

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



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EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

October 25, 2012

The Texas State Board of Examiners of psychologists met in Austin, Texas on October 25, 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 Darrel Spinks, Executive Director and Kristin Starr, General Counsel.

Thursday, October 25, 2012

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. Dr. Branaman introduced Darrel Spinks as the new Executive Director and Kristin Starr as the new General Counsel.
3. The Board moved into Item II, Public Comments.
 - A. Gordon Bourland, Ph.D., Chair of the Public Policy Committee for the Texas Association for Behavior Analysis spoke regarding behavioral analysts training.
4. The Board moved into Item III, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071 at 9:05 a.m.
5. The Board returned from Executive Session at 9:09 a.m.

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

7. The Board moved into Item V, Minutes.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MS. BLACK TO APPROVE THE MINUTES OF THE AUGUST 16, 2012 BOARD MEETING. THE VOTE WAS UNANIMOUS.

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

A. Mr. Spinks stated that the FY 2013 Board goals had been restructured, but goals were on track.

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

i. No status on the survey regarding the Minimum Data Set for licensed psychology on health related resources.

ii. Proposed amendments to the Bylaws.

C. Dr. Branaman stated that an Advisory Committee had been established to assist rule development by the Rules Committee. Dr. Branaman stated that Dr. Baker and Ms. Black will be on that committee. The Board will also contact the professional associations to request that they designate a member to be on the committee along with an at large member, plus an additional ad hoc if needed for specialized areas.

D. Dr. Branaman discussed the Joint APA/ASPPB/APA Insurance Task Force regarding proposed guidelines for the practice of telepsychology. Questions were raised regarding test security not being addressed and test administration that is not created equally.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MR. HUFFMAN TO APPROVE A RESPONSE BACK TO THE TASK FORCE REGARDING TEST SECURITY ONLINE AND TEST ADAPTABILITY FOR SCHOOL TESTING. THE VOTE WAS UNANIMOUS.

E. Dr. Branaman stated that the Texas Psychological Association Convention (TPA) would be held in Austin November 2, 2012.

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

A. Mr. Spinks discussed operational issues:

- i. Changed the acronym for the Informal Settlement Conference from IFC to ISC.
- ii. The increase usage of the digital letterhead by staff
- iii. Implementing the use an electronic calendar for staff scheduling.
- iv. Update regarding staff and Board members accessing DPS criminal history information. Mr. Spinks will establish an in-house confidentiality statement that all staff and Board members will need to sign.

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

- i. Everett R. Cardwell, Psy.D. - regarding inactive/renewal status.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY MS. DOWNES TO APPROVE THE DRAFTED RESPONSE WITH CHANGES. THE VOTE WAS UNANIMOUS.

- ii. Beatrice Lopez-Ortiz, M.S. - regarding keeping records and test protocols.

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

- iii. Michael A. Roman, Ph.D. - regarding employing individuals with sub-doctoral training.

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

- iv. Betty J. McCarty, M.S. - regarding supervised experience.

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

C. The Board reviewed the proposed Policy changes:

- i. Processing of CE Complaints.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED POLICY CHANGES. THE VOTE WAS UNANIMOUS.

- D. Mr. Spinks asked Ms. Jennifer Noack, Fiscal Manager, to provide an update on the Health Professions Council's (HPC) new shared computer system:
 - i. Client text correction had been made and revised wording for continuing education requirements.
 - ii. Licensees are referred to HPC help desk logging onto the system arising out the use of old email addresses.
 - iii. High online renewal rate.
 - iv. Funeral Service Commission will be going online with the other agencies, this could possibly lower cost for the next biennium.

10. The Board moved into Item XIII, Budget Committee - Dr. Branaman.

- A. Ms. Noack discussed the Annual Performance Measures.
- B. Ms. Noack reviewed the 4th Quarter Performance Measures for FY12.
- C. Mr. Spinks and Ms. Noack gave testimony to the Joint Budget Hearings regarding our current budget and exceptional items.
- D. Mr. Spinks stated that he had been to the 8th Biennial Legislative Communication Conference and that the general consensus was this could possibly be a better biennium.

11. The Board moved into Item VII, Executive Director's Report - Mr. Spinks

- A. The Board reviewed the proposed Newsletter articles:
 - i. Duty to Report Legal Actions and Reciprocal Discipline.

A MOTION WAS MADE BY MR. HUFFMAN AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEWSLETTER WITH CHANGES. THE VOTE WAS UNANIMOUS.

- ii. New Executive Director for the Texas State Board of Examiners of Psychologists.

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

- B. Mr. Spinks discussed HB300 and Chapter 181 of the Texas Health and Safety Code that took effect September 1, 2012:
 - i. Requires "covered entity" to provide training programs to its employees regarding state and federal law concerning PHI.
 - ii. Requires a health care provider using an electronic health records system that is capable of fulfilling a request, to provide a person with a copy of their records in electronic form within 15 days of receiving a written request.
 - iii. Does not apply however if a health care provider is not using an electronic health records system capable of fulfilling a request for records.
- C. Mr. Spinks discussed the increase in the EPPP that will take effect March 1, 2013, this increase comes directly from ASPPB.
- D. Mr. Spinks stated that the Texas Disaster Volunteer Registry had contacted the Board regarding a Memorandum of Understanding (MOU) for the state's volunteer registry for credentialing volunteer health professionals.
 - i. The Registry wanted real time access to our licensee information database.
 - ii. Mr. Spinks emailed the Registry and stated that a list of licensees could be uploaded to the Registry on a monthly bases.
 - iii. No further communication has been received from the Registry.
 - iv. The reason for request arose out of Hurricane Katrina when health care was given to people from unlicensed individuals.
- E. Mr. Spinks stated that TPA would like to perform four round table discussions which would provide "hot topic" information to licensees. Continuing Education credit would be given to the participants and that Mr. Sam Houston, the legal hotline attorney for TPA, and Mr. Spinks would provide the training.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO APPROVE THIS DISCUSSIONS. THE VOTE WAS UNANIMOUS WITH DR. BAKER ABSENT FROM VOTING.

