

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
March 22, 2013**

1. Call to Order/Determination of Quorum/Excused Absences. The meeting of the Board of Law Examiners was convened in open session by John Simpson, Chair, on Friday, March 22, 2013, at 9:02 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 R. Swann.

2. 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:

December 7, 2012 Hearings Panel (Zamora);
December 7, 2012 Hearings Panel (Parsley);
January 10, 2013 Hearings Panel (Simpson);
January 10, 2013 Hearings Panel (Sokolow);
January 11, 2013 Board Meeting; and
January 11, 2013 Certified Agenda.

3. Report of Accountant

a. Investment Report. Rod Shaheen, Accountant, summarized, and the Board reviewed, the Investment Report as of February 28, 2013.

b. Financial Reports. Rod Shaheen explained, and the Board reviewed, the Financial Reports for the period September 1, 2012 through February 28, 2013.

4. Review Independent Audit Proposals. Finance Committee Chairman Lee Parsley reported that two audit proposals had been received for the fiscal year ending August 31, 2013. Mr. Parsley explained that the two proposals were for comparable work, but that the proposed fees differed considerably. Montemayor, Hill & Company proposed a fee in the amount of \$18,000 and Anna Swenson, CPA, proposed a fee of \$9,000.

The Finance Committee recommended that, as both firms are experienced and will likely handle the audit in a similar manner, the Board accept Swenson's bid. Upon motion made and seconded, by unanimous vote, the Board agreed to accept the bid of Anna Swenson, CPA, to perform an independent audit for the Fiscal Year ending August 31, 2013, in accordance with the terms of the proposal contained in the meeting book.

5. Report of Executive Director.

a. Calendar update. Julia Vaughan reported that Beverly Tarpley, former Board Member and current NCBE Board member, has invited Texas attendees at the April NCBE conference to dinner on Friday evening per the invitation contained in the meeting book. Ms. Vaughan would like anyone interested in attending to RSVP at their earliest convenience.

- b. Legislative Update - Senate Bill 363. Ms. Vaughan reported on Senate Bill 363, relating to prohibited exemptions from state bar examination requirements for attorneys who hold law licenses issued by certain other states. In essence the bill seeks to change our current Admission without Examination (AWOX) Rule to require reciprocity. It would effectively disallow AWOX in Texas for attorneys licensed in other jurisdictions, including California, Florida, Louisiana, Montana, Nevada, New Mexico and Rhode Island, which require successful completion of the bar examination for all candidates, including experienced attorneys. Administratively, this change would be workable. However, as a practical matter, Ms. Vaughan reported that it can fairly easily be "worked around" in that our rules define the District of Columbia ("D.C.") as a "state" and D.C. currently has quite liberal AWOX rules for experienced attorneys. This bill was originally set for hearing in February but was postponed and has not been rescheduled. Ms. Vaughan agreed to monitor the bill for any future action and address this further, if necessary, at a future board meeting.
- c. Texas Editor. Ms. Vaughan reviewed Rick Gilpin's resume with Board members and discussed Mr. Gilpin's previous experience as Chairman of the Opinions Committee at the Attorney General's office. Ms. Vaughan reported that Mr. Gilpin is expected to appear in person later today to discuss the editor position with Board members.
- d. General Agency Operations. Ms. Vaughan announced that security for the Tom C. Clark building will soon be heightened due to recent threats. The North and South doors of our building will be locked to all visitors and deliveries, with employee ID badge accessibility only. Only the East doors near the Supreme Court and Court of Criminal Appeals courtrooms will be available for visitor access, with a DPS trooper on duty during regular work hours.

6. Rule II (a)(5)(D) requirement for student visa holders in light of final report of Supreme Court Task Force on International Law. Ms. Vaughan discussed the final report of the Supreme Court Task Force on International Law, an executive summary of which is contained in the meeting book. She summarized recommendations concerning licensure for foreign educated applicants, including the ability to achieve licensure in Texas based on holding an F-1 non-resident student visa with optional practical training (OPT) authorization. Ms. Vaughan reported that the Court has not disclosed any timetable for considering the report and has indicated that it may seek public input before enacting any recommended changes. The Board discussed whether a longer term professional visa should still be required prior to licensure or whether Rule II eligibility requirements should be construed more literally to allow for student visas with OPT to fulfill the requirements, as urged by the Task Force report. By consensus, the Board determined that the Board may construe the policy more broadly without a rule change since OPT status does allow for work in the United States, albeit on a limited basis. Applicant Hyunah Kim was present during the discussion and offered her own situation as an example of a person who would benefit from a broader construction of this rule. By consensus, the Board decided to construe the rule broadly effective immediately to allow student visa holders with OPT work authorization to meet Rule II eligibility requirements.

