

# TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS



EXECUTIVE DIRECTOR  
Darrel D. Spinks

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Leslie D. Rosenstein, Ph.D.  
Dallas

## Texas State Board of Examiners of Psychologists

### MINUTES

November 20, 2014

The Texas State Board of Examiners of Psychologists met in Austin, Texas on November 20, 2014. 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.; 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 members were absent Carlos Chacón and Angela A. Downes, J.D.

Thursday, November 20, 2014

1. The meeting was called to order at 9:00 a.m. by Dr. Branaman.
2. The Board moved into Item II, Public Comments - no public comments.
3. The Board moved into Item III, Minutes.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK TO APPROVE THE MINUTES OF THE AUGUST 14, 2014 BOARD MEETING WITH CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

4. The Board moved in Item IV, Chair's Report - Dr. Branaman.
  - A. Mr. Spinks reviewed the FY 2014 Board goals.

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- B. Dr. Branaman updated the Board regarding the Association of State and Provincial Psychology Boards (ASPPB) 2014 Annual Meeting that was held in Palm Springs, California.
- C. Dr. Branaman discussed key points to consider regarding the ASPPB Interjurisdictional Telepsychology Compact, which is accepting public comment through November.
- D. Mr. Spinks stated that the Texas Psychological Association (TPA) Convention was a success. The Board update was attended by approximately 150 people and the two hour supervision rule symposium with Dr. Branaman, Dr. Baker, Dr. Andrews, and Mr. Spinks, was attended by approximately 100 people. Ms. Black stated that an issue related to training status was presented to her.
- E. Mr. Spinks reviewed the Sunset Advisory Commission report regarding Self-Directed Semi-Independent (SDSI) status of State Agencies.
- F. Mr. Spinks stated that the agency had negotiated a Memorandum of Agreement with Texas State University, Dept of Psychology for alternate office location as part of the Business Continuity Plan.
- G. Mr. Spinks discussed Tex. Gov't Code Ann. §574.001 regarding Dual Office Holding by State Officers, which applies to Mr. Chacón, and indicated that the Board would need to adopt the following finding: The Board finds that Carlos Chacón's service as a nonelective state officer for the Texas Skill Standards Board would benefit the State of Texas and that his service would present no conflict of interest with this agency. The Board further finds that Carlos Chacón will receive no salary or bonus from the additional service, but will receive a per diem of less than \$100 for each Board meeting date.

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

- 5. The Board moved into Item V, Executive Director's Report - Mr. Spinks.
  - A. Mr. Spinks discussed operational issues:

- i. Agency will cancel the additional programming fees requested in the Legislative Appropriations Request for the 83<sup>rd</sup> Legislature session due to a substantial increase in the quote for the programming change from the vendor.
  
- B. Mr. Spinks stated that the Board is in compliance with NPDB/HIPDB.
  
- C. HB 300 reporting was been completed for FY 2014.
  
- D. Agency staff have been experiencing significant issues with the Laserfiche imaging system after 8:00 a.m. This has caused a backlog on imaging.
  
- E. Mr. Spinks updated the Board regarding the Emergency Volunteer Health Practitioners Act. Board staff will provide a spreadsheet to comply with the information needed.
  
- F. Mr. Spinks stated that the migration of the Jurisprudence Examination to an online format will need to be discussed during the legislative session since staff will need to request an amendment to the LAR for authority for pass-through funding.
  
- G. Updated the Board on the Health Professions Council committee memberships.
  
- H. Update on implementation of the Criminal History Record Reports upon renewal, per Board rule 463.7.
  
- I. Mr. Spinks and Ms. Downes attended the Texas Association of School Psychologists (TASP) Annual Convention on October 16, 2014. Supervision and record keeping were some of the topics discussed. Licensees appreciate the increased participation from Board staff.
  
- J. The Board reviewed proposed Policy changes:
  - i. Website Disciplinary List - no change at this time.
  - ii. Charges for Agency Publications and Written Documentation - this will be repealed once Board rule 473.5 is adopted.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY MS. BLACK TO REPEAL THE POLICY ONCE BOARD RULE 473.5 IS ADOPTED. THE VOTE WAS APPROVED UNANIMOUSLY.

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

- i. David White, Texas Psychological Association - regarding professional development provider.

A MOTION WAS MADE BY DR. MOCK TO APPROVE PARAGRAPH 1, VERSION 2 NO SECOND WAS RECEIVED.