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

The Board reconvened at 10:45 a.m.

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

A. The Board reviewed Proposed Rule(s):

i. 461.35, Use of Historically Underutilized Businesses (HUBS).

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

ii. 463.5, Application File Requirements.

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

iii. 463.15, Oral Examination.

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

iv. 473.2, Examination Fees (Not Refundable).

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

B. The Board reviewed Adopted Rule(s):

i. 463.2, Application Process.

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

ii. 465.15, Fees and Financial Arrangements.

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

iii. 465.18, Forensic Services.

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

iv. 465.22, Psychological Records, Test Data and Text Protocols.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MS. DOWNES TO TABLE THIS RULE UNTIL THE FEBRUARY 2013 BOARD MEETING. THE VOTE WAS UNANIMOUS.

C. The Board reviewed the Adopted Rule Review plan.

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

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

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

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN THAT THE BOARD SEND A WRITTEN RESPONSE RECOGNIZING SOME RULE LANGUAGE NEEDS TO BE REVISED. THE VOTE WAS UNANIMOUS.

13. The Board moved into Item IX, Enforcement Committee - Dr. Baker

A. Mr. Spinks presented the Agreed Orders for the Board's approval:

i. The Board reviewed Agreed Order No. 12-014-6122, in the matter of Francis J. Pirozzolo, Ph.D.

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

ii. The Board reviewed Agreed Order No. 12-154-6384, in the matter of Laura Jan Warner, M.S.

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

iii. The Board reviewed Agreed Order No. 12-182-4869, in the matter of John Murray Lehman, Ph.D.

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

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

i. 12-220;

ii. 13-016;

iii. 12-201;

- iv. 12-115;
- v. 12-120;
- vi. 12-117;
- vii. 12-132;
- viii. 13-017;
- ix. 12-232;
- x. 13-002; and
- xi. 12-087

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

- xi. 12-116

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

- C. Ms. Barber reviewed the Status Report.
 - D. Mr. Spinks reviewed the FY12 Detailed List of Disciplinary Actions, information only.
 - E. Ms. Barber discussed the Projected Time Schedule.
 - F. February 2013 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Huffman.
 - G. May 2013 ISC attendees will be Dr. Baker, Ms. Black and Ms. Downes.
 - H. August 2013 ISC attendees will be Dr. Branaman, Dr. Mock and Mr. Chacón.
 - I. October 2013 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Chacón.
 - J. Mr. Spinks reviewed the FY12 Enforcement Actions, information only.
14. The Board moved into Item X, Compliance Committee - Ms. Black.
- A. Ms. Barber stated current cases were being monitored.
15. The Board moved into Item XI, Legal Matters/General Counsel Report - Mr. Spinks/Ms. Starr.

- A. Mr. Spinks stated that out of the ten cases at ISC six will be going to the State Office of Administrative Hearings (SOAH).
 - B. Following the recent presentation of a petition for rulemaking to SOAH by HPC, SOAH declined to initiate rulemaking changes. The agencies will meet with SOAH on November 2, 2012 to try and keep the line of communication open.
16. The Board moved into Item XII, Legislative Committee - Ms. Downes - no items to discuss.
 17. The Board moved into Item XIV, Written Examinations Committee - Dr. Mock - no items to discuss.
 18. The Board moved into Item XV, Oral Examination Committee - Drs. Baker and Rosenstein - no items to discuss.
 19. The Board moved into Item XVI, Technology Committee - Mr. Chacón.
 - A. Mr. Chacón reviewed the online renewal statistics.
 - B. Mr. Chacón stated that there were no changes to the website.
 20. The Board moved into Item XVII, Applications Committee - Dr. Rosenstein - no items to discuss.
 21. The Board moved into Item XVIII, Personnel Committee - Ms. Campbell.
 - A. Ms. Campbell welcomed Ms. Starr as the new General Counsel.
 - B. Ms. Starr stated that she was a native of Georgetown, TX and had been in private practice for one year.
 - C. Mr. Spinks stated that he was very proud of the office staff and that the transition had been very smooth.
 22. The Board moved into Item XIX, Customer Service Committee - Mr. Huffman.
 - A. Mr. Huffman reviewed the FY 11 Synopsis of Customer Service Assessment Surveys.
 - B. Mr. Brian Creath, Executive Assistant stated that the complete result and comments of the FY 11 survey would be available at the February 2013 Board meeting.
 23. The Board moved into Item XX, Future Issues and Other Requested Agenda Items.

A. A recommendation was to incorporate test security into the Confidentiality Statement.

24. The meeting was adjourned at 11:55 a.m. by Dr. Branaman.