

# TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR  
Darrel D. Spinks

## Texas State Board of Examiners of Psychologists

### MINUTES

February 16, 2017

#### MEMBERS OF THE BOARD

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

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

Jeff Baker, Ph.D.  
League City

Donna Lord Black, M.A.  
Frisco

Jo Ann Campbell, M.S.  
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Carlos R. Chacón  
Houston

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 16, 2017. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; John Bielamowicz; Donna L. Black, M.A.; Jo Ann Campbell, M.S.; Angela A. Downes, J.D.; Susan Fletcher, Ph.D.; Lou Ann Todd Mock, Ph.D., Vice-Chair; and Ronald Palomares, Ph.D. Also in attendance were Darrel Spinks, Executive Director; Brian Creath, Deputy Executive Director; Robert Romig and Angela Taylor - Sunset Staff. John R. Huffman, J.D. was absent from the meeting.

#### Thursday, February 16, 2017

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 DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE MINUTES OF THE NOVEMBER 10, 2016 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.

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4. 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 9:03 p.m.
5. The Board returned from Executive Session at 9:45 a.m.
6. The Board moved into Item XX, Action on matters considered in Executive Session - no items to discuss.
7. The Board moved into Item IV, Chair's Report - Dr. Branaman.
  - A. Dr. Branaman introduced the new Board members:
    - i. Susan Fletcher, Ph.D., a psychologist in private practice in Plano
    - ii. Ronald S. Palomares, Ph.D., a faculty member at Texas Women's University
    - iii. Mr. John Bielamowicz, a public member
  - B. Dr. Branaman introduced the new General Counsel - Patrick Hyde.
  - C. ASPPB Update:
    - i. Mid-year meeting will be held in Memphis, TN from April 27<sup>th</sup>-30<sup>th</sup>, 2017. Dr. Mock volunteered to attend, if one of the new Board members could not attend. Dr. Palomares stated that he had a previous commitment and Dr. Fletcher stated she would check her schedule and let Dr. Branaman know.
  - D. Mr. Spinks updated the Board regarding the Sunset process.
    - i. The Sunset review is complete, but the Commission's recommendations must still go through the legislative process before becoming law.
    - ii. Reviewed the Decision Meeting material held on January 11, 2017 and Summary prepared by Mr. Spinks.
      - a. Staff report recommended consolidation with Texas Department of Licensing and Regulation (TDLR), Representative Gonzales recommended a modification creating the Texas Behavioral Health Executive Council which would consist of this agency, LPC

board, LMFT board, Social Workers board, the Council on Sex Offender Treatment, and the LCDC advisory committee. That modification was adopted by the commission.

- b. The Executive Council would consist of one governor-appointed public chair, one public member from each board and one professional member from each board, excluding the Council on Sex Offender Treatment and the LCDC advisory committee.
- c. The Executive Council is modeled after the PTOT Board.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. BIELAMOWICZ TO SUPPORT THE COMMISSION'S REPORT TO THE LEGISLATURE WITH REGARD TO CONSOLIDATION AND THE CREATION OF THE TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL. THE VOTE WAS APPROVED UNANIMOUSLY.

- d. The Executive Council, if enacted, would be effective September 1, 2017. It would be required to hire an executive director by April 2018 and would be fully operational by September 1, 2018.
- e. The Commission created an incubation period with TDLR to assist along with Sunset Commission staff. Sunset staff and TDLR have been tasked to assist in the transition. We have already received quotes on transferring database information from the other boards.
- f. Dr. Branaman, Dr. Mock and Dr. Palomares will help establish bullet points of key issues regarding the consolidation with having Town Hall meeting(s) and/or newsletter. Sunset staff would assist with this.
- g. The Commission adopted the recommendation to eliminate the Oral Examination.
- h. The Commission adopted the recommendation regarding the post-doc year. This will have an effect on the Board's ability to seek reciprocity with other jurisdictions.

