

**MINUTES OF THE MEETING OF THE  
BOARD OF LAW EXAMINERS**

**November 8, 2013**

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 8, 2013, 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, Lee Parsley, Sandra Zamora, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Laura Swann and John Cayce, Jr.

Julia Vaughan introduced new Board Member John Cayce, Jr., who was warmly welcomed by Board members and staff.

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:

April 12, 2013 Hearings Panel (Rivera);  
May 10, 2013 Hearings Panel (Pozza);  
June 6, 2013 Hearings Panel (Zamora);  
June 6, 2013 Hearings Panel (Simpson);  
June 7, 2013 Board Meeting;  
July 12, 2013 Hearings Panel (Rivera);  
July 12, 2013 Hearings Panel (Sokolow);  
September 13, 2013 Hearings Panel (Simpson);  
September 13, 2013 Hearings Panel (Odom); and  
October 11, 2013 Finance Committee Meeting.

3. Report of Accountant.

- a. Investment Report. The Chief Accountant, Rod Shaheen, explained and the Board reviewed the Investment Reports dated May 31, 2013 and August 31, 2013.
- b. Financial Reports. Rod Shaheen and Julia Vaughan explained and the Board reviewed the Board's Annual Financial Report for the period September 1, 2012 through August 31, 2013, together with the variance report, and additional profit and loss comparison details. A ten year profit and loss comparison (September 2003 through August 2013) was also presented by staff and discussed. Upon motion made and seconded, the Annual Financial Report was unanimously approved by the Board.

4. Finance Committee Report. Julia Vaughan and Lee Parsley referred to the Finance Committee Minutes in the meeting book and advised that the Committee met with Anna Swenson, Auditor, who plans to start the audit in mid-November. The Committee also recommended that the full Board approve Wells Fargo to continue its service as the Board's investment broker.

5. Investment Policy. Julia Vaughan explained the Policy for the Investment of Board Funds<sup>1</sup>, 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 attached<sup>1</sup>, 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.

6. Report of Executive Director.

- a. Calendar Update. Julia Vaughan reviewed the calendar for the remainder of 2013 and the proposed 2014 calendar. Several Board Members noted conflicts with panel service during 2014 and proposed trades. After discussion by Board members, trades were confirmed and reflected on the 2014 Board Calendar as follow: Giltner will serve for Cayce January 9, 2014 in exchange for Cayce serving for Giltner March 7, 2014; Parsley will serve for Swann January 9, 2014 in exchange for Swann serving for Parsley October 10, 2014; and Cayce will serve for Swann May 9, 2014 in exchange for Swann serving for Cayce on July 11, 2014.<sup>2</sup>

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<sup>1</sup> Policy for the Investment of Board Funds.

<sup>2</sup> 2014 Board Calendar, as amended

- b. Construction Update. Ms. Vaughan discussed the memo and construction plans contained in the meeting book and reported that the proposed remodeling project will be paid for by Office of Court Administration with no cost to the Board. A start date has yet to be announced, but is anticipated to be scheduled to prevent undue disruption to BLE operations. Board members discussed the proposed Board room and lobby configuration.
  - c. Ms. Vaughan discussed planning a gathering of Law School officials and senior Board staff following the May, 2014 Swearing In Ceremony.
  - d. Reciprocity. Ms. Vaughan reviewed the recent request by the Supreme Court for the Board's comments on a legislative proposal concerning amending admission without examination (AWOX) rules to require reciprocity. The Board's response and recommendations are contained in the meeting book, together with the response of the Supreme Court's General Counsel indicating that the Court concurs with the Board's recommendation to maintain the status quo and has decided not to pursue any additional action at this time.
  - c. Agency Operations. Julia Vaughan announced that Sheila Shepherd retired from the Board staff at the end of September and her job duties as purchaser have been reallocated to four current staff members. This arrangement will be reexamined at the end of 2013 to determine if the reallocation of duties is working as well as anticipated. If not, then the hiring of a part-time employee may be considered. Kendelyn Schiller has been hired to fill the vacant position as Licensure Analyst.
7. Staff Proposal to develop application to offer Procedure and Evidence via laptop for the Texas Bar Exam. Julia Vaughan and Darrell Eichman reviewed Mr. Eichman's research into developing an application to offer the Procedure and Evidence (P&E) portion of the Texas Bar Exam via laptop computer. Mr. Eichman discussed research he conducted concerning the number of typed characters needed to maintain parity between writers and laptop users, and other information from his report contained in the meeting book. Advantages and disadvantages were discussed. Board members expressed concerns that some laptop applicants might view this innovation as unduly restricting the length of their answers and some laptop applicants might answer questions out of sequence so that grading might be difficult. Concerns about security of questions were raised in the event BLE released encrypted questions to ExamSoft prior to the exam so that examinees could view questions on their computer while composing their answers to more closely simulate the current method of P&E exam administration. It is known that Dr. Stephen Klein will review the P&E component of the bar exam within his overall psychometric review in the coming months. Board members could not reach consensus on the proposal to develop a laptop P&E exam so they agreed to table this until a future meeting, preferably after Dr. Klein's report is final and after P&E graders have had an opportunity to express their views to the Board members for whom they grade.
8. Report of Director of Character and Fitness.
- a. Probationary License report. Allison Drish summarized the reports in the Meeting Book on conversions from probationary licensure to regular licensure and modifications to probationary licenses.
  - b. DSM-5<sup>th</sup> Edition. Allison Drish reviewed the new classification of substance use disorder and reported on discussions with professionals in this field who believe there may be some steps that the Board may need to take in the future, but that it is too early to know all that may be needed. Further developments in this area will be shared with the Board.
  - c. Year End Hearing Statistics. Ms. Drish reviewed the 2013 Fiscal Year Summary of Character & Fitness (C&F) Hearings contained in the meeting book.
9. Report of Director of Eligibility & Examination.
- a. Question editing timeline. Josh Henslee discussed the timeline for question editing and review as contained in the meeting book.
  - b. Psychometric Study Update. Josh Henslee discussed the timeline and memo from Dr. Klein and indicated that Dr. Klein plans to complete his psychometric review in time for the April 2014 Board Meeting.
  - c. Year End statistical report on accommodations. Kristin Bassinger reviewed the 2013 Fiscal Year statistics on testing accommodations as contained in the meeting book.

