidelines for the Practice of Telepsychology.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO REPEAL AND APPROVE THE PROPOSED NEW GUIDELINES. THE VOTE WAS APPROVED UNANIMOUSLY.

- iii. Use of Licensee Email Addresses and the Emailed Newsletter.

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

- D. Mr. Spinks discussed the review process of the Strategic Plan which will probably be due before the next Board meeting. Mr. Spinks in conjunction with Dr. Branaman will draft the report and submit it to each Board member for review and comment. Dr. Branaman and Mr. Spinks will then sign off and submit it in a timely manner, and present some to the Board at the next meeting.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE PROCESS FOR THE STRATEGIC PLAN. THE VOTE WAS APPROVED UNANIMOUSLY.

6. The Board moved into Item VI, Rules Committee - Dr. Branaman.

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

- i. 461.10, License Required.

Jaime Becker, Ph.D., Associate Training Director at Children's Medical Center in Dallas, spoke to the Board about the importance of this rule change.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 465.11, Informed Consent.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 469.13, Non-Compliance with Professional Development Requirements.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

B. The Board reviewed the Adopted Rule(s):

i. 461.9, Subdoctoral Licensure.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE ADOPTED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 461.17, Profile Information.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO ADOPT THE ADOPTED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 463.8, Licensed Psychological Associate.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iv. 463.9, Licensed Specialist in School Psychology.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO APPROVE THE RESPONSE TO THE PUBLIC COMMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

v. 463.10, Provisionally Licensed Psychologist.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

vi. 463.11, Licensed Psychologist.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

vii. 463.30, Licensing for Military Service Members, Veterans and Spouses.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO ADOPT THE AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

viii.465.1, Definitions.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO ADOPT THE AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

ix. 465.2, Supervision.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE WITH NON SUBSTANTATIVE CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE RESPONSE TO THE PUBLIC COMMENT.

x. 465.3, Providers of Psychological Services.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO ADOPT THE AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

xi. 465.6, Listings, Public Statements and Advertisements, Solicitations, and Specialty Titles.

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

xii. 465.38, Psychological Services for Public Schools.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO REPEAL THE CURRENT RULE AND ADOPT THE NEW RULE WITH NON SUBSTANTATIVE CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

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

xiii.469.11, Legal Actions Reported and Reciprocal Discipline.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO ADOPT THE AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

C. The Board reviewed the petition for rulemaking from Sandy Roland, Ph.D. regarding psychopharmacology.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO DENY THE PETITION TO INITIATE RULEMAKING. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed for a break at 10:33 a.m.

The Board reconvened from break at 10:47 a.m.

7. The Board moved into Item VII, Enforcement Committee - Dr. Baker.

A. Ms. Barber presented dismissals for Board ratification:

i. 16-036;

ii. 16-055;

iii. 15-216;

iv. 15-231;

v. 15-232;

vi. 15-254;

vii. 15-257;

viii.15-269;

ix. 15-270;

x. 16-033;

xi. 15-124;

xii. 15-237;

xiii.16-008;

xiv. 16-003;

xv. 15-233;

xvi. 16-005; and

xvii.16-006

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE DISMISSALS. THE VOTE WAS APPROVED UNANIMOUSLY.

xviii.15-006

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE DISMISSAL. THE VOTE CARRIED WITH DR. BAKER, MS. CAMPBELL AND MR. CHACÓN RECUSED FROM VOTING.

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. May 2016 ISC attendees will be Dr. Mock, Ms. Black and Ms. Downes.
- E. August 2016 ISC attendees will be Dr. Branaman, Ms. Campbell and Mr. Chacón.
- F. November 2016 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Chacón.
- G. February 2017 ISC attendees will be Dr. Mock, Dr. Rosenstein, and Mr. Chacón.
- H. Mr. Merchant presented the Agreed Orders for the Board's approval:
 - i. The Board reviewed Agreed Order No. 2016-00084-13969, in the matter of Ronald Alan Grace, Psy.D.

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

- ii. The Board reviewed Agreed Order No. 2015-00154-4861, in the matter of James Holland Lefan, Ph.D.

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

- iii. The Board reviewed Agreed Order No. 2016-00084-13786, in the matter of Kristen Vega Schlepp, Psy.D.

