

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

May 16, 2019

MEMBERS OF THE BOARD

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

Lou Ann Todd Mock, Ph.D., Vice Chair
Bellaire

Susan Fletcher, Ph.D.
Frisco

Andoni Zagouris, M.A.
McAllen

Herman Adler, M.A.
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Waxahachie

Angela A. Downes, J.D.
Dallas

Ryan T. Bridges
Houston

Ronald S. Palomares Ph.D.
Dallas

The Texas State Board of Examiners of Psychologists met in Austin, Texas on May 16, 2019. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; Herman Adler, M.A.; John Bielamowicz; Ryan Bridges; Angela Downes, J.D.; Susan Fletcher, Ph.D.; Lou Ann Todd Mock, Ph.D., Vice-Chair; Ronald Palomares, Ph.D. and Andoni Zagouris, M.A. Also, in attendance were Darrel Spinks, Executive Director.

Thursday, May 16, 2019

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. The Board moved into Item XIII, Executive Session pursuant to Tex. Gov't Code Ann. §551.071 at 9:01 a.m.
3. The Board returned from Executive Session at 9:26 a.m.
4. Due to concerns of comments that may arise during public comments, Mr. Adler, Mr. Bridges, Ms. Downes and Dr. Palomares left the Board meeting at 9:37 a.m. This action was taken to ensure the integrity of the Board's enforcement functions and prevent a conflict of the entire Board on future enforcement functions.
5. The Board moved into Item II, Public Comments:

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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- A. Michael Flynn - spoke regarding child custody evaluations and complaints relating to those evaluations.
 - B. Mari Overlock, Ph.D. - spoke regarding the EPPP Examination.
 - C. Christy Bradshaw Schmidt - spoke regarding professional development.
 - D. Adrienne Tinder - spoke regarding the child custody evaluations and complaints filed against psychologists.
 - E. Victoria Harvey - spoke regarding forensic Board complaints.
 - F. Lynn Parker - spoke regarding complaint transparency and protecting the public.
 - G. Rhonda Finney - spoke regarding exploitation and extortion of families in crises.
 - H. Rusty Roysdon - spoke regarding mental health and wellness.
 - I. Brandon Roberts - spoke regarding complaints towards a psychologist.
 - J. John Norton - spoke regarding the lack of Board oversight.
6. The Board moved into Future Issues and Other Requested Agenda Items.
- A. Presentation by Stephanie Gipson speaking for Lauren Walker on behalf of Families Advocating for Family Court Reform.
 - i. Task force meeting;
 - ii. Ensure integrity of evaluations; and
 - iii. No immunity for child custody evaluators.

The Board recessed for a break at 10:20 a.m.

The Board reconvened from a break at 10:30 a.m.

Mr. Adler, Mr. Bridges, Ms. Downes and Dr. Palomares returned to the Board meeting at 10:30 a.m.

- 7. The Board moved into Item III, Meeting Minutes and Certified Agenda.

A MOTION WAS MADE BY MR. ZAGOURIS AND SECONDED BY MS. DOWNES TO APPROVE THE MINUTES OF THE FEBRUARY 14, 2019 BOARD MEETING WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE CERTIFIED AGENDA. THE VOTE WAS APPROVED UNANIMOUSLY.

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

A. ASPPB Update:

- i. Dr. Branaman discussed items discussed at the Annual Meeting which will be held in Sante Fe, NM.
 - a. Functions and roles of members and guild members;
and
 - b. EPPP2 Examination;
- ii. Mr. Spinks discussed a request for rulemaking of the North Carolina Psychology Board regarding allowing master's-level psychologists the ability to practice independently after three years of supervised practice.
- iii. Jackie Horn, ASPPB will be at the August Board meeting to discuss the EPPP2 examination.
- iv. Governor's office liaison will be at the August Board meeting.
- v. Dr. Mock volunteered to take the EPPP2 examination.
- vi. PsyPact is now operational.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO ALLOW THE EXECUTIVE DIRECTOR TO SELECT THE AGENCY'S PSYPACT COMMISSIONER. THE VOTE WAS APPROVED UNANIMOUSLY.

B. Sunset Review:

- i. HB1501 passed the Senate and has been referred to the House for concurrence.
- ii. The Board will need to select representatives to serve on the Executive Council.

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY DR. PALOMARES TO NOMINATE DR. FLETCHER TO SERVE AS THE LICENSED PSYCHOLOGIST REPRESENTATIVE. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY DR. FLETCHER TO NOMINATE MR. BIELAMOWICZ TO SERVE AS THE PUBLIC MEMBER REPRESENTATIVE. THE VOTE WAS APPROVED UNANIMOUSLY.

