

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

February 26, 2015

MEMBERS OF THE BOARD

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Dallas

Lou Ann Todd Mock, Ph.D., Vice Chair
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Jeff Baker, Ph.D.
League City

Donna Lord Black, M.A.
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Jo Ann Campbell, M.S.
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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 February 26, 2015. 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.; 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. The following Board member was absent John R. Huffman, J.D.;

Thursday, February 26, 2015

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. The Board moved into Item II, Public Comments:
 - A. Dr. Paul Andrews spoke against HB 1449, which would take away the Board's jurisdiction to hear complaints involving licensees who fail to follow the proper standards/law when conducting a child custody or adoption evaluation.
3. The Board moved into Item III, Minutes.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO APPROVE THE MINUTES OF THE NOVEMBER 20, 2014 BOARD MEETING WITH CHANGES. THE VOTE CARRIED WITH MR. CHACÓN ABSENT FROM VOTING.

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Mr. Chacon arrived at 9:19 a.m.

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

A. Mr. Spinks reviewed the FY 2015 Board goals.

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

i. Membership dues invoice and newsletter.

ii. 30th Midyear meeting held in Atlanta April 16-19, 2015.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. ROSENSTEIN THAT THE ATTENDEES AT THE MEETING WOULD BE MR. SPINKS AND EITHER DR. BRANAMAN OR DR. MOCK. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. Review draft Supervision Guidelines for Education and Training leading to Licensure as a Health Service Provider.

iv. Review email received from Lissa Russo, Member Services Special Projects Coordinator for ASPPB regarding licensing issues for Consulting and Industrial-Organizational Psychologist. Mr. Spinks stated that some of the recommended changes would require legislative changes, rather than regulatory changes.

v. Review Interjurisdictional Psychology Compact.

C. The Board reviewed the Annual Financial Report for FY 2014.

D. Dr. Branaman discussed establishing an Adhoc Committee for the upcoming Sunset Review. Dr. Branaman and a member from each of the associations would consider what issues might be a concern during Sunset.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO ESTABLISH AN ADHOC COMMITTEE FOR SUNSET REVIEW. THE VOTE WAS APPROVED UNANIMOUSLY.

E. The Board reviewed a letter from Governor Greg Abbott regarding Transparency in State Contracting and Procurement.

F. Dr. Branaman stated that written testimony was submitted to the Legislative Committees, with the letter of support for the agency's exceptional items.

- G. Kara Crawford will be the new representative from the Governor's office for our agency.
5. The Board moved into Item V, Executive Director's Report - Mr. Spinks.
- A. Mr. Spinks discussed operational issues:
 - i. No issues with the Shared database.
 - ii. Board was in compliance with the NPDB.
 - iii. HB 300 reporting was completed in August for FY 2014.
 - iv. A Memorandum of Understanding was entered into with Department of State Health Services (DSHS) to facilitate the use of mental health providers during an emergency. The agency will upload licensee information on a daily basis.

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

- v. Fingerprint Criminal History Background Check upon Annual Renewal was running smoothly.
 - vi. The Legislative Budget Board has added rider language so that the Jurisprudence Examination can go to an online format once the bill is approved.
 - vii. Staff members attended a Business Writing Course through the Texas Workforce Commission which they found beneficial.
 - viii. Programming costs of \$4,200 were incurred as a result of changes related to the Oral Examination qualifications from 5 years to 3 years. This money was granted during the last biennium.
 - ix. Executive Order, RP 80 relating to state agencies using the U.S. Department of Homeland Security's E-Verify system.
- B. The Board reviewed proposed Newsletter article:
- i. Duty to Report.

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

C. The Board reviewed proposed Policy changes:

i. E-Verify System.

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

ii. Staff Training and Education.

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

D. The Board reviewed letter(s) received from the following individuals:

i. Elizabeth McComb - regarding renewal without re-examination.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED RESPONSE. THE VOTE CARRIED WITH MS. BLACK AND DR. ROSENSTEIN ABSTAINING FROM VOTING.

ii. Donald E. Winstead, III. Ph.D. - regarding prior approval of internship.

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

E. Mr. Spinks stated that the Board had received a response from the Attorney General Office regarding the destruction of records.

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

The Board recessed for a break at 10:20 a.m.

The Board reconvened from break at 10:31 a.m.

