

# TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR  
Darrel D. Spinks

## Texas State Board of Examiners of Psychologists

### MINUTES

August 18, 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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Donna Lord Black, M.A.  
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Jo Ann Campbell, M.S.  
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Carlos R. Chacón  
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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 August 18, 2016. 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.; Angela A. Downes, J.D.; John R. Huffman, 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. Absent from the meeting: Carlos Chacón.

#### Thursday, August 18, 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 - no comments.
3. The Board moved into Item III, Minutes.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE MINUTES OF THE MAY 26, 2016 BOARD MEETING WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

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

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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4. The Board moved into Item IV, Chair's Report - Dr. Branaman.
  - A. Dr. Branaman stated that ASPPB would be presenting regarding PsyPact.
    - i. Alex Segall and Janet Orwig, ASPPB representatives discussed the Psypact:
      - a. E. Passport promotes standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across jurisdictional lines in jurisdictions that accept the E. Passport.
      - b. APA and Insurance Trust worked with ASPPB to create telepsychology guidelines for practitioners that would give them some guidance.
      - c. The Psypact is a cooperative agreement enacted into law by participating states; addresses increased demand to provide/receive services via electronic means (telepsychology); authorizes both telepsychology and temporary in-person, face-to-face practice of psychology across state lines in Psypact states; Psypact states have the ability to regulate telepsychology and temporary in-person, face-to-face practice.
      - d. Psypact becomes operational when seven states enact Psypact into law.
      - e. Psypact states communicate and exchange information including verification of licensure and disciplinary sanctions.
    - ii. Job analysis survey announcement regarding development of the EPPP 2 examination.
    - iii. ASPPB 2016 Annual Meeting will be held in Baltimore, MD and Mr. Spinks has been asked to talk about the federal court ruling of Serafine vs Branaman.
    - iv. Mr. Spinks recommended that Dr. Baker represent the Board at the Annual Meeting in Baltimore.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO

APPROVE THE RECOMMENDATION. THE VOTE WAS APPROVED UNANIMOUSLY.

- B. Mr. Spinks updated the Board regarding Sunset:
  - i. Mr. Robert Romig and Ms. Julie Davis were present at the Board meeting.
  - ii. Sunset staff have submitted three informational requests, and these request have been in depth questions.
  - iii. November 1<sup>st</sup> Sunset staff will release the public report.
  - iv. The first public hearing will be December 8<sup>th</sup> & 9<sup>th</sup> with comment from agency staff and Board members and the second public hearing will be January 11, 2017. The Sunset Commission will decide what language they will put in the final report to the legislature.
  - v. Board will discuss the Sunset staff report at the November 2016 Board meeting. The Board requested that if the issue of removing the Oral Examination from the statue were to be recommended, that language be in place to have an alternative competency examination when it becomes available.
  
- C. Mr. Spinks presented the final version of the FY 2017 - 2021 Strategic Plan. The Legislative Budget Board (LBB) approved the Board's Performance Measure definitions.

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

- D. Dr. Branaman reviewed the comments received regarding public input on suggested revisions to the definition of the "Practice of Psychology" that had been submitted by Advisory Committee. Dr. Branaman stated that the committee did an amazing job. Board members can review the comments and make any suggestions at the November Board meeting.
  
- E. The Board reviewed the Texas Tribune article regarding Serafine v. Branaman and online counseling.

- F. The Board received a letter from the Federation of Associations of Regulatory Boards (FARB) seeking support for a federal grant. No action was taken on this matter.
- G. Mr. Spinks stated that the November 17, 2016 Board meeting would need to be moved to November 10, 2016 and the May 18, 2017 Board meeting would need to be moved to May 11, 2017 due to room availability.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO APPROVE THE DATE CHANGE. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed for a break at 10:59 a.m.

The Board reconvened at 11:13 a.m.

- 5. The Board moved into Item V, Executive Director's Report - Mr. Spinks.
  - A. Mr. Spinks discussed operational issues:
    - i. Shared database updates went live in July, no issues.
    - ii. Criminal Fingerprint History Background Check - nothing to report.
    - iii. The VoIP phone system transition will take place next fiscal year.
    - iv. The Board is in compliance with the State Auditor's Office.
    - v. ASPPB has agreed to reduce the Plus system fee to \$75.00, as part of a pilot program involving Texas and Ohio. The agency would still needs pass through funding authority, before it could adopt the PLUS as the exclusive application route.
  - B. The Board reviewed the Austin Bulldog v. Leffingwell, 2016 Tex. App. Lexis 3652 case.
  - C. The Board reviewed the Patel v. Tex. Dept, of Licensing and Regulation case on agency rulemaking.
  - D. The Board reviewed proposed Newsletter Articles:
    - i. Court Opinions Affecting the Practice of Psychology.

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

E. The Board reviewed proposed Policy changes:

- i. Use of Approval Letters as Provisional Trainee Status Letters.

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

- ii. ASPPB Disciplinary Databank Check for Applicants.

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

- iii. Acceptance of Previously Submitted Documents and Passing Exam Scores Upon Re-Application For Licensure.

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

- iv. Licensees Who Work In Exempt Facilities And Licensees Who Contract With Exempt Entities.

A MOTION WAS MADE DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE AMENDMENTS TO THE PROPOSED POLICY. 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. 461.11, Professional Development.

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

- ii. 463.11, Licensed Psychologists.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO APPROVE THE PROPOSED AMENDMENT WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 465.38, Psychological Services for Public Schools.

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

iv. 469.13, Non-Compliance with Professional Development Requirements tabled until the November Board meeting.

v. 471.1, Notification of Renewal of a License (repeal) tabled until the November Board meeting.

vi. 471.1, Renewal of a License (new) tabled until the November Board meeting.

vii. 471.5, Updated Information Requirements.