- iii. The Board will need to appoint a Board member to approve the Joint-Statement from BHEC member agencies should HB1501 and SB611 become law.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MR. ADLER TO ALLOW MS. DOWNES AUTHORITY TO APPROVE THE STATEMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

- C. Mr. Spinks recommended that the School Psychology Rule Review Advisory Committee be disbanded, since they could not move forward on the rules at this time.

A MOTION WAS MADE DR. MOCK AND SECONDED BY MS. DOWNES TO DISBAND THE ADVISORY COMMITTEE. THE VOTE WAS APPROVED UNANIMOUSLY.

- D. The Board reviewed letters from State Associations regarding input on Required Minimum Competencies.

Ms. Downes left at 11:22 a.m.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER THAT DR. PALOMARES REVIEW THE INFORMATION AND BRING PROPOSED CHANGES TO THE NEXT BOARD MEETING. THE VOTE WAS APPROVED UNANIMOUSLY.

- E. The Board reviewed a letter from Governor Abbott regarding CCA Ruling on Open Meetings Act.

- F. The Board discussed exploration of MOUs with masters degree psychology training programs in Texas affirming those programs which meet the coursework requirements of Board rule 463.8(a)(4).

- G. The Board discussed the webinar regarding "Navigating the Anti-Regulatory Environment and the Responsibility and Liability of Board Members."

- H. The Board reviewed the "Research and Practice in the Schools" article that appeared in the April 2019 issue of the Journal of the Texas Association of School Psychologists.

- I. The Board discussed whether to setup an online message board per Section 551.006, Gov't Code. Mr. Spinks did not recommend doing so and no action was taken on this matter.

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

A. Operations Update:

- i. Mr. Spinks reported there were no issues with the U.S. Dept. of Justice, F.B.I. Information Technology Security Audit.

B. Budget Update:

- i. Mr. Spinks reviewed the 2nd Qtr. Performance Measures for FY 2019.
- ii. Mr. Spinks reviewed the Year-to-Date Financial report.

C. Policies:

- i. Agenda Items

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY MR. BRIDGES TO APPROVED THE POLICY CHANGE. THE VOTE WAS APPROVED UNANIMOUSLY.

D. Mr. Spinks discussed the agency's LAR and bills pending in the 86th Legislature:

- i. Staff salaries increases were not approved, however the agency was given approval for a staff attorney.
- ii. HB1501, forming of BHEC; SB1349, sell of the Hobby Bldg; and SB1995, certain occupational licensing rules by the office of the governor.

The Board recessed for a break at 12:04 p.m.

The Board reconvened from a break at 12:26 p.m.

10. The Board moved into Item VI, Rules - Dr. Branaman and Dr. Palomares.

A. The Board reviewed the Withdrawn Rules:

- i. 461.7, License Statuses
- ii. 473.1, Application Fees
- iii. 473.4, Late Fees for Renewals

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO WITHDRAW THE RULES. THE VOTE WAS APPROVED UNANIMOUSLY.

B. The Board reviewed the Proposed Rules:

- i. 461.7, License Statuses (repeal)

ii. 461.7, License Statuses (new)

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE PROPOSED REPEAL AND PROPOSED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 461.11, Professional Development.

A MOTION WAS MADE BY DR. PALOMARES AND SECONDED BY DR. FLETCHER TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

iv. 461.16, Inaccurate and False Information in Licensure Application/Documentation and for Annual Licensure Renewal Application/Documentation.

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

v. 461.18, Minimum Data Set Requirement for Online Renewals.

A MOTION WAS MADE BY MR. ADLER AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED REPEAL. THE VOTE WAS APPROVED UNANIMOUSLY.

vi. 463.11, Licensed Psychologists.

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

vii. 471.1, Renewal of a License.

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

viii. 471.2, Renewal Forms.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY DR. MOCK TO APPROVE THE PROPOSED REPEAL. THE VOTE WAS APPROVED UNANIMOUSLY.

ix. 471.3, Initial License Renewal Dates.

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

x. 471.6, Renewal Terms Exclusive to licensees on Active Military Duty.

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

xi. 473.1, Application Fees.

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

xii. 473.3, Annual Renewal Fees (repeal)

xiii. 473.3, Annual Renewal Fees (new)

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BRIDGES TO APPROVE THE PROPOSED REPEAL AND NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

xiv. 473.4, Late Fees for Renewals (repeal)

xv. 473.4, Late Fees for Renewals (new)

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MR. ADLER TO APPROVE THE PROPOSED REPEAL AND NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

xvi. 473.5, Miscellaneous Fees.

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

C. The Board reviewed the Adopted Rules:

i. 463.22, Reinstatement of a License.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 465.6, Public Statements, Advertisements, and Specialty Titles.