6. The Board moved into Item VI, Rules Committee - Dr. Branaman.

A. The Board reviewed the petition for rulemaking from Stephanie A. Sokolosky, Ed.D.

i. 461.11, Professional Development.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. MOCK TO DENY THE PETITION TO INITIATE RULEMAKING BECAUSE THE RULES CURRENTLY IN PLACE ADDRESS PETITIONER'S CONCERNS. THE VOTE WAS APPROVED UNANIMOUSLY.

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

i. 461.20, Agency Staff Training and Education.

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

ii. 461.21, Sick Leave Pool.

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

iii. 463.27, Temporary License for Persons Licensed in Other States.

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

iv. 463.27, Temporary License for Persons Licensed in Other States.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY MR. CHACÓN TO APPROVE THE PROPOSED NEW RULE VERSION 2. THE VOTE WAS APPROVED UNANIMOUSLY.

v. 463.30, Licensing of Military Spouses and Applicants with Military Experience.

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

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

i. 461.11, Professional Development.

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

ii. 461.12, Prohibition Against Dual Office Holding.

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

iii. 463.7, Criminal History Record Reports.

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

iv. 471.5, Updated Information Requirements.

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

v. 473.5, Miscellaneous Fees (Non Refundable).

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

i. 463.31, Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.

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

D. Review of suggested changes to rules governing Supervision by Rules Advisory Committee and Authorize Public Hearings. March 16, 2015 will be in Houston and March 17, 2015 will be in White Settlement.

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

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

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

i. 14-165;

ii. 15-096;

- iii. 15-021;
- iv. 15-099;
- v. 14-191;
- vi. 15-038;
- vii. 14-169;
- viii. 15-042;
- ix. 15-028;
- x. 14-212;
- xi. 15-077; and
- xii. 15-078;

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

- xiii. 14-234; and
- xiv. 15-044

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

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. May 2015 ISC attendees will be Dr. Baker, Dr. Mock and Mr. Chacón.
- E. August 2015 ISC attendees will be Dr. Baker, Ms. Campbell and Ms. Downes.
- F. November 2015 ISC attendees will be Ms. Campbell, Mr. Huffman and Dr. Rosenstein.
- G. February 2016 ISC attendees will be Dr. Branaman, Dr. Mock and Mr. Chacón.

H. Mr. Merchant presented the Agreed Orders for the Board's approval:

- i. The Board reviewed Agreed Order No. 2015-00061-12170, in the matter of Karin Tochkov, 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. 14-138-64, in the matter of George Vernon Dickey, Ph.D.

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

- iii. The Board reviewed Agreed Order No. 2015-00045-4094, in the matter of Victor Nolan Hirsch, Ph.D.

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

- iv. The Board reviewed Agreed Order No. 2015-00046-10845, in the matter of Todd Alan Rubin, Ph.D.

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

- v. The Board reviewed Agreed Order No. 2014-00243-10249, in the matter of Douglas Weldon Sander, Psy.D.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE THE AGREED ORDER. THE VOTE CARRIED WITH DR. BAKER RECUSED FROM VOTING.

- vi. The Board reviewed Agreed Order No. 2014-00241-10112, in the matter of Derrick Kyle Blanton, Psy.D.

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

- 8. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.

9. The Board moved into Item IX, Legal Matters/General Counsel Report.
 - A. Mr. Merchant stated that the Board has received two Proposal for Decision that were issued by SOAH and will be discussed later in the meeting and two other cases at SOAH which are set for hearings in April.
 - B. Mr. Merchant stated 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 the judge ruled in January 2015 that the Marriage and Family Therapists may not use the term diagnosis.
 - C. Mr. Spinks discussed a Kentucky case Cause No. 3:13-cv-00042-GFVT-EBA, Rosemond v. Kentucky Board of Examiner of Psychology et al, regarding a syndicated psychologist from North Carolina, but his column is published in Kentucky. This could have implications on every agency around the country. This matter is before the U.S. District judge awaiting a summary judgment.
 - D. Mr. Spinks stated that the Federal Trade Commission (FTC) had filed suit against the North Carolina Board of Dental Examiners under anti-trade restriction laws. A major concern of the FTC is the makeup of the North Carolina Board since they are dentist selected by their state association.
 - E. Several Cease and Desist cases have been sent to the Attorney General's (AG) Office and there is a default hearing set for March 2015 for Ms. Satterfield. With regards to the case against Mr. Foster, the AG office is trying to locate the defendant.
10. The Board moved into Item X, Legislative Committee - Ms. Downes.
 - A. Ms. Downes reviewed bills that could potentially affect the agency:
 - i. SB 239, relating to student loan repayment assistance for certain mental health professionals.
 - ii. SB 546, relating to state agency contracting.
 - iii. HB 1449, would strip the Board of jurisdiction to hear complaints involving licensees who fail to follow the

proper standards/law when conducting a child custody or adoption evaluation.