A MOTION WAS MADE BY DR. ROSENSTEIN AND SECONDED BY MR. HUFFMAN TO APPROVE PARAGRAPH 1, VERSION 1. THE VOTE WAS APPROVED UNANIMOUSLY.

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

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

- i. 461.11, Professional Development.

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

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

i. 461.7, License Statuses.

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

ii. 461.10, License Required.

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

iii. 463.11, Licensed Psychologist.

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

iv. 463.23, Criteria for Examination Consultants.

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

v. 463.24, Oral Examination Workgroup.

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

vi. 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.

The Board recessed for a break at 10:16 a.m.

The Board reconvened from break at 10:32 a.m.

C. The Board reviewed the petition for rulemaking from H. Michael Cunningham, Ph.D.

i. 465.1, Definitions.

ii. 465.5, Practice in Psychology.

iii. 465.9, Competency.

iv. 465.10, Basis for Scientific and Professional Judgments.

AFTER MUCH DISCUSSION A MOTION WAS MADE BY DR. ROSENSTEIN 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.

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

A. Disciplinary Hearing and Final Determination in TSBEP Complaint No. 13-252-9660, in the matter of Marilyn Nobles, Ph.D.

i. Mr. Merchant presented the Board's case against Dr. Nobles.

ii. Dr. Nobles appeared before the Board and acknowledged rule violations, but requested that her license not be revoked.

8. The Board returned to Item VI, Rules Committee - Dr. Branaman.

A. Review of suggested changes to rules governing supervision.

9. The Board returned to Item VII, Enforcement Committee - Dr. Baker.

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

i. 14-093;

ii. 14-211;

iii. 14-166;

iv. 14-220;

v. 14-164;

vi. 14-189;

vii. 14-094;

viii.14-219;  
ix. 14-162;  
x. 14-124;  
xi. 14-095;  
xii. 14-117;  
xiii.15-037;  
xiv. 14-111;  
xv. 14-163;  
xvi. 14-123;  
xvii.14-121;  
xviii.14-154;  
xix. 14-120; and  
xx. 14-116

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

xxi. 14-122

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

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

- G. November 2015 ISC attendees will be Dr. Branaman, Mr. Huffman and Dr. Rosenstein.
- H. The Board reviewed the FY 2014 Enforcement Actions.
- I. Mr. Merchant presented the Agreed Orders for the Board's approval:
  - i. The Board reviewed Agreed Order No. 14-232-13465, in the matter of Michael Todd Brown, Ph.D.

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

- ii. The Board reviewed Agreed Order No. 2014-00160-816, in the matter of Jerry Richard Grammer, Ph.D.

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.

- iii. The Board reviewed Agreed Order No. 2014-005-3844, in the matter of Larry Hanselka, Ph.D.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. MOCK 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. 2014-00159-4831, in the matter of Garland Frank Lawlis, Ph.D.

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.

- v. The Board reviewed Agreed Order No. 2014-00158-6014, in the matter of Barbara Suzanne Peavey, Ph.D.

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

- vii. The Board reviewed Agreed Order No. 14-233-13399, in the matter of Jenna Kristine Schwartz, M.A.

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

viii. The Board reviewed Agreed Order No. 14-049-7809, in the matter of Julie Hamilton Verrone, Psy.D.

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.

ix. The Board reviewed Agreed Order No. 2014-00157-12372, in the matter of Timothy C. Zymantas, Psy.D.

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.

10. The Board moved into Item VIII, Compliance Committee - Ms. Black - no items to discuss.
11. The Board moved into Item IX, Legal Matters/General Counsel Report.
  - A. Mr. Merchant discussed legality of setting up registry for psychology interns, and the uses and limits for any such registry. Medicaid rules would need to be changed before Texas could look at doing a registry.
  - B. 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, 3<sup>rd</sup> COA, Austin, Texas.
  - 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, 3<sup>rd</sup> COA, Austin, Texas. The case was remanded to District Court for further proceedings.
  - D. 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. Trial date is set for February 17, 2015.