7. Proposed Amendments to Fee Rule for MPRE Score reporting. Josh Henslee reviewed the Memo in the meeting book and explained that the National Conference of Bar Examiners ("NCBE") has taken over reporting Multistate Responsibility Examination ("MPRE") scores. NCBE does not intend to report MPRE scores that are more than 15 years old and has stated that this policy will continue, even when electronic records are available, for scores over 15 years old. This has created problems for Texas attorneys seeking admission in other states. Mr. Henslee asked that the Board consider recommending to the Court that Rule XVIII (a) be changed to add a \$25 fee to cover the expenses associated with BLE staff researching and reporting older MPRE scores when requested.

After discussion by the Board, and upon motion and seconded, the Board unanimously approved recommending to the Court the adoption of an MPRE transfer fee in the amount of \$25 in the form attached to these minutes.¹

8. Break between exams on Day One of Bar Exam. Dan Pozza proposed that the Board reinstate an official break between exams on day one of the Texas Bar Exam. The logistical and security issues at larger test centers were discussed by the Board, as well as the possibility of switching the order of testing on day one to have the Procedure & Evidence ("P&E") test before the Multistate Performance Test ("MPT") to more easily facilitate the addition of a 30 minute official break between exam segments. After discussion by the Board, Mr. Pozza's proposal failed for lack of a second. By consensus, the Board determined that, if such a break were to be reinstated, it would be better to initiate any such change effective with a February exam, when the number of examinees would be much more manageable. Meanwhile, it was agreed that the day one announcing instructions should include instructions at least 10 minutes before the official start time explaining that there would be no break between the MPT & P&E exams and that persons needing a restroom break could leave the room with their ID and Admission Ticket and return to their seats by 8:30 a.m.

9. Report of Director of Eligibility and Examination. Josh Henslee, Director of Eligibility and Examination, reviewed the Question Preparation schedule contained in the meeting book.

10. Report of Director of Character and Fitness- Conversion of Licenses. Lori Adelman, Director of Character and Fitness, summarized the report on the conversion of Probationary Licensees to Regular Licensees, as contained in the meeting book.

11. Report of Staff Attorney. Bruce Wyatt summarized the Litigation Update report contained in the Meeting Book.

Mr. Sokolow commented that it might be beneficial for staff attorneys to advise all applicants in advance of their character and fitness hearings about the time that has been allotted for their character and fitness hearings. While each panel chair would retain the discretion to allow more or less time than the limit or allotment communicated in advance, Mr. Sokolow thought a time limit or allotment would help both sides better organize and present their cases, in much the same manner as commonly occurs in courts which adhere

¹ See attached proposed Order amending Rule XVIII.

to time limits. Mr. Simpson then suggested that the staff attorneys list "allotted times" as opposed to "estimated times" on the docket sheets provided to the panel prior to the hearings.

Editor candidate Rick Gilpin arrived at 10:15 a.m. Ms. Vaughan introduced Mr. Gilpin and the Board discussed Mr. Gilpin's background and his willingness to review the draft questions for substance as well as form. Board members agreed that any substantive review would be enhanced by supplying the editor with authorities they used in drafting the questions and answers. Mr. Gilpin agreed to assume responsibilities of Texas editor effective with the current question review cycle.

12. Communications from the Public. The Chair called for communications from the public. Only Ms. Kim, a member of the public who commented on agenda Item 6, was present. Ms. Kim had no other comments.

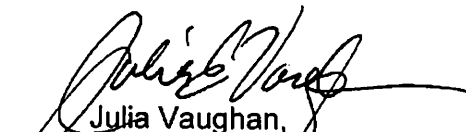
13. Question Review. At approximately 10:30 a.m. John Simpson, Chair, called a brief recess. At approximately 10:50 a.m. John Simpson, Chair, declared the meeting closed to the public, pursuant to the provisions of Sec. 82.003(b), Tex. Gov. Code Ann. All Board members were present. The Board proceeded to meet in executive session for the purpose of reviewing and editing the questions to be used on future Texas Bar Examinations.

Two smaller groups were formed for question review, consisting of Michael Sokolow, Dan Pozza, Sandra Zamora, Augustin Rivera, Jr. and Laura Swann in Group A. Teresa Ereon Giltner, Al Odom, Lee Parsley and John Simpson met in Group B.

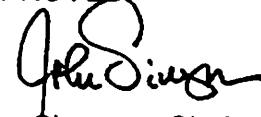
At approximately 12:35 p.m., Teresa Ereon Giltner was excused from the meeting, having completed her editing assignment.

13. Adjournment. There being no further business, the executive session of the Board of Law Examiners was concluded at 12:55 p.m., and the meeting reconvened in open session with John Simpson, Michael Sokolow, Dan Pozza, Lee Parsley, Augustin Rivera, Jr. Al Odom, Sandra Zamora and Laura R. Swann constituting a quorum. Adjournment was called at 12:56 p.m.

Respectfully submitted,


Julia Vaughan,
Executive Director

APPROVED:


John Simpson, Chair