- i. The Commission adopted a recommendation authorizing the Board to utilize biennial license renewal.
- j. The Commission adopted a recommendation to improve the Board's competency statute.
- k. The Commission adopted its recommendation to eliminate the PLP, and authorized the Board to issue trainee status for full licensure. It is not known what will happen to existing PLPs.
- l. The Commission adopted a recommendation requiring the Board to cease using reference letters. This is a management action and rules will be proposed eliminating this requirement.
- m. The Commission adopted a recommendation prohibiting board members from participating in both the investigation and resolution of a complaint. This is a management action that also requires the Board to develop a formal rule governing Board member recusals.
- n. The Commission did not vote to continue TSBEP for another 12 years because it voted to consolidate the agency into the Council, which would not come up for Sunset review for another 12 years. If the consolidation doesn't pass, the Board will be sunsetted.
- o. The Commission adopted a recommendation requiring Board member training in statutory scope, and requiring that each Board member attest to receiving a copy of the training materials annually.
- p. In response a management action, three practice definitions were submitted by the stakeholder work group.
- q. The Commission adopted a recommendation that PsyPact be adopted.
- r. The Commission adopted a recommendation requiring the Board to conduct a rule review for any rule with an anti-competitive effect. Some of the

Commission members have concerns about our supervision requirements for LPAs.

- iii. The Board reviewed a letter from Senator Hinojosa regarding independent practice for LPAs, dated January 19, 2017.
- iv. The Board reviewed a letter from the Texas Association of Psychological Associates (TAPA) together with proposed rules regarding the practice of licensed psychological associates without supervision. Ms. Betty Dawson, spoke on behalf of TAPA and requested the Board review the proposed rules submitted and move forward with the changes.
- v. Dr. Carol Grouthes, spoke on behalf of The Texas Psychological Association (TPA) and spoke against the request to remove the supervision requirement for LPAs from the rules.
- vi. Dr. Laurie Klouse, spoke on behalf of the Texas Association of School Psychologists (TASP) and stated that TASP doesn't have an official position regarding independent practice by LPAs. TASP does recognize and supports increased access to high quality mental health services to the children of Texas. To that end TASP believes the best avenue to that is through comprehensive integrated school psychological services delivered by highly qualified LSSPs. Any rule changes that would create barriers intended or unintended to this service would be opposed by TASP.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO INIATE THE PROCESS TO DEVELOP RULES TO REMOVE SUPERVISION REQUIREMENTS FOR LPAS WHILE MAINTAINING THE TITLE LPA, INCREASING LICENSING STANDARDS TO 60 HOURS, REQUIRING SUPERVISION FOR 3,000 HOURS INCREASING THE PASS RATE FOR THE EPPP TO THE DOCTORAL LEVEL, INCREASING THE PASS RATE FOR THE JURISPRUDENCE EXAM TO 90% AND ALLOWING FOR THE GRANDPARENTING OF LPA'S IN LINE WITH WHAT TAPA HAS PROPOSED WITH A MINIMUM OF THREE CONSECUTIVE YEARS OF PRACTICE AND SCOPE OF PRACTICE BASED ON TRAINING. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed at 11:08 a.m.

Ms. Downes left the meeting at 11:08 a.m.

The Board reconvened at 11:29 a.m.

- vii. The Commission adopted a recommendation requiring the Board to amend its rules and allow LSSPs to practice in private schools.

AFTER MUCH DISCUSSION A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY MS. CAMPBELL TO ESTABLISH A TASKFORCE REGARDING LSSP PRACTICE IN PRIVATE SCHOOLS THAT WILL CONSIST OF DR. PALOMARES AND MS. BLACK, AND ONE DELEGATE FROM EACH OF THE STATE ASSOCIATIONS. THE MOTION WAS APPROVED UNANIMOUSLY. AN UPDATE WILL BE PROVIDED AT THE AUGUST BOARD MEETING.

