

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

August 14, 2014

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.
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 August 14, 2014. The following Board members were in attendance: Lou Ann Todd Mock, Ph.D., Vice-Chair; Jeffrey Baker, Ph.D.; Donna L. Black, M.A.; Jo Ann Campbell, M.S.; Carlos Chacón; and Angela A. Downes, J.D.; Also in attendance were Darrel Spinks, Executive Director; and Brian Creath, Deputy Executive Director. The following Board members were absent Tim Branaman, Ph.D., Chair; John R. Huffman, J.D.; and Leslie Rosenstein, Ph.D.

Thursday, August 14, 2014

1. The meeting was called to order at 9:00 a.m. by Dr. Mock acting as Board Chair.
2. The Board moved into Item II, Public Comments.
 - A. Paul Andrews, Ph.D., with TPA, thanked the Board for reviewing the supervision rules.
3. The Board moved into Item III, Minutes.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE MINUTES OF THE MAY 8, 2014 BOARD MEETING WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

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4. The Board moved in Item IV, Chair's Report - Dr. Branaman.
 - A. Mr. Spinks reviewed the FY 2014 Board goals and stated everything was going well.
 - B. Mr. Spinks stated that the Association of State and Provincial Psychology Boards (ASPPB) 2014 Annual Meeting would be held in Palm Springs, California. Dr. Baker will represent the Board if Dr. Branaman is unavailable.
 - C. Mr. Spinks stated that the Attorney General set a deadline of November 17, 2014 to decide "Whether mental health records placed in the custody of the State Board of Examiners of Psychologists by a court order are state records under chapter 441 of the Government Code (RQ-1201-GA)."
 - D. Mr. Spinks stated that the Louisiana State Board of Examiners of Psychologists has opined that they will continue to honor the reciprocity agreement with Texas. However, they reserve the right to deny any Texas candidate that does not meet all the requirements of reciprocity.
 - E. Mr. Spinks reviewed the FY 2015-2019 Strategic Plan and the only exceptional item being requested for the next biennium is an increase for staff salaries.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO APPROVE THE FY 2015-2019 STRATEGIC PLAN. THE VOTE CARRIED WITH DR. BRANAMAN, MR. HUFFMAN AND DR. ROSENSTEIN WERE ABSENT FROM VOTING.

5. The Board moved into Item XI, Budget Committee - Dr. Mock.
 - A. Mr. Spinks reviewed the 3rd Quarter Performance Measures.
 - B. Mr. Spinks reviewed the Legislative Appropriations Request (LAR) for FY 2016-2017.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO APPROVE THE LAR FOR FY 2016-2017. THE VOTE WAS UNANIMOUS.

6. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
 - A. Mr. Spinks stated that the anticipated go live date for the online Jurisprudence Examination administered by E-Strategy would be September 1, 2014. Due to some conflicts with

handling of the fees as stated by the Comptroller's office, we may need to amend the LAR regarding how we handle money from the Jurisprudence Examination.

7. The Board moved into Item IV, Chair's Report - Dr. Mock.
 - A. Mr. Spinks informed the Board that the House Committee on Human Services requested an Attorney General opinion on "Fee Difference between Psychiatrists and Psychologists, and All Other Behavioral Health Service Providers" which may not have any impact on the Board.
 - B. Mr. Spinks reviewed an article from the American Board of Professional Psychology regarding clinical competence.
8. The Board moved into Item V, Executive Director's Report - Mr. Spinks.
 - A. Mr. Spinks discussed operational issues:
 - i. The Board is in compliance with NPDB/HIPDB.
 - ii. HB 300 reporting will be done by 8/31/2014.
 - iii. The Statewide Automobile Insurance Program is now in effect.
 - iv. The House Print Shop will be doing the Board's calligraphy license. The calligrapher that had been utilized in the past retired.
 - v. Revised letterhead with the correct State of Texas seal.
 - vi. Establishing a "do not reply" email address to send out Board newsletters.
 - B. Mr. Spinks stated there were no new issues regarding the shared database.
 - C. Agency staff have been experiencing significant issues with the Laserfiche imaging system after 8:00 a.m. This has caused a backlog on imaging.
 - D. The Board reviewed proposed Policy changes:
 - i. Professional Development for Oral Examiners.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE NEW POLICY TO INCLUDE CULTURAL DIVERSITY. THE MOTION FAILED WITH DR. BAKER, MS. BLACK AND MS. CAMPBELL VOTING AGAINST THE MOTION.

