

# TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR  
Darrel D. Spinks

## Texas State Board of Examiners of Psychologists

### MINUTES

November 9, 2017

#### MEMBERS OF THE BOARD

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

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

Susan Fletcher, Ph.D.  
Plano

Donna Lord Black, M.A.  
Frisco

Jo Ann Campbell, M.S.  
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John K. Bielamowicz  
Waxahachie

Angela A. Downes, J.D.  
Dallas

John R. Huffman, J.D.  
Southlake

Ronald S. Palomares Ph.D.  
Dallas

The Texas State Board of Examiners of Psychologists met in Austin, Texas on November 9, 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.; John R. Huffman, J.D.; Lou Ann Todd Mock, Ph.D., Vice-Chair; and Ronald Palomares, Ph.D. Also, in attendance were Darrel Spinks, Executive Director; Robert Romig, Sunset Staff, Sarah Wolf and Kara Holsinger - Attorney's General Office.

#### Thursday, November 9, 2017

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. The Board moved into Item III, Meeting Minutes and Certified Agenda.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE MINUTES OF THE AUGUST 17, 2017 BOARD MEETING. THE VOTE WAS APPROVED UNANIMOUSLY.

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

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3. The Board moved into Item XI, Applications Committee - Ms. Campbell and Dr. Fletcher.

A. Kandi Stull, M.S. - spoke regarding her LPA application.

4. The Board moved into Item XIV, Executive Session, pursuant to Tex. Gov't Code Ann. §551.071 at 9:37 a.m. Mr. Romig, Ms. Wolf and Ms. Holsinger were also present in the meeting.

5. The Board returned from Executive Session at 9:44 a.m.

6. The Board moved into Item XV, Action on matters considered in Executive Session.

A. Kandi Stull, M.S. application for LPA.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. PALOMARES TO DENY THE APPLICATION. THE VOTE CARRIED WITH MR. HUFFMAN AND MR. BIELAMOWICZ VOTING AGAINST THE MOTION.

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

A. ASPPB Update:

- i. Dr. Branaman discussed the drafted Supervision Guidelines - Mandated Supervision.
- ii. Dr. Branaman reviewed the email to member jurisdictions regarding the EPPP Part 2 examination.

B. Update on Sunset Process:

- i. Mr. Spinks discussed agency actions needed following the Sunset Advisory Commissions Report to the 85<sup>th</sup> legislature. Anti-Trust rule review is the only item left outstanding.
- ii. Mr. Spinks reviewed the Self-Evaluation report.
- iii. Mr. Spinks reviewed the letter that was sent to David White, TPA Executive Director requesting input for the upcoming Sunset review.
- iv. Mr. Spinks discussed the Sunset Licensing and Regulation Model.
- v. The Board reviewed the letter that the American Psychological Association submitted to the Sunset Advisory Commission.

C. Request for Opinion from Attorney General Regarding Interplay Between Section 501.351(b), Board rule 465.15(a)(4), and Ch. 35 of the Penal Code.

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

D. The Board reviewed the future Board meeting dates.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE FUTURE MEETING DATES. THE VOTE WAS APPROVED UNANIMOUSLY.

E. The Board reviewed the agency finding regarding dual office holding for Mr. Spinks.

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

F. The Board discussed H.R. 3446 - Restoring Board Immunity Act, 115<sup>th</sup> Congress.

G. The Board reviewed the press release from Attorney General Paxton regarding lawsuit involving anticompetitive conduct.

H. The Board reviewed the U.S. District Court Order involving anti-trust claims against the Texas Medical Board.

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

A. Mr. Spinks discussed operational issues:

i. HB 300 reported to the Attorney General office.

ii. Recent updates to the Board's website include the Plus Application and Criminal Fingerprint information.

B. Budget Update:

i. Mr. Spinks reviewed the 4<sup>th</sup> Quarter Performance Measures.

ii. Mr. Spinks reviewed the Year-to-Date Financial Report.

C. Mr. Spinks reviewed the DPS audit regarding criminal history record information. All findings have been completed. Mr. Spinks will conduct a follow up self audit within 90 days.