- viii. The Commission adopted a recommendation requiring the Board to conduct a rule review in the context of the North Carolina Dental Board case to ensure agency rules do not run afoul of anti-competitive prohibitions under federal law.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. PALOMARES TO REVIEW AND IDENTIFY ANY RULES THAT MAY HAVE AN ANTI-COMPETITIVE EFFECT AND THEN SEEK INPUT FOR THE ATTORNEY GENERAL'S OFFICE. MS. BLACK, DR. MOCK, MR. BIELAMOWICZ AND DR. BRANAMAN WILL ASSIST IN THIS REVIEW. THE VOTE WAS APPROVED UNANIMOUSLY.

E. Dr. Branaman discussed APA Accreditation status.

F. Dr. Branaman reviewed the functions and utility of various Board Committees. The Board eliminated the Enforcement Committee, Legislative Committee, Budget Committee, Technology Committee and Customer Service Committee. The Written Exam Committee has been renamed the Jurisprudence Exam Committee.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO APPROVE THE CHANGES TO THE COMMITTEES. THE VOTE WAS APPROVED UNANIMOUSLY.

G. Dr. Branaman made the following assignments:

- i. Applications Assignment - Ms. Campbell and Dr. Fletcher
- ii. Compliance Assignment - Ms. Black
- iii. Rules Assignment - Dr. Branaman and Mr. Bielamowicz
- iv. Oral Exam Assignment - Dr. Fletcher

v. Personnel Assignment - Dr. Palomares

vi. Jurisprudence Exam Assignment - Dr. Mock and Ms. Black

H. Dr. Branaman stated that the Board needed to vote on a Vice-Chair.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. CAMPBELL TO NOMINATE DR. MOCK AS THE VICE CHAIR. THE VOTE WAS APPROVED UNANIMOUSLY.

I. Mr. Spinks discussed agenda items which should be included in each meeting. As previously discussed the Board eliminated the Enforcement Committee, Legislative Committee, Budget Committee, Technology Committee and Customer Service Committee. The various agenda items under each committee topic were reassigned elsewhere in the agenda, or will only be brought up on an as-needed basis. The Written Exam Committee has been renamed the Jurisprudence Exam Committee.

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

J. Dr. Branaman discussed the Austin Bulldog article regarding the Sunset review.

K. The Board reviewed the AG Opinion KP-012 regarding the constitutionality of ABA Model rules.

L. The Board reviewed the Annual Report of Non-Financial Data for FY 2016.

M. The Board reviewed the ATA State Telemedicine Gaps Analysis.

N. Mr. Spinks reminded the Board members that their email addresses are subject to public disclosure if they use those email addresses for agency business.

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

A. Mr. Spinks discussed operational issues:

i. Shared database updates, no issues. The agency did have a server that crashed, but all important

information has been restored and the server is being backed up to the cloud.

- ii. NPDB survey, the report should be complete by May 1, 2017.
- iii. No issues or updates on the HB 300 reporting or the fingerprint criminal history reporting.

B. The Board reviewed Newsletter Articles:

- i. Appointment of Three New Members to the Texas State Board of Examiners of Psychologists.

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

- ii. Board Welcomes New General Counsel.

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

C. No policies were presented for adoption or change.

D. The Board reviewed the Opinion Letter:

- i. Nicole Bartholomew, Ph.D. - regarding permission to resume your post-doctoral supervised hours.

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

9. The Board moved in Item VI, Rules Committee - Dr. Branaman.

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

- i. 463.5, Application File Requirements.

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

- ii. 463.9, Licensed Specialist in School Psychology.



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

iii. 463.10, Provisionally Licensed Psychologists.

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

iv. 463.30, Licensing for Military Service Members, Veterans and Spouses - this rule was tabled.

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

i. 463.11, Licensed Psychologist.

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

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

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

iii. 471.1, Notification of Renewal.

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

iv. 471.1, Renewal of a License.

A MOTION WAS MADE BY DR. PALOMARES AND SECONDED BY MS. BLACK TO APPROVE THE ADOPTED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed at 1:00 p.m.

The Board reconvened at 1:08 p.m.

