

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR
Darrel D. Spinks

Texas State Board of Examiners of Psychologists

MINUTES

May 26, 2016

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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 May 26, 2016. The following Board members were in attendance: Tim Branaman, Ph.D., Chair; 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., 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: Jeffrey Baker, Ph.D.

Thursday, May 26, 2016

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. Garry Walsh, discussed complaint resolution timeframe.
 - B. John Wieriman, Ph.D., discussed stricter standards for psychologists.
3. The Board moved into Item III, Minutes and Certified Agenda.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE MINUTES OF THE FEBRUARY 25, 2016 BOARD MEETING. THE VOTE WAS APPROVED UNANIMOUSLY.

333 Guadalupe, Suite 2-450, Austin, Texas 78701
(Administration) 512-305-7700 (Enforcement) 512-305-7709 (TDD) 1-800-735-2989
(Fax) 512-305-7701 <http://www.tsbep.texas.gov>

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

4. The Board moved into Item IV, Chair's Report - Dr. Branaman.
 - A. Dr. Branaman updated the Board regarding the Association of State and Provincial Psychology Boards (ASPPB):
 - i. Revisions to PsyPact language were reviewed. ASPPB will be at the August 2016 Board meeting and the Board can discuss the mechanics then.
 - ii. Announcement of the EPPP Step 2 Competency examination. Dr. Mock stated that ASPPB is reaching out to all Boards to help with the development of this examination.
 - iii. Discussed email from Modern Psychologist Association regarding ASPPB.
 - iv. ASPPB Spring 2016 newsletter.
 - v. Dr. Mock stated that the following items were discussed at the Mid-Year Meeting held in Alaska:
 - a. Social media regulators friend or foe - guidelines and policies;
 - b. EPPP 2 exam;
 - c. Psypact language; and
 - d. Informed consent to include telecommunication.
 - B. Mr. Spinks discussed the Sunset process. Sunset staff Mr. Robert Romig, Ms. Julie Davis and Mr. Joe Walraven were present at the Board meeting.
 - C. Mr. Spinks reviewed the Agency Strategic Plan for FY 2017 - 2021. Staff are working to finalize the customer service surveys, workforce plan, and waiting on the Legislative Budget Board (LBB) to approve several changes to the Board's Performance Measure definitions.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY DR. ROSENSTEIN TO GIVE AUTHORITY TO THE BOARD CHAIR TO APPROVE THE AGENCY STRATEGIC

PLAN. THE VOTE WAS APPROVED UNANIMOUSLY.

- D. Mr. Spinks discussed a letter received from Lt. Governor Dan Patrick and Senator Jane Nelson regarding zero-based budgeting. This will require staff to start from zero and justify all items in the budget. Only 10% of state agencies will be selected to do zero based budgeting, however if the agency is not selected, TSBEP may still be required to do this when we go before the Senate Finance Committee.
 - E. Board reviewed the Houston Chronicle article regarding psychological evaluations involving law enforcement evaluations.
 - F. Dr. Branaman reviewed the Advisory Committee work on defining the "Practice of Psychology". The committee members are Floyd Jennings, Ph.D.; Professor Brian Shannon; Thomas Schanding, Ph.D. and Ronald Palomares, Ph.D. This is a huge undertaking and they have done a wonderful job.
5. The Board moved into Item V, Executive Director's Report - Mr. Spinks.
- A. Mr. Spinks discussed operational issues:
 - i. Database UAT testing has been delayed until June and agencies are set to go live July 24th.
 - ii. Board was in compliance with the NPDB reporting requirements.
 - iii. Board is in compliance with HB 300 reporting requirements, next reporting is due August 31, 2016.
 - iv. Criminal Fingerprint History Check had a few minor issues.
 - v. Transition to VoIP Phone System.
 - vi. Compliance efforts have been made following the State Auditor's Office audit, we are waiting for approval of the changes to our Performance Measures definitions by the LBB.
 - vii. Revised Personnel Manual following review by the Texas Workforce Commission.