- D. Mr. Spinks reviewed the post-payment audit by the Comptroller of Public Account. No actions needed to be taken.
- E. Mr. Spinks stated that the agency will have the Risk Management audit on March 29, 2018.
- F. Mr. Spinks stated that the issue of exploring an alternative solution to achieving active state supervision was stopped after speaking with the Chief of the Antitrust Division in the Attorney General's office. Action would need to be taken by the legislature.
- G. Mr. Spinks discussed the cancellation of EAP Due to 4% budget cuts.
- H. The Board reviewed the Newsletter Article(s):

- i. Seeking to Practice in Disaster Areas.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE PROPOSED NEWSLETTER WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

- I. The Board reviewed the Policy:

- i. Publication in the Board Newsletter of Information concerning Resolution of Complaints.

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY MS. DOWNES TO APPROVE THE POLICY. THE VOTE WAS APPROVED UNANIMOUSLY.

- ii. Website Disciplinary List.

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

- J. The Board reviewed the Opinion Letter(s):

- i. Frank Trimboli, Ph.D. - regarding refund of late renewal penalty.

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY MR. HUFFMAN TO APPROVE THE LETTER. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed for a break at 10.28 a.m.

The Board reconvened at 10:43 a.m.

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

A. Mr. Fernandez presented the dismissals for Board ratification:

- i. 17-062;
- ii. 17-00114;
- iii. 17-00117; and
- iv. 18-0008

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

B. Mr. Fernandez reviewed the Status Report.

C. Mr. Fernandez discussed the Projected Time Schedule.

D. February 2018 ISC attendees will be Mr. Bielamowicz, Dr. Fletcher and Dr. Mock.

E. May 2018 ISC attendees will be Ms. Black, Ms. Downes and Dr. Mock.

F. August 2018 ISC attendees will be Mr. Bielamowicz, Ms. Campbell and Dr. Fletcher.

G. November 2018 ISC attendees will be Ms. Campbell, Dr. Fletcher and Mr. Huffman.

H. The Board reviewed the FY2017 cumulative complaint statistics.

I. Mr. Hyde presented the Agreed Orders for the Board's approval:

- i. The Board reviewed Agreed Order No. 2017-00093-2513, in the matter of Vincent Ramos, Ph.D.

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

- ii. The Board reviewed the Agreed Order No. 2017-00110-12471, in the matter of Jessica Theresa Tartaro, Ph.D.

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

J. Mr. Hyde reviewed the Board's policy on Compliance and Prohibition on Board Member Ex Parte Communications with Respondents.

- 10. The Board moved into Item VIII, Compliance - Ms. Black - all in compliance.
- 11. The Board moved into Item IX, Jurisprudence Examination Committee - Dr. Mock and Ms. Black - no items to discuss.
- 12. The Board moved into Item X, Oral Examination - Dr. Fletcher.
  - A. Mr. Spinks stated that staff had contacted three local high schools for use of their facilities. They didn't seem interested in allowing the use and informed staff that on Fridays during the summer the schools are closed due to energy conservation.
- 13. The Board moved into Item XII, Personnel Committee - Dr. Palomares.
  - A. Mr. Spinks stated that the agency would be hiring an LSSP Coordinator, Front Desk Receptionist, Investigator and Investigator Assistant.
  - B. Mr. Spinks stated that he has not received the memorandum of understanding from the Soldier for Life program regarding hiring veterans.
- 14. The Board moved into Item XIII, Future Issues and Other Requested Agenda Items.
  - A. Review Board rule 465.33, Improper Sexual Conduct to improve language.

B. Review Board rule 465.22, Psychological Records, Test Data and Test Materials.

15. The Board moved into Item II, Public Comments:

A. Carol Grothues, Ph.D. - spoke against LPA rule changes.

B. Dan Roberts, Ph.D. - spoke against LPA rule changes.

C. John Gould, Ph.D. - spoke against LPA rule changes.

D. Elisabeth Middleton, Ph.D., President of the Capital Area Psychological Association - spoke against LPA rule changes and elimination of the oral examination.