10. Report of Staff Attorney. Bruce Wyatt summarized the Litigation Update Memo contained in the Meeting book and reported that a motion to dismiss is being prepared by our attorney to be filed once completed.

11. Question Drafting Assignments. Chairman John Simpson reported that he had taken over responsibility for the Multistate Performance Test (MPT) from recently retired Board member Dan Pozza. Sandra Zamora agreed to take over Civil Procedure & Evidence from Mr. Simpson. New Board Member John Cayce will take over Family Law from Ms. Zamora. All other drafting duties will remain in effect. Ms. Zamora thanked Mr. Simpson for providing questions for the current review cycle. Mr. Cayce thanked Ms. Zamora for providing family law questions for the current review cycle to smooth his transition into this aspect of Board duties.

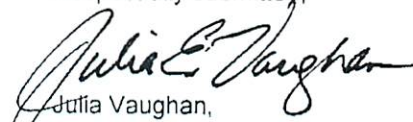
12. Election of Chair, Vice Chair and Member at Large of the Accommodation Review Committee (ARC) and Finance Committee. John Simpson reiterated that he and Mr. Sokolow had decided to pass on their leadership duties as Chair and Vice Chair and thanked Board members for the honor of serving for the past several years. Then Mr. Simpson opened the floor for nominations. Upon motion by Michael Sokolow, Lee Parsley was unanimously elected as Chair. Upon motion by Laura Swann, Sandra Zamora was unanimously elected Vice Chair. Upon motion by Teresa Ereon Giltner, Augustin Rivera was unanimously elected to serve as member at large of the Accommodations Review Committee. Newly elected Chair Lee Parsley asked for volunteers to serve on the Finance Committee, with Al Odom and Laura Swann volunteering to serve. Teresa Ereon Giltner, who has served on Finance Committee since 2011, agreed to serve as Chair of the Finance Committee. Al Odom and Laura Swann agreed to serve as committee members, and Lee Parsley will serve as ex-officio member.

13. Question Review. At approximately 10:25 a.m., Lee Parsley, Chair, called a brief recess before closing the meeting to the public at 10:35 a.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 (Al Odom, Augustin Rivera, Laura Swann and Sandra Zamora) and Group 2 (Lee Parsley, Michael Sokolow, Teresa Ereon Giltner, John Cayce and John Simpson) 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. The Board's Liaison, Justice Don Willett, attended a portion of question review.

At approximately 12:40 p.m., Lee Parsley, Chair, declared the executive session concluded and reconvened the meeting in open session with all Board Members present and constituting a quorum.

14. Adjournment. There being no further business, the meeting of the Board of Law Examiners was adjourned at 12:40 p.m.

Respectfully submitted,

  
Julia Vaughan,  
Executive Director

APPROVED:

  
Lee Parsley, Chair