

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
April 11, 2014**

1. Call to Order/Determination of Quorum/Excused Absences. The meeting of the Board of Law Examiners was convened in open session by Lee Parsley, Chair, on Friday, April 11, 2014, 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: Lee Parsley, Sandra Zamora, John Simpson, Michael Sokolow, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Laura R. Swann and John Cayce, Jr.

Chairman Parsley introduced Nahdiah Hoang, the Board's new Director of Eligibility & Examination, and he acknowledged the presence of guests, including Supreme Court Rules Attorney Martha Newton and Jackson Odom, who attended the meeting with his father, Al Odom.

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 6, 2013 Hearings Panel (Parsley);
January 9, 2014 Hearings Panel (Zamora);
January 9, 2014 Hearings Panel (Sokolow);
January 10, 2014 Board Meeting;
January 10, 2014 Certified Agenda;
February 7, 2014 Accommodations Review Committee;
February 7, 2014 Hearings Panel (Zamora); and
February 7, 2014 Hearings Panel (Ereon Giltner).

3. Report of Accountant

a. Investment Report. Rod Shaheen, Accountant, summarized, and the Board reviewed, the Investment Report as of February 28, 2014.

b. Financial Reports. Rod Shaheen explained, and the Board reviewed, the Financial Reports for the period September 1, 2013 through February 28, 2014.

4. Review Independent Audit Proposals. Finance Committee Chairman Teresa Ereon Giltner reported that two proposals had been received to conduct the audit for the fiscal year ending August 31, 2014. Ms. Ereon Giltner explained that the two proposals were for comparable work, but that the fees differed considerably. Montemayor, Hill & Company proposed a fee in the amount of \$14,000 and Anna Swenson, CPA, proposed a fee of \$9,500.

The Finance Committee unanimously recommended that 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, 2014, 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 BLE Board Member and current NCBE Board member, has invited Texas attendees at the May 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. Ms. Vaughan also confirmed attendance at the NCBE Seattle meeting as stated on the list contained in the meeting book.

Ms. Vaughan asked all Board members to save the date for NCBE's Testing and Grading Seminar which will be held on September 4, 2014. Ms. Vaughan explained that space should be available for all Board members interested in attending and encouraged Board members to attend if possible.

Ms. Vaughan also offered to help with training and calibration of Board members and graders who are new to the grading process or who might like to refresh their grading skills.

Ms. Swann announced that she would be serving on the June 5, 2014 panel in place of Mr. Cayce, who would serve in her place October 10, 2014. Mr. Odom agreed to serve on the May 9, 2014 panel in place of Mr. Cayce for a trade to be determined in the future.

- b. Update on Efast Electronic Grade Release Project. Ky Strunc reported on the status of the Efast project in which 400 examinees have been invited to participate in a pilot project to access their grade release documents online. He advised that over 100 examinees had signed up to participate within the first 45 minutes of being offered the opportunity. Emails will be sent to the examinees who have opted to participate in the pilot program. They will be provided instructions on how to access their documents online at grade release. It is anticipated that this pilot project could be increased in scale over time.

- c. Update on OCA Document Repository Project. Ms. Vaughan updated the Board on the project for BLE to have access to the Office of Court Administration (OCA) secure repository for documents to be electronically accessed by Board members. We anticipate using this for the June Board meeting books. Ms. Vaughan encouraged Board members to bring their devices (tablet or laptop computers) to review the documents on the repository during the meeting, but indicated that hard copies of meeting materials will continue to be provided for Board member use during the meeting, if needed.
- d. Construction Project Update. Ms. Vaughan updated Board members on the current status of the office construction project, which is estimated to start in early May. The construction is expected to occur in two phases; the first involving the small conference room and lobby area and the second involving the large conference room and offices in the north hall.
- e. General Agency Operations. Julia Vaughan introduced Nahdiah Hoang, the new Director of Eligibility and Examination. Ms. Vaughan also advised that there is a Licensure Analyst vacancy at this time.

Ms. Vaughan announced that an informal gathering with Senior Board Staff and the Law School Deans is being planned immediately following the May 12th Swearing In Ceremony. Depending on the status of the construction project, the gathering will be held in the Board conference room, or in an alternate location in the building. Invitations to Law School Deans have been sent and the discussion is expected to cover the possibility of NCBE changing bar exam dates, as well as other matters that may be brought up by the law school officials, such as the length of the grading cycle.

6. Report of Darrell Eichman comparing security electronic collaboration tools and encrypted email to transmit bar exam questions between Board members, editors and Board staff. Darrell Eichman reported on his research concerning the use of encrypted email transmission of draft questions during the buddy review and edit process. Laura Swann and Lee Parsley volunteered to test the encryption protocol. Once it has been tested, Sandra Zamora suggested a training session for interested Board members who wish to opt in at a future time.