A MOTION WAS MADE BY MS. BLACK HOWEVER THERE WAS NOT A SECOND.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MS. BLACK TO APPROVE THE NEW POLICY TO INCREASE THE PROFESSIONAL DEVELOPMENT HOURS AWARDED FOR ORAL EXAMINERS, BUT TO EXCLUDE CULTURAL DIVERSITY. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. Board Website.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. CAMPBELL TO APPROVE THE PROPOSED POLICY. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. Jurisprudence Examination Consultants.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED POLICY. THE VOTE WAS APPROVED UNANIMOUSLY.

iv. Oral Exam Consultants for Oral Exam Workgroup.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. BAKER TO APPROVE THE PROPOSED POLICY. THE VOTE WAS APPROVED UNANIMOUSLY.

E. Mr. Spinks stated that agency cannot increase the amount that Board members are reimbursed for hotel rates. This rate is set by the State Comptroller's Office.

9. The Board moved into Item VI, Rules Committee - Dr. Mock.

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

i. 461.7, License Statuses.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 461.10, License Required.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 463.11, Licensed Psychologist.

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

iv. 463.23, Criteria for Examination Consultants.

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

v. 463.24, Oral Examination Workgroup.

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

vi. 463.31, Use of Other Mental Health License During Practicum, Internship, or Supervised Experience.

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

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

i. 463.17, Failure to Appear for Examination.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MR. CHACÓN TO REPEAL THE ADOPTED RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 463.20, Refunds and Transfers of Application and Examination Fees.

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

iii. 473.1, Application Fees (Not Refundable).

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

iv. 473.2, Examination Fees.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. CAMPBELL TO APPROVE THE ADOPTED RULE WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

The Board recessed for a break at 10:15 a.m.

The Board reconvened from break at 10:25 a.m.

C. The Board reviewed the suggested changes to rules governing Supervision by the Rules Advisory Committee.

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

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

i. 14-074;

ii. 14-071;

iii. 14-048;

iv. 14-177;

v. 14-031;

vi. 14-097;

vii. 14-024;

viii. 14-090;

ix. 14-028;

x. 14-047;

xi. 14-044;

xii. 14-190;

xiii. 14-075;

xiv. 14-168;

xv. 14-050; and

xvi. 14-051

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

xvii.14-033; and

xviii.14-092

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

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. November 2014 ISC attendees will be Dr. Branaman, Dr. Mock and Mr. Huffman.
- E. February 2015 ISC attendees will be Dr. Baker, Ms. Campbell and Ms. Downes.
- F. May 2015 ISC attendees will be Dr. Baker, Dr. Mock and Mr. Chacón.
- g. August 2015 ISC attendees will be Dr. Baker, Ms. Campbell and Ms. Downes.
- H. Mr. Merchant presented the Agreed Orders for the Board's approval:
 - i. The Board reviewed Agreed Order No. 14-125-360, in the matter of Carolyn Honea Crawford, Ph.D.

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

- ii. The Board reviewed Agreed Order No. 2014-00204-9702, in the matter of James F. Heffernan, M.A.

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

- iii. The Board reviewed Agreed Order No. 13-287-7949, in the matter of David Kent Mercer, Psy.D.

A MOTION WAS MADE BY MS. CAMPBELL AND SECONDED BY MR. CHACÓN TO APPROVE THE AGREED ORDER. THE VOTE WAS APPROVED UNANIMOUSLY.

- iv. The Board reviewed Agreed Order No. 2014-00156-13326, in the matter of Robert Bruce Perna, Ph.D.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. ROSENSTEIN FROM VOTING.