A MOTION WAS MADE BY MR. ADLER AND SECONDED BY DR. MOCK TO APPROVE THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 465.22, Psychological Records, Test Data and Test Materials.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MR. ADLER TO APPROVE THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iv. 470.17, Motion for Rehearing.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

v. 473.2, Examination Fees.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

11. The Board moved into Item VII, Enforcement Matters and Report from General Counsel.

A. Mr. Fernandez presented the cases dismissed by Executive Director:

i. 2019-00003-2587;

ii. 2019-00062-8815;

iii. 2019-00063-10499;

iv. 2019-00077-14434;

v. 2019-00076-12341;

vi. 2019-00027-9923;

vii. 2019-00024-7144;

viii. 2019-00025-6397;

ix. 2019-00072-10579;

x. 2018-00025-462102;

xi. 2018-00026-460888;

xii. 2018-00125-6786;

xiii. 2019-00073-4638;

xiv. 2019-00067-15594;

- xv. 2019-00028-7554;
- xvi. 2018-00108-9564;
- xvi. 2018-00108-9564;
- xvii.2018-00031-467834;
- xviii.2018-00038-12611;
- xix. 2018-00009-9222;
- xx. 2018-0010-1004;
- xxi. 2019-00092-13362;
- xxii.2019-00034-4515;
- xxiii.2019-00033-2597;
- xxiv.2018-00120-2439;
- xxv. 2018-00040-9698; and
- xxvi.2018-00044-7536

B. Mr. Fernandez presented the dismissal recommendations for Board ratification:

- i. 2019-00038-3584;
- ii. 2017-00091-6274; and
- iii. 2018-00089-69

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MR. BRIDGES TO APPROVE THE DISMISSALS. THE VOTE CARRIED WITH DR. MOCK, MS. DOWNES AND MR. ZAGOURIS RECUSED FROM VOTING.

C. Mr. Fernandez reviewed the Resignations approved by the Executive Director:

- i. Agreed Order No. 2018-00070-832, in the matter of Steven Garland Gray, Ph.D.
- ii. Agreed Order No. 2019-00032-13081, in the matter of Joseph Mosher, Ph.D.

- D. Mr. Fernandez reviewed the Status Report.
- E. Mr. Fernandez discussed the Projected Time Schedule.
- F. August 2019 ISC attendees will be Dr. Palomares, Mr. Adler and Mr. Bielamowicz.
- G. November 2019 ISC attendees will be Dr. Mock, Mr. Zagouris and Mr. Bridges.
- H. February 2020 ISC attendees will be Dr. Fletcher, Mr. Adler and Mr. Bielamowicz.
- I. May 2020 ISC attendees will be Dr. Fletcher, Mr. Bielamowicz and Mr. Zagouris.
- J. Mr. Hyde presented the Agreed Orders for the Board's approval:
 - i. The Board reviewed Agreed Order No. 2017-00054-1590, in the matter of Nancy A. Nichols, M.A.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE AGREED ORDER. THE VOTE WAS APPROVED UNANIMOUSLY.

- ii. The Board reviewed Agreed Order No. 2019-00095-14134, in the matter of Ashlee Krystal Peterson, M.S.

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

- iii. The Board reviewed Agreed Order No. 2019-00051-5349, in the matter of Jessica Vera-Rios, Ph.D.

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

- iv. The Board reviewed the Agreed Order No. 2017-00074-6303, in the matter of Charles Gutierrez, Ph.D.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MR. BRIDGES TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. MOCK AND MS. DOWNES RECUSED FROM VOTING.

- v. The Board reviewed the Agreed Order No. 2016-00032-5901 and 2017-00101-5901, in the matter of Rafael F. Otero, Ph.D.

A MOTION WAS MADE BY DR. PALOMARES AND SECONDED BY MR. ZAGOURIS TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BRANAMAN, DR. MOCK, MS. DOWNES, DR. FLETCHER, MR. BIELAMOWICZ AND MR. ADLER RECUSED FROM VOTING.

- 12. The Board moved into Item VIII, Compliance - Dr. Mock and Mr. Adler - no items to report.
- 13. The Board moved into Item IX, Jurisprudence Examination Committee - Dr. Fletcher and Ms. Downes.
 - A. Mr. Creath said an email would be sent out next week to schedule meeting of the Jurisprudence Examination Committee.
- 14. The Board moved into Item XI, Personnel Committee - Mr. Bridges
 - A. The Board reviewed the questions to gather staff input in connection with Annual Evaluation of the Executive Director.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. ADLER TO APPROVE THE FIFTEEN EVALUATION QUESTIONS. THE VOTE WAS APPROVED UNANIMOUSLY.

- 15. The Board moved into Item XII, Future Issues and Other Requested Agenda Items.
 - A. Dr. Fletcher thanked the public individuals that were present at the meeting. She stated that the Board needs to have a conversation regarding child custody evaluations, evaluators and protecting the public. The Board discussed that the Rules Committee will review this issue.
- 16. The meeting was adjourned at 3:41 p.m. by Dr. Branaman.