7. Psychometric Audit of Texas Bar Examination. Julia Vaughan reported that Dr. Stephen Klein was in the hospital and unavailable to participate in the scheduled phone conference to review his report contained in the meeting book. Meanwhile, Board members discussed the Psychometric Report contained in the meeting book; particularly Dr. Klein's suggestion to review the regrade policy. Members discussed whether a "blind" regrade by Board members or a "blind" regrade by both the Board members and their graders might be worthy of consideration. Board staff was requested to review data from more exam cycles to determine the number of examinees who pass on regrade. No additional formal study by Dr. Klein is planned for this time. By consensus, the Board agreed to review the regrade information for more exam cycles in an attempt to determine whether Dr. Klein's findings for the two exam cycles he reviewed are truly representative.

8. Report of John Simpson concerning informal and formal review process. John Simpson reported to Board members concerning the Statute and Rule provisions governing Formal and Informal Reviews, together with efforts over the past decade to examine the efficacy of Formal and Informal reviews. Mr. Simpson's complete report, including a study by Dr. Stephen Klein and a survey of Formal Review participants, is contained in the meeting book. In the near term, Mr. Simpson recommended conducting an updated survey of individuals participating in the June 2014 Formal Review process, similar to the survey conducted in June 2009. By consensus, it was agreed that an updated survey should be done.

Mr. Sokolow suggested that the individualized information currently provided to all unsuccessful examinees appears to comply with the intent of the informal review requirement.

The Board asked staff to attempt to review information as to the number of Formal and Informal Review participants who have ultimately passed the bar exam for several exam cycles and see if there is any way to compare this group to those repeaters who ultimately passed without Formal or Informal reviews during the same time period. No formal study of this information by Dr. Klein is anticipated at this time.

9. Presentation by Attorney Larry P. Smith concerning Rule XIII (Admission without Examination AWOX) proposal to modify subsection (a)(1)(c). Ms. Vaughan introduced Larry Smith and Sheryl Smith and distributed additional information provided by Mr. Smith after the meeting book had been mailed. Mr. Smith explained his proposal to modify subsection (a)(1)(c) of the AWOX Rule to read "has not failed the Texas Bar Examination within the past five (5) years" or to eliminate this provision in its entirety. Mr. Smith explained that the American Bar Association (ABA) adopted a Model Rule for Admission on Motion in 2012 that a number of jurisdictions have adopted. This ABA Model Rule allows admission on motion, provided that the applicant has not failed the bar exam within the past five years. Currently, Texas appears to be in the minority by not allowing AWOX if an applicant has ever been unsuccessful on a previous Texas bar exam. Mr. Smith read excerpts from the ABA report and asked Board members to consider a change to our current rule.

After discussion by the Board, Julia Vaughan agreed that staff would study the ABA Model Rule, prepare a draft of a proposed amendment to Rule XIII, in accordance with the ABA Model Rule, and present the changes in redline format for consideration at the June 2014 Board meeting.

Rules Attorney Martha Newton departed the meeting after this discussion, as did Larry and Sheryl Smith.

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. Ms. Adelman also reported on the follow up actions requested at the January 2014 Board meeting and has met with analysts to review new additions to the Policy & Procedure guide concerning communications with Declarants and Applicants who may be represented by an attorney.

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

12. Communications from the Public. The Chair called for communications from the public. No additional public comments were offered.

13. Question Review. At approximately 11:15 a.m. on April 11, 2014, Lee Parsley, Chair, declared the meeting closed to the public, pursuant to the provisions of Sec. 82.003(b), Tex. Gov. Code Ann., whereupon the Board proceeded to meet in Executive Session for the purpose of reviewing and editing the questions to be used on future bar examinations.

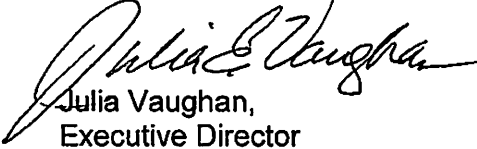
Prior to commencement of question review, by consensus, the Board agreed to discontinue using the services of the current Texas Editor and attempt to have Julia Vaughan and Nahdiah Hoang provide the editing services previously performed by the Texas Editor at the staff level.

All Board members then proceeded to meet in one of two question editing groups. Sandra Zamora, Al Odom, John Cayce, Jr. Laura R. Swann and John Simpson met in the Board room as Group One. Lee Parsley, Michael Sokolow, Teresa Ereon Giltner and Augustin Rivera, Jr. met in the small conference room as Group Two.

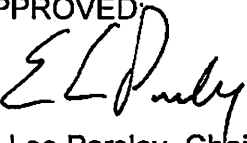
At approximately 1:30 p.m., the question review by Group One concluded and John Simpson and Al Odom were excused from the meeting, having completed their editing assignments.

14. Adjournment. At approximately 1:50 p.m., the question review of Group Two concluded. Lee Parsley, Chair, declared the Executive Session concluded and reconvened the meeting in open session with Lee Parsley, Michael Sokolow, Sandra Zamora, Teresa Ereon Giltner, Augustin Rivera, Jr., Laura R. Swann and John Cayce, Jr. constituting a quorum. The meeting was adjourned at approximately 1:52 p.m.

Respectfully submitted,


Julia Vaughan,
Executive Director

APPROVED:


E. Lee Parsley, Chair