

MINUTES OF THE MEETING OF THE BOARD OF LAW EXAMINERS

November 9, 2012

1. Call to Order/Determination of Quorum. The meeting of the Board of Law Examiners was convened in open session by John Simpson, Chair, on Friday, November 9, 2012, at 9:00 a.m., in the Board's offices, located in the Tom C. Clark Building, 205 W. 14th Street, Suite 500, Austin, Texas. Members present and constituting a quorum were: John Simpson, Michael Sokolow, Dan Pozza, Lee Parsley, Sandra Zamora, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner and Laura Swann.

2. Security Update. Texas Department of Public Safety (DPS) Captain Ken Scheer briefed all Board members and Board staff on DPS procedures and ongoing training for public safety officers to ensure the safety of all persons conducting business in the buildings of the Capitol Complex, including the Tom C. Clark Building. All Board and staff members were present for the briefing.

Prior to the departure of Board staff, Julia Vaughan introduced new employees Patty Bourgeois, Licensure Analyst, and Celine Morones, Receptionist and Administrative Assistant. Ms. Vaughan also welcomed back returning Senior Staff Attorney Bruce Wyatt.

3. Approval of Minutes and Certified Agendas Upon motion made and seconded, the Board voted to approve the minutes and/or certified agendas of the following meetings:

May 11, 2012 Hearings Panel (Parsley);
June 7, 2012 Hearings Panel (Parsley);
June 7, 2012 Accommodations Review Committee;
June 8, 2012 Board Meeting;
July 13, 2012 Hearings Panel (Sokolow);
July 13, 2012 Hearings Panel (Pozza);
September 14, 2012 Finance Committee Meeting; and
September 14, 2012 Hearings Panel (Pozza).

4. Report of Accountant.

a. Investment Report. The Chief Accountant, Rod Shaheen, explained and the Board reviewed the Investment Report, dated August 31, 2012.

b. Financial Reports. Rod Shaheen and Julia Vaughan explained and the Board reviewed the Board's Annual Financial Report for the period September 1, 2011 through August 31, 2012, together with the variance report, and additional profit and loss comparison details. Upon motion made and seconded, the Annual Financial Report was unanimously approved. Board staff was congratulated for efforts to assure savings where possible and achievement of a much improved financial position at year end.

5. Finance Committee Report. Lee Parsley advised Board members that the minutes of the Finance Committee meeting in September accurately reflect the scope of the upcoming audit.

6. Investment Policy. Julia Vaughan explained the Policy for the Investment of Board funds, as required by the Public Funds Investment Act (PFIA). After discussion by the Board, and upon Motion made and seconded, the Board unanimously approved the Investment Policy in the form attached¹; and approved the Finance Committee's recommendation to continue using Wells Fargo Treasury Security Services as the Board's authorized broker for PFIA investment transactions.

¹ Policy for the Investment of Board Funds.

7. Presentation of Task Force on International Law Practice in Texas. Task Force Chair Larry Pascal and Vice Chair Leland de la Garza were introduced by Julia Vaughan. Mr. Pascal and Mr. de la Garza gave a power point presentation to Board members concerning preliminary Task Force recommendations and likely proposals to the Supreme Court concerning Rule changes benefitting foreign trained lawyers: 1) seeking admission to the Texas Bar; 2) seeking to practice in Texas courts pro hac vice; and 3) seeking Foreign Legal Consultant status.

8. Report of Executive Director.

- a. Calendar Update. Julia Vaughan reviewed the calendar for the remainder of 2012 and the proposed 2013 calendar. Ms. Vaughan announced that the Spring 2013 NCBE conference will be held in Boston, Massachusetts and encouraged Board members interested in attending to notify Rebecca Henly at their earliest convenience due to a projected shortage of available hotel rooms.

Ms. Vaughan announced that hotel accommodations for Board members will change beginning in January, 2013 to the AT&T Conference Center hotel located at 1900 University Avenue, Austin, Texas. The Board van will be dispatched to the hotel on each morning of Board business, departing the hotel at 8:25 a.m. to shuttle Board members to the office.

- b. Texas Occupations Code Sec. 55.004 and Resolutions of Conference of Chief Justices and American Bar Association (ABA) concerning bar admission for lawyers who are military spouses. Ms. Vaughan reviewed the material in the meeting book concerning efforts by the Conference of Chief Justices, the ABA and the Texas Legislature to reduce obstacles to licensure for out-of-state attorneys who are spouses of military personnel involved in frequent relocations. Discussion by the Board revealed interest in Board staff researching the issue and making recommendations to the Board at the January 2013 board meeting. Ms. Vaughan will contact the Chief Justice regarding this subject. It is anticipated that a link will be added to the BLE's website for "Lawyers who are Military Spouses" to draw attention to Rule XIII(a)(1) and Rule XX(e), as well as Sec. 55.004 of the Texas Occupation Code and any further details agreed to by the Board and adopted by the Court.
- c. Agency Operations. Julia Vaughan announced that Assistant Director of Eligibility & Examination Joyce Newton Ham retired effective October 31, 2012 following approximately twenty seven years of service and has agreed to consult as needed to complete the iPad grading project. Ms. Vaughan reported that Ky Strunc, a Licensure Analyst with approximately eight and one-half years of experience has been promoted to Assistant Director of Eligibility & Examination and that Ky worked closely with Ms. Ham on the recent grade release. Ms. Vaughan advised Board members that Dr. Stephen Klein will make a presentation to the Board at the January 2013 Board meeting regarding the psychometric study he performed for BLE a few years ago and answer questions concerning psychometric issues.