E. Frances Douglas, Psy.D. - spoke against LPA rule changes and elimination of the oral examination.

F. Gregory Nystedt, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

G. David Cansler, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

H. Elle Lockhart, Ph.D. - spoke regarding the need for the post doc year, against LPA rule changes and elimination of the oral examination.

I. Robin Hilsabeck, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

J. Betty Dawson, M.A., President Texas Association of Psychological Associates - spoke in favor of the LPA rule changes.

K. Lauren Gentry, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

L. Paul Andrews, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

M. Iris Cahill - spoke against LPA rule changes and was in favor of the elimination of the oral examination.

N. George Grimes, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.

- O. John Godfrey, Ph.D. - spoke against LPA rule changes and elimination of the oral examination.
- P. David Gonzalez, Ph.D. - spoke against LPA rule changes.
- Q. Justin O'Rourke, Ph.D. - spoke against LPA rule changes.

The Board recessed for lunch at 12:15 p.m.

The Board reconvened at 1:49 p.m.

- 16. The Board moved into Item XIV, Executive Session, pursuant to Tex. Gov't Code Ann. §551.071 at 1:49 p.m. Mr. Romig, Ms. Wolf and Ms. Holsinger were also present in the meeting.
- 17. The Board returned from Executive Session at 2:57 p.m.
- 18. The Board moved into Item VI, Rules - Dr. Branaman and Mr. Bielamowicz.

A. The Board reviewed the Adopted Rules:

- i. 463.8, Licensed Psychological Associate.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE ADOPTED REPEAL. THE VOTE CARRIED WITH DR. MOCK AND DR. PALOMARES VOTING AGAINST THE MOTION.

- ii. 463.8, Licensed Psychological Associate.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE ADOPTED NEW RULE. THE VOTE CARRIED WITH DR. MOCK AND DR. PALOMARES VOTING AGAINST THE MOTION.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO APPROVE THE COMMENTS TO THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO ESTABLISH A WORKGROUP WITH STAKEHOLDERS TO REVIEW THE COMPETENCY RULE FOR ALL LICENSEES. THE VOTE WAS APPROVED UNANIMOUSLY.

Mr. Huffman left the meeting at 3:27 p.m.

B. The Board reviewed the Adopted Rule Review.



A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. FLETCHER TO APPROVE THE ADOPTED RULE REVIEW. THE VOTE CARRIED WITH MR. HUFFMAN ABSENT FROM VOTING.

C. The Board reviewed the Proposed Rules:

i. 461.7, License Statuses.

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

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

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO WITHDRAW THE PROPOSED AMENDMENT AND REPROPOSE THE AMENDMENT. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

D. The Board reviewed the Adopted Rules:

i. 469.7, Persons with Criminal Backgrounds.

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

ii. 469.7, Persons with Criminal Backgrounds.

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

iii. 463.1, Types of Licensure.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. BIELAMOWICZ TO ADOPT THE AMENDMENT. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE BROCHURE REGARDING DIFFERENCES IN TRAINING AND EDUCATION BETWEEN A LPAs AND LPs. THE VOTE WAS APPROVED UNANIMOUSLY.

iv. 463.11, Licensed Psychologist.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO ADOPT THE AMENDMENT. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

- v. 463.13, Requirements for Licensed Out-of-State Applicants.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO ADOPT THE AMENDMENT. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

- vi. 463.14, Written Examinations.

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

- vii. 463.15, Oral Examination.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO ADOPT THE REPEAL. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

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

- viii. 463.27, Temporary License for Persons Licensed in Other States.

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

- ix. 463.29, Reciprocity Agreement with Other Jurisdictions.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE REPEAL AND PROPOSAL. DR. MOCK WITHDREW THE MOTION.

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY DR. FLETCHER TO ADOPT THE REPEAL AND NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

- x. 465.2, Supervision.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MS. DOWNES TO ADOPT THE AMENDMENT. THE VOTE CARRIED WITH DR. PALOMARES VOTING AGAINST THE MOTION.

- xi. 473.2, Examination Fees (Non-Refundable).

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

xii. 473.7, Penalties.

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

19. The meeting was adjourned at 3:55 p.m. by Dr. Branaman.