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

- iv. The Board reviewed Agreed Order No. 2016-00002-8730, in the matter of Michael Bruce Johnson, Ph.D.

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

- v. The Board reviewed Agreed Order No. 2016-00001-9924, in the matter of Kerri Michelle Bates, Psy.D.

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

- vi. The Board reviewed Agreed Order No. 2015-00258-4289, in the matter of Jesse C. Ingram, Ph.D.

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

- 8. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.
- 9. The Board moved into Item IX, Legal Matters/General Counsel Report.
 - A. Mr. Merchant discussed a change in the way Cease and Desist cases are now being handled as a result of the opinion in the Serafine case. The Serafine case was decided by the U.S. 5th Circuit Court of Appeals in January. In its opinion, the 5th Circuit reversed the District Court's

decision and struck down as unconstitutional, Texas' definition of the practice of psychology. The determination of whether to appeal the decision to the U.S. Supreme Court has not yet been made.

- B. Mr. Spinks stated that the Serafine case would be discussed during Executive Session.
 - C. Mr. Merchant updated the Board regarding Cause No. 03-130-00077-CV TX State Bd. Of Marriage and Family Therapists, et al v. Texas Medical Association, et al, 3rd COA, Austin, Texas. The court ruled in January 2015 that the Marriage and Family Therapists may not diagnose. They are seeking review from the Texas Supreme Court.
 - D. Mr. Merchant updated the regarding Cause Nos. D-1-GN-005805 and D-1-GN-15-005037, Graham vs TSBEP, 345th/419th District Courts, Travis County, TX. This matter will be discussed in Executive Session.
10. The Board moved into Item X, Legislative Committee - Ms. Downes - no items to discuss.
11. The Board moved into Item XI, Budget Committee - Dr. Branaman.
- A. Mr. Spinks reviewed the 1st Quarter Performance Measures.
 - B. Mr. Spinks reviewed the Year-to-Date Financial Report FY 2016.
12. The Board moved into Item XII, Written Examination Committee - Dr. Mock - no items to discuss.
13. The Board moved into Item XIII, Oral Examination Committee - Drs. Rosenstein and Baker.
- A. Dr. Rosenstein thanked the staff for an amazing job.
 - B. Mr. Spinks stated that staff will be providing more detailed instructions for the Oral Examiners regarding proper operation of the digital recorders.
14. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
- A. Mr. Chacón reviewed the online renewal statistics.

- B. Mr. Chacón stated that there were no major changes to the Board's website.
- 15. The Board moved into Item XV, Applications Committee - Dr. Rosenstein - no items to discuss.
- 16. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.
 - A. Board staff are in the process of reviewing applications for the front desk receptionist position.
- 17. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman - no items to discuss.
- 18. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.
 - A. The Board discussed whether a rule change was needed with regard to records in a forensic context. No recommendation was made.
 - B. The Board discussed Board rule 465.2, and the need to review again in the future, the requirement that LSSP supervisors sign all student progress reports.
 - C. Ms. Black stated on behalf of the Board, she would like to recognize Dr. Gail Cheramie for her help with the Board's educational and outreach efforts. Dr. Cheramie has been the Director, at the University of Houston Clearlake program for 25 years and has graciously volunteered her time to assist Board and staff members at numerous conferences regarding licensed specialist in school psychology.

The Board recessed for a break at 11:24 a.m.

The Board reconvened from break at 11:37 a.m.

- 19. The Board moved into Item XIX, Executive Session, pursuant to Tex. Gov't Code Ann. §551.071; §501.402 and 22 Tex. Admin. Code, Pt. 21, §469.6 at 11:37 a.m.
- 20. The Board returned from Executive Session at 12:39 p.m.
- 21. The Board moved into Item XX, Action on matters considered in Executive Session.

A. Rules advisory committee will look at defining the practice of psychology for a regulatory rule.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO FORM AN ADVISORY COMMITTEE TO ASSIST WITH THE DEVELOPMENT OF A PROPOSED RULE DEFINING THE PRACTICE OF PSYCHOLOGY. THE VOTE WAS APPROVED UNANIMOUSLY.

22. The meeting was adjourned at 12:42 p.m. by Dr. Branaman.