iv. SB 765, would eliminate the \$200 professional fee.

11. The Board moved into Item XI, Budget Committee - Dr. Branaman.
 - A. Mr. Spinks reviewed the 1st Quarter Performance Measures.
 - B. Mr. Spinks reviewed the Legislative Budget Board Estimates for baseline funding, which does not include the exceptional items requested.
12. The Board moved into Item XII, Written Examinations Committee - Dr. Mock - no items to discuss.
13. The Board moved into Item XIII, Oral Examination Committee - Drs. Baker and Rosenstein.
 - A. Dr. Rosenstein and Dr. Baker gave an update regarding the Oral Examination:
 - i. January 2015 Oral Examination went very well.
 - ii. 110 candidates took the exam of those 94 passed and 16 failed. The pass/fail rate was slightly higher than average.
 - iii. Mentor program was established and we received positive feedback from the examiners.
 - iv. Digital recorders were used in all exam rooms.
 - B. Vignette review will continue.
 - C. Orientation book will be updated.
14. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
 - A. Mr. Chacón reviewed the online renewal statistics.
 - B. Mr. Chacón stated that the website had been updated to include the staff directory page with email addresses.
15. The Board moved into Item XV, Applications Committee - Dr. Rosenstein.

- A. Dr. Rosenstein stated that the Board staff has been receiving a lot of applications.
 - B. Mr. Spinks stated that the Board would be updating the website regarding "How to Become Licensed" page.
 - C. Mr. Spinks stated that 24 people have applied and 10 have become licensed through ASPPB PLUS system pilot.
16. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.
- A. Mr. Spinks stated that staff enjoyed the Christmas luncheon.
 - B. Mr. Spinks stated that the flex time for staff had been implemented and seems to be working quite well.
 - C. Mr. Spinks stated that staff was actively trying to fill the Enforcement Assistant.
17. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman - no items to discuss.
18. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.
- A. Review 463.8, regarding LPA licensure doctoral degree changing it to master level for EPPP.
 - B. Mr. Spinks stated we should update Board Policy regarding Pooling of Oral Examiners to add competency.
19. The Board moved into Item VII, Enforcement Committee - Dr. Baker.
- A. Disciplinary Hearing and Final Determination in TSBEP Complaint No. 14-118-1712, in the matter of Brian E. Bunk, Ph.D.
 - i. Mr. Merchant presented the Board's case against Dr. Bunk.
 - ii. Dr. Bunk appeared before the Board and presented his case, but requested that his license not be revoked.
20. The Board moved into Item XIX, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071; §551.074; §501.402; and 22 Tex. Admin. Code, Pt. 21, §469.6 at 12:22 p.m.

21. The Board returned from Executive Session at 12:46 p.m.
22. The Board moved into Item XX, Action on matters considered in Executive Session.
 - A. Disciplinary Hearing and Final Determination regarding TSBEP complaint 14-118-1712, in the matter of Brian E. Bunk, Ph.D.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MR. CHACÓN TO ACCEPT THE ADMINISTRATIVE LAW JUDGE FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING REVOCATION OF DR. BUNK LICENSE. THE VOTE WAS APPROVED UNANIMOUSLY.

- B. Proposal for Decision in SOAH case 20-00503-399.

A MOTION WAS MADE BY MS. DOWNES AND SECONDED BY MR. CHACÓN TO ACCEPT THE ADMINISTRATIVE LAW JUDGE FINDINGS OF FACT AND CONCLUSIONS OF LAW TO DISMISS THE COMPLAINT. THE VOTE WAS APPROVED UNANIMOUSLY.

23. The meeting was adjourned at 12:48 p.m. by Dr. Branaman.