- v. The Board reviewed Agreed Order No. 2014-110-12290, in the matter of Melissa Lusky Tabin, Ph.D.

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

- 11. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.
- 12. The Board moved into Item IX, Legal Matters/General Counsel Report.
 - A. Mr. Merchant stated that the 3RD Court of Appeals had ruled in favor of the Board in Cause No. 03-11-00541-CV, Texas Association of Psychological Associates vs TSBEP.
 - B. Mr. Merchant updated the Board on SOAH cases:
 - i. A case was set for trial in September;
 - ii. A case is set for a hearing in September, and final trial in November; and
 - iii. 4 cases were awaiting filing SOAH.
 - C. Mr. Merchant stated that there has been no movement since the last update regarding Cause No. 03-10-00673-CV, TX State Bd. Of Chiropractic Examiners, et al v. Texas Medical Association, et al, 3rd COA, Austin, Texas. The case was remanded to District Court for further proceedings.
 - D. Mr. Merchant stated that there has been no movement since the last update regarding Cause No. 03-130-00077-CV TX State Bd. Of Marriage and Family Therapists, et al v. Texas Medical Association, et al, 3rd COA, Austin, Texas.
 - E. Mr. Merchant updated the Board on the Mid-Year Disciplinary Statistics.
- 13. The Board moved into Item X, Legislative Committee - Ms. Downes.

- A. Mr. Spinks stated that he and Ms. Noack had attended the first budget hearing for FY 2015-2017.
14. The Board moved into Item XII, Written Examinations Committee - Dr. Mock.
- A. Dr. Mock updated the Board following the committee meeting held on July 18, 2014:
 - i. Committee inquired about having a separate Jurisprudence Examination for LSSP's.
 - ii. Ms. Black agreed to serve on the Written Exam Committee.
15. The Board moved into Item XIII, Oral Examination Committee - Drs. Baker and Rosenstein.
- A. Dr. Baker stated at the July 2014 Oral Examinations, candidates were given their pass/fail results immediately.
 - B. Dr. Baker stated the use of a digital recorder was tested in one exam room with good results.
 - C. Candidates seemed very pleased at getting their results immediately.
 - D. Pass/fail letter also contained feedback if the examiners felt it was necessary.
 - E. Efforts to recruit more examiners.
 - F. Effort will be made to have new examiners partner with an Oral Examination mentor.
 - G. Mr. Spinks stated that the average age for Oral Examiners was 62-63 years old.
 - H. Mr. Creath discussed a Board Service Award.
- A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE SERVICE AWARD PROGRAM, CONTINGENT UPON FUNDING AND AUTHORITY. THE VOTE WAS APPROVED UNANIMOUSLY.
- I. Dr. Baker reviewed the Oral Examination results for the July 11-12, 2014 exams.

16. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
 - A. Mr. Chacón reviewed the online renewal statistics.
 17. The Board moved into Item XV, Applications Committee - Dr. Rosenstein.
 - A. Mr. Spinks stated that approximately 10 people had applied through the ASPPB Plus Program and have not had any issues. The PLUS system appears to be saving staff time.
 18. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.
 - A. Natalie Haynes was hired as the Enforcement Assistant.
 19. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman.
 - A. Mr. Spinks stated he would like to change the reporting period for the customer service survey, from 2 years prior, to the previous year.
- A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE CHANGE TO THE CUSTOMER SERVICE SURVEY. THE VOTE WAS APPROVED UNANIMOUSLY.
20. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.
 - A. Dr. Baker asked if the Board could set up a system whereby interns could register with the Board. Dr. Baker suggested looking to Oklahoma, Arkansas and Minnesota for examples.
 19. The Board moved into Item XIX, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071 at 11:59 a.m.
 20. The Board returned from Executive Session at 12:10 p.m.
 21. The Board moved into Item XX, Action on matters considered in Executive Session.
 22. The meeting was adjourned at 12:11 p.m. by Dr. Mock.