10. The Board moved into Item VII, Enforcement Committee - Dr. Baker and Ms. Black.

A. Ms. Barber presented dismissals for Board ratification:

i. 16-225

- ii. 16-206;
- iii. 15-215;
- iv. 16-218;
- v. 16-026;
- vi. 16-169; and
- vii. 16-174

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

viii.12-009

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

ix. 16-123

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

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. May 2017 ISC attendees will be Dr. Mock, Ms. Black and Ms. Downes.
- E. August 2017 ISC attendees will be Dr. Palomares, Ms. Campbell and Mr. Huffman.
- F. November 2017 ISC attendees will be Dr. Branaman, Ms. Campbell and Mr. Bielamowicz.
- G. February 2018 ISC attendees will be Mr. Bielamowicz, Dr. Fletcher and Dr. Mock.
- H. Mr. Hyde presented the Agreed Orders for the Board's approval:

- i. The Board reviewed Agreed Order No. 2016-00155-360, in the matter of Carolyn H. Crawford, Ph.D.

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

- ii. The Board reviewed Agreed Order No. 2016-00173-822, in the matter of Robert W. Grant, Ed.D.

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

- iii. The Board reviewed Agreed Order No. 2017-00005-9948, in the matter of Sharla Anne Marek, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE AGREED ORDER PENDING CONTINGENT UPON AGREEMENT BY THE LICENSEE. THE VOTE WAS APPROVED UNANIMOUSLY.

- iv. The Board reviewed Agreed Order No. 2016-00222-2132, in the matter of Daniel C. Corley, Ph.D.

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

11. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.
12. The Board moved into Items IX, Legal Matters/General Counsel Report - no items to discuss.
13. The Board moved into Item X, Legislative Committee - Ms. Downes.
  - A. Mr. Spinks identified legislative bills that could have potential affect on the Board:
    - i. SB 115, relating to the Internet broadcast of certain open meetings - fiscal note has been provided.
    - ii. HB 593, relating to the prescriptive authority of certain psychologists, authorizing a fee - fiscal note has been provided.
    - iii. HB 1055, relating to a limitation on the amount of certain licensing fees charged by state agencies.

- iv. HB 627, relating to the regulation of licensed specialist in school psychology.
  - v. HB 760, relating to excepting the date of birth of a living person from required disclosure under the public information law.
  - vi. HB 827, relating to a database for prospective employers to qualify veterans' military service experience and employment qualifications.
  - vii. HB 844, relating to the requirement that agencies submit rules to the AG office before adoption.
14. The Board moved into Item XI, Budget Committee - Dr. Branaman.
- A. Dr. Branaman reviewed the 1<sup>st</sup> Quarter Performance Measures.
  - B. Mr. Spinks reviewed the Year-To-Date financial report.
  - C. Mr. Spinks reviewed his testimony before the House Appropriations Committee.
  - D. The Board reviewed the 2018-2019 Biennial review estimate.
  - E. The Board reviewed the 2018-2019 Governor's Budget (excerpts for Art. VIII agencies only).
15. The Board moved into Item XII, Written Examination Committee - Dr. Mock. - no items to discuss.
16. The Board moved into Item XIII, Oral Examination Committee - Drs. Rosenstein and Baker.
- A. The Board reviewed the Oral Examination results from the January 6-7, 2017 exam. The pass rate was lower than in past exams.
17. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
- A. The Board reviewed the online renewal statistics.
18. The Board moved into Item XV, Applications Committee - Dr. Rosenstein.

- A. The Board reviewed the application for provisional licensure of Rose Marino, Ph.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. PALOMARES TO ACCEPT THE APPLICANTS DOCTORAL DEGREE AFTER VERIFICATION OF LICENSURE IN NEW JERSEY AND PENNSYLVANIA. THE VOTE WAS APPROVED UNANIMOUSLY.

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

- A. Mr. Spinks discussed the hiring freeze directed by Governor Abbott. The agency has two vacant positions - Investigator and Enforcement Assistant. The agency has requested a waiver for the investigator position.

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

- 21. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.

- A. Ms. Black discussed developing rules requiring complainants to exhaust their administrative remedies under IDEA before filing a complaint with the Board.

- B. The presentation concerning school psychology in El Paso.

- 22. The meeting was adjourned at 1:49 p.m. by Dr. Branaman.