- E. 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.
  - F. Mr. Merchant updated the Board on the FY 2014 Disciplinary Statistics.
12. The Board moved into Item X, Legislative Committee - no items to discuss.
13. The Board moved into Item XI, Budget Committee - Dr. Branaman.
- A. Mr. Spinks reviewed the 4<sup>th</sup> Quarter Performance Measures.
  - B. Mr. Spinks reviewed the Annual Performance Measures:
    - i. Ensure Compliance:
      - a. The performance for this measure for FY 2014 is 39%, which does not meet its target of 65%. Staff believe this is due to the fact that when a licensee has a professional development complaint that is not resolved within 6 months, the license is allowed to go void rather than prosecuted at SOAH.
      - b. Possible solution would be if the professional development complaint is not resolved within 6 months, the complaint would be dismissed, subject to being reopened should the licensee attempt to renew his/her license.
14. The Board moved into Item XII, Written Examinations Committee - Dr. Mock - no items to discuss.
15. The Board moved into Item XIII, Oral Examination Committee - Drs. Baker and Rosenstein.
- A. Dr. Rosenstein stated that the Oral Examination Workgroup met on October 17, 2014 and Dr. Baker was in attendance.
  - B. Dr. Baker stated that the Workgroup discussed whether Content Area 5, Attends to Cultural and Other Relevant Differences, should be moved from the middle of the

examination to the end. The workgroup compromised and recommended giving a new instruction to the exam.

16. The Board moved into Item XIV, Technology Committee - Mr. Chacón.
  - A. Mr. Spinks reviewed the online renewal statistics.
  - B. Mr. Spinks stated the Mr. Dan Fletcher, Website Administrator had moved the agency site from current shared server to its own virtual server.
  - C. Website changes are a new renewal form, site policy and a forms bank.
  - D. Mr. Spinks reviewed the EIR Accessibility Policy and EIR Accessibility and Implementation Remediation Plan.

A MOTION WAS MADE BY MR. HUFFMAN AND SECONDED BY DR. MOCK TO APPROVE THE EIR POLICY AND REMEDIATION PLAN. THE VOTE WAS APPROVED UNANIMOUSLY.

17. The Board moved into Item XV, Applications Committee - Dr. Rosenstein.
  - A. Mr. Spinks stated that the ASPPB PLUS system pilot will end on November 30, 2014, but would like to continue to offer this service until a full year has passed. With the end of the pilot phase however, applicants would begin having to pay \$200 for the PLUS application.

A MOTION WAS MADE BY MS. BLACK AND SECONDED BY DR. BAKER TO CONTINUE THE ASPPB PLUS SYSTEM. THE VOTE WAS APPROVED UNANIMOUSLY.

18. The Board moved into Item XVI, Personnel Committee - Ms. Campbell.
  - A. Mr. Spinks discussed implementation of flex time / 4 day work week for Board staff except for the receptionist position.
  - B. Mr. Spinks stated that Becky Pounds had retired and that Natalie Haynes had taken over the receptionist duties.

19. The Board moved into Item XVII, Customer Service Committee - Mr. Huffman - no items to discuss.

20. The Board moved into Item XVIII, Future Issues and Other Requested Agenda Items.
  - A. Dr. Rosenstein suggested a newsletter article or series on Board staff and their responsibilities.
  - B. Dr. Branaman talked about putting on the Board's website the Board's mission for consumers.
  - C. Mr. Spinks stated he would like to include on the website a frequently asked question section.

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

The Board reconvened from break at 12:34 p.m.

21. The Board moved into Item XIX, Executive Session, pursuant to Title 5, Chapter 551, Government Code §551.071 at 12:34 p.m.
22. The Board returned from Executive Session at 1:46 p.m.
23. The Board moved into Item XX, Action on matters considered in Executive Session.
  - A. Disciplinary Hearing and Final Determination regarding TSBEF complaint 13-25-9660, in the matter of Marilyn G. Nobles, Ph.D.

A MOTION WAS MADE BY DR. BAKER AND SECONDED BY MS. BLACK TO ACCEPT THE SOAH JUDGE FINDING OF FACT AND CONCLUSION OF LAW REGARDING RECORDS VIOLATION AND REVOKE DR. NOBLES LICENSE. THE VOTE CARRIED WITH MR. HUFFMAN ABSTAINING FROM VOTING.

- B. Proposal for Decision in SOAH case 520-14-3665.

A MOTION WAS MADE BY DR. MOCK AND SECONDED BY DR. ROSENSTEIN TO ACCEPT THE SOAH JUDGE FINDING OF FACT AND CONCLUSION OF LAW. THE VOTE WAS APPROVED UNANIMOUSLY.

- C. Temporary Suspension from ISC recommendation regarding TSBEF case 2014-00210-8691.

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

24. The meeting was adjourned at 1:52 p.m. by Dr. Branaman.