- viii. Transition from USAS to CAPPS for Payroll and Accounting.
- ix. Report on Investigation into Online Application Options:
 - a. DIR and NICUSA, LLC, a DIR approved vendor, both stated that they could not do what we would need. However, they could process credit card payments.
 - b. Mr. Spinks has been discussing the possibility of a reduction in fees if the Board were to require applicants to use the PLUS System. The ASPPB Plus System is working quite well and staff have stated that it has cut down on work and paperwork. Currently, the Plus System costs \$200 above the application fee and ASPPB would be willing to negotiate a lower fee. The Board would like Mr. Spinks to continue to discuss the issue with ASPPB and then Board will discuss it again at the August Board meeting. The Legislature would have to give the agency pass through authority for this service.

B. The Board reviewed proposed Newsletter Article(s):

- i. New Rules.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE DEVELOPMENT OF A NEWSLETTER ARTICLE REGARDING THE NEW RULES, AND FOR THE EXECUTIVE DIRECTOR TO PUBLISH THE ARTICLE ONCE APPROVED BY THE BOARD CHAIR. THE VOTE WAS APPROVED UNANIMOUSLY.

C. The Board reviewed proposed Policy changes:

- i. Complaint Procedures.

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

- ii. Special Accommodations for Testing.

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

D. The Board reviewed proposed Opinion Letter(s):

i. David White, CAE - regarding professional development.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MR. CHACÓN TO APPROVE VERSION 2 OF THE LETTER. THE VOTE WAS APPROVED UNANIMOUSLY.

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

The Board reconvened from break at 10:45 a.m.

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

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

i. 463.10, Provisionally Licensed Psychologists.

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. DOWNES TO APPROVE THE PROPOSED AMENDMENT. THE VOTE CARRIED WITH DR. ROSENSTEIN ABSTAINING FROM VOTING.

ii. 465.2, Supervision.

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

iii. 465.11, Informed Consent/Describing Psychological Services.

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

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

i. 461.10, License Required.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY MR. CHACÓN TO APPROVE THE ADOPTED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 465.39, LSSP Supervisor Qualification.

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

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

A MOTION WAS MADE BY MR. CHACÓN AND SECONDED BY MS. BLACK TO ADOPT THE ADOPTED AMENDMENT. THE VOTE WAS APPROVED UNANIMOUSLY.

C. The Board reviewed the petition for rulemaking from Cheryl Hall, Ph.D. regarding use of psychopharmacology.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. MOCK TO DENY THE PETITION TO INITIATE RULEMAKING WITH MR. HUFFMAN GIVEN FINAL APPROVAL OF THE LETTER. THE VOTE WAS APPROVED UNANIMOUSLY.

D. The Board reviewed the letter from John Wieriman, Ph.D.

NO ACTION WAS TAKEN IN RESPONSE TO THE LETTER.

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

A. Ms. Barber presented dismissals for Board ratification:

i. 16-056;

ii. 16-010;

iii. 16-035;

iv. 16-118;

v. 16-152;

vi. 16-031;

vii. 16-128;

viii. 16-011;

ix. 16-082;

x. 16-251;

xi. 16-104;

xii. 16-165;

xiii. 16-009;

xiv. 16-058;
xv. 16-061;
xvi. 16-131;
xvii.16-130;
xviii.16-132; and
xix. 16-103

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

xx. 16-105;
xxi. 16-106;
xxii.16-167;
xxiii.16-121; and
xxiv.16-037

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

- B. Ms. Barber reviewed the Status Report.
- C. Ms. Barber discussed the Projected Time Schedule.
- D. August 2016 ISC attendees will be Dr. Branaman, Ms. Campbell and Mr. Chacón.
- E. November 2016 ISC attendees will be Dr. Baker, Ms. Campbell and Mr. Chacón.
- F. February 2017 ISC attendees will be Dr. Mock, Dr. Rosenstein, and Mr. Chacón.
- G. May 2017 ISC attendees will be Ms. Black, Ms. Downes and Dr. Mock.