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

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

i. 463.10, Provisionally Licensed Psychologists.

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

ii. 465.2, Supervision.

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

iii. 465.11, Informed Consent/Describing Psychological Services.

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

7. The Board moved into Item XV, Applications Committee - Dr. Rosenstein and Ms. Campbell.

A. Review and Decision on application of Mercy Chieza, Psy.D.

AFTER MUCH DISCUSSION WITH DR. CHIEZA REGARDING HER PREVIOUS LICENSING SITUATION, THE BOARD REQUESTED THAT STAFF LOOK AT FEDERAL LAW AND DETERMINE THE CORRECT PROCESS REGARDING HER RESIDENCY AND WORK PERMIT.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. BAKER TO ALLOW DR. CHIEZA TO PROCEED WITH THE LICENSURE PROCESS. THE VOTE WAS APPROVED UNANIMOUSLY.

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

A. Ms. Barber presented dismissals for Board ratification:

i. 16-190;

ii. 16-083;

iii. 16-198;

iv. 16-129;

v. 16-124;

vi. 16-020;

vii. 16-170;

viii. 16-153;

ix. 16-00199;

x. 16-200;

xi. 16-151; and

xii. 16-150

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

xiii. 16-039

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

xiv. 16-122; and

xv. 16-127

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

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. November 2016 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Chacón.
- E. February 2017 ISC attendees will be Mr. Chacón, Dr. Mock and Dr. Rosenstein.
- F. May 2017 ISC attendees will be Dr. Mock, Ms. Black and Ms. Downes.
- G. August 2017 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Huffman.
- H. Mr. Merchant presented the Agreed Orders for the Board's approval:
  - i. The Board reviewed Agreed Order No. 2016-00126-1606, in the matter of Michael J. Bridgewater, Ph.D.

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

- ii. The Board reviewed Agreed Order No. 2016-00182-9869, in the matter of Jacqueline K. Jones, Ph.D.

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

- iii. The Board reviewed Agreed Order No. 2016-00059-10046, in the matter of Joanna Lyn Snider, Psy.D.

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

iv. The Board reviewed Agreed Order No. 2016-00119-5745, in the matter of Dennis E. Nelson, Ph.D.

A MOTION WAS MADE BY MR. HUFFMAN AND SECONDED BY DR. BAKER TO APPROVE THE AGREED ORDER. THE VOTE WAS APPROVED UNANIMOUSLY.

9. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.
10. The Board moved into Item IX, Legal Matters/General Counsel Report.
  - A. Mr. Merchant stated that the Board has two cases set for trial at SOAH and one in mediation.
  - B. Mr. Spinks 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, 3<sup>rd</sup> 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.
  - C. Mr. Spinks stated there was no update on the Serafine case.
11. The Board moved into Item X, Legislative Committee - Ms. Downes - nothing to report.
12. The Board moved into Item XI, Budget Committee - Dr. Branaman.
  - A. Mr. Spinks reviewed the 3<sup>rd</sup> Quarter Performance Measures.
  - B. Mr. Spinks reviewed the Year-To-Date financials.
  - C. Mr. Spinks reviewed the policy letter dated June 30, 2016 requiring a mandatory 4% reductions in baseline funding requests for 2018 - 2019 biennium.
  - D. Mr. Spinks reviewed the letter to request authority to transfer unexpended balance from FY 2016 to FY 2017.
  - E. The Board reviewed the list of agencies selected for submitting a zero based budget for FY 2018 - FY 2019.

F. Mr. Spinks reviewed the Legislative Appropriations Request for FY 2018 - 2019.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO APPROVE THE LEGISLATIVE APPROPRIATIONS REQUEST FOR FY 2018-2019. THE VOTE WAS APPROVED UNANIMOUSLY.

13. The Board moved into Item XII, Written Examination Committee - Dr. Mock.

A. Dr. Mock stated that the committee had met and there were some revisions on the jurisprudence examination and the LSSP version of the jurisprudence examination was given to Brian.

14. The Board moved into Item XIII, Oral Examination Committee - Drs. Rosenstein and Baker.

A. Dr. Baker wanted to give staff a big thank you for their hard work.

15. The Board moved into Item XIV, Technology Committee - Mr. Chacón.

A. Mr. Spinks reviewed the online renewal statistics.

B. Mr. Spinks stated that Board policies would be added to the website.

16. The Board moved into Item XV, Applications Committee - Dr. Rosenstein - no items to discuss.

17. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.

A. Ms. Carol Erickson, LSSP Coordinator retired and Mr. Alfonso Fernandez, Renewal Coordinator will take over her position.

B. Ms. Campbell presented a five year plaque to Mr. Spinks for meritorious service to the State of Texas.

The Board recessed for a break at 10:59 a.m.

The Board reconvened at 11:13 a.m.

18. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman - no items to discuss.

19. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.
    - A. Discussion regarding Telepractice by Parenting Coordinators; Alternatives to Temporary Licensure will be tabled.
  20. 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 1:45 p.m.
  21. The Board returned from Executive Session at 1:55 p.m.
  22. The Board moved into Item XX, Action on matters considered in Executive Session.
    - A. Mr. Merchant presented the Agreed Orders for the Board's approval.
      - i. The Board reviewed Agreed Order No. 2016-00120-3996, in the matter of Molly Ruth Machemehl, M.A.P.
- A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. CAMPBELL TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH MS. CAMPBELL, MR. HUFFMAN AND DR. MOCK RECUSED FROM VOTING.
23. The meeting was adjourned at 1:56 p.m. by Dr. Branaman.