9. Report of Director of Character and Fitness.

- a. Probationary License report. Lori Adelman summarized the reports in the Meeting Book on conversions from probationary licensure to regular licensure and modifications to probationary licenses.
- b. Year End Hearing Statistics. Ms. Adelman reviewed the 2012 Fiscal Year Summary of Character & Fitness (C&F) Hearings contained in the meeting book, noting that dishonesty and criminal history continue to account for the great majority of C&F hearings.
- c. Proposal to modify referral forms requiring additional information on chemical dependency (CD) evaluations. Lori Adelman and Kristin Bassinger explained proposals to modify current CD evaluation forms to capture more specific information from expert evaluators. They discussed concerns over the sufficiency of the Board's previous referral practices, as well as the referral

process. After discussion by the Board to amend the referral forms, upon motion made and seconded, the Board unanimously approved the changes proposed. Ms. Bassinger will oversee a project to convert the newly approved expert evaluation Forms into an easier document to be completed by computer in an online fillable document .

10. Report of Director of Eligibility & Examination.

- a. Year End statistical report on accommodations. Kristin Bassinger reviewed the 2012 Fiscal Year statistics on testing accommodations as contained in the meeting book.
- b. Proposal to permit option of Spellcheck for laptop examinees using ExamSoft Software. Mr. Henslee reviewed a staff proposal to enable the spellcheck function available in the ExamSoft software used by laptop examinees. Mr. Henslee and Kristin Bassinger explained the staff's position that enabling spellcheck is often required as an accommodation for examinees with learning disabilities. Mr. Henslee explained that many law schools currently using ExamSoft Software allow spellcheck in law school exams and several major U.S. jurisdictions allow it on bar exams. Two psychometric experts provided opinions that spellcheck would not provide any advantage to laptop examinees. Discussion by board members for and against the proposal occurred. A motion was made and seconded to allow spellcheck for laptop examinees using ExamSoft. Two members voted in favor of the motion and six voted against it. Accordingly, the motion failed.

John Simpson requested an agenda item for a future Board meeting to discuss releasing bar exam results without releasing applicant names. Lee Parsley requested that Board members have access to the pass list prior to official release of results.

Mr. Parsley requested that visa requirements for foreign applicants be discussed at a future Board meeting. Mr. Parsley also requested that current language in Board orders concerning "conclusive presumption" be reviewed. Mr. Simpson requested that Lori Adelman and Bruce Wyatt research this and report to the Board.

- c. Question editing timeline. Josh Henslee discussed the timeline for question editing and review as contained in the meeting book.
- d. July 2012 Bar Exam. Mr. Henslee reported on the July 2012 Bar Exam statistics as contained in the meeting book.

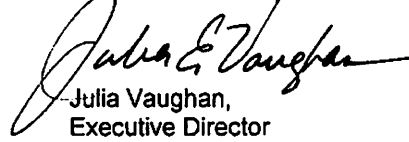
11. Report of Staff Attorney. Bruce Wyatt summarized the Litigation Update Memo contained in the meeting book.

12. Question Review. At approximately 11:50 a.m., John Simpson, Chair, called a brief recess before closing the meeting to the public at 12:20 p.m., pursuant to the provisions of Sec. 82.003(b) Tex. Gov. Code Ann., whereupon the Board proceeded to meet in executive session in Group 1 (John Simpson, Lee Parsley, Sandra Zamora and Teresa Ereon Giltner) and Group 2 (Michael Sokolow, Dan Pozza, Al Odom, Augustin Rivera and Laura Swann) for the purpose of reviewing and editing the questions to be used on future bar examinations. All Board members were present in one of the groups.

At approximately 2:00 p.m., Lee Parsley and Al Odom departed the meeting, having completed their editing tasks. At approximately 2:05 p.m. John Simpson, Chair, declared the executive session concluded and reconvened the meeting in open session with John Simpson, Michael Sokolow, Dan Pozza, Sandra Zamora, Augustin Rivera, Teresa Ereon Giltner and Laura Swann, all present and constituting a quorum.

12. Adjournment. There being no further business, the meeting of the Board of Law Examiners was adjourned at 2:05 p.m.

Respectfully submitted,



Julia Vaughan,
Executive Director

APPROVED:



John Simpson, Chair