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

i. The Board reviewed Agreed Order No. 2016-00016-3416, in the matter of Diana Delinda Ruiz, Ph.D.

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

ii. The Board reviewed Agreed Order No. 2016-00171-14195, in the matter of Karin Tochkov, 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. 2015-000130-1079, in the matter of Marilyn M. Anderson, M.S.

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

iv. The Board reviewed Agreed Order No. 2016-00163-3951, in the matter of Marry Ellen Hayden, Ph.D.

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

v. The Board reviewed Agreed Order No. 2016-00057-4861, in the matter of James Holland Lefan, Ph.D.

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

vi. The Board reviewed Agreed Order No. 2015-00234-4925, in the matter of Bobbie L. Hart Lilly, Ph.D.

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

vii. The Board reviewed Agreed Order No. 2015-00049-2583, in the matter of E. Edward Reitman, Ph.D.

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

viii. The Board reviewed Agreed Order No. 2016-00187-1752, in the matter of Carole Ann Busick, Ph.D.

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

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 discussed two SOAH cases that would have hearings before the August Board meeting.
 - B. Mr. Merchant stated that licensing staff had received back numerous calligraphy licenses, due to a bad address or licensees not signing for the license from the Post Office. The Board recommended doing a newsletter article.
 - C. Mr. Merchant updated the Board 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 court ruled in January 2015 that the Marriage and Family Therapists may not diagnose. They are seeking review from the Texas Supreme Court.
10. The Board moved into Item X, Legislative Committee - Ms. Downes - no items to discuss.
11. The Board moved into Item XI, Budget Committee - Dr. Branaman.
 - A. Mr. Spinks reviewed the 2nd Quarter Performance Measures.
 - B. Mr. Spinks reviewed the Year-to-Date Financial Report FY 2016.
12. The Board moved into Item XII, Written Examination Committee - Dr. Mock.
 - A. Next meeting will be held on August 5, 2016.

13. The Board moved into Item XIII, Oral Examination Committee - Drs. Rosenstein and Baker.
 - A. Dr. Rosenstein stated there would be 146 candidates for the July Oral Exam. This is the largest exam that the Board has given.
 - B. Mr. Creath stated that staff continue having issues with getting enough examiners for I/O examination. Board discussed possibly creating a panel to work in conjunction with the Board to review an I/O candidate for possible exemption from the oral exam.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY DR. MOCK TO ESTABLISH POLICY AND PROCEDURES FOR I/O CANDIDATES, ORAL EXAM COMMITTEE WILL HAVE FINAL REVIEW. THE VOTE WAS APPROVED UNANIMOUSLY.
14. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
 - A. Mr. Chacón reviewed the online renewal statistics.
 - B. Mr. Spinks stated that there were changes to the website which included the Sunset process and various reports that are required to be published on an agency's website.
15. The Board moved into Item XV, Applications Committee - Dr. Rosenstein - no items to discuss.
16. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.
 - A. Mr. Spinks reviewed the Survey of Employee Engagement. Some areas need improvements, but overall very good evaluation.
17. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman.
 - A. Mr. Creath reviewed the customer service survey results. Final report will be brought back to the August Board meeting for approval.
 - B. Mr. Spinks stated that he would be working with Dan Fletcher, the Web Administrator to work on an online survey.
18. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.

- A. Request that the August agenda include discussion topic regarding Board member review of complaints involving child custody evaluations and LSSP complaints.

The Board recessed for a break at 12:33 p.m.

The Board reconvened from break at 12:40 p.m.

- 19. 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 12:42 a.m.

- 20. The Board returned from Executive Session at 1:31 p.m.

- 21. The Board moved into Item XX, Action on matters considered in Executive Session.

- A. Dismiss case 13-259-1959.

A MOTION WAS MADE BY MR. CHACON AND SECONDED BY DR. MOCK TO APPROVE THE DISMISSAL OF THE CASE. THE VOTE WAS APPROVED UNANIMOUSLY.

- 22. The meeting was adjourned at 1:32 p.m. by Dr. Branaman.