

**MINUTES OF THE MEETING OF THE  
BOARD OF LAW EXAMINERS  
June 6, 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, June 6, 2014 at 9:05 a.m. in the Board's offices, located in the Tom C. Clark Building, 205 W. 14<sup>th</sup> 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.

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.

March 7, 2014 Hearings Panel (Swann);  
April 10, 2014 Hearings Panel (Simpson);  
April 11, 2014 Finance Committee Meeting;  
April 11, 2014 Board Meeting; and  
April 11, 2014 Certified Agenda.

3. Report of Accountant.

- a. Investment Report. The Chief Accountant, Rod Shaheen, explained and the Board reviewed the Investment Reports as of May 31, 2014.
- b. Financial Reports. Rod Shaheen explained and the Board reviewed Financial Reports for the period from September 1, 2013 through April 30, 2014 as contained in the meeting book.

4. Proposal to Amend Rule XIII(a)(1)(C) Admission Without Examination (AWOX).

Mr. Parsley took up agenda item 6 out of order because Martha Newton, Rules Attorney for the Supreme Court of Texas, was present to discuss the proposal to amend Rule XIII(a)(1)(C) of the *Rules Governing Admission to the Bar of Texas* in accordance with the current ABA Model Rule allowing admission on motion, provided that the applicant has not failed the bar exam within the past five years. Ms. Vaughan reminded the Board that this matter was previously discussed by the Board at its April 11, 2014 Board Meeting when attorney Larry P. Smith explained to the Board 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 examination within the past five years. Currently, Texas appears to be in the minority of jurisdictions by not allowing admission without examination if an applicant has ever been unsuccessful on a previous Texas bar exam.

At its April 11 meeting, the Board had requested Board staff, in consultation with Ms. Newton, to review the ABA Model Rule and prepare a draft of a proposed Order amending Rule XIII, in accordance with the ABA Model Rule, and present the changes in redline format for consideration at the June 6, 2014 Board Meeting.

Martha Newton briefed the Board concerning the Court's timetable for publishing another proposed amendment to Rule XIII recommended by the Task Force on International Practice.

Upon motion made and seconded to recommend the amendment to Rule XIII (a)(1)(C) in the form attached<sup>1</sup>, the majority of the Board voted against recommending this change. Board members expressed concern that an applicant who has failed the Texas bar exam on multiple prior attempts could still qualify for admission without examination under the ABA Model Rule, which raises public protection considerations. Board members also discussed that the Rule in its present form can be waived, on a case by case basis for good cause shown based on individual circumstances, should an applicant for admission without examination have failed the Texas bar exam in the distant past.

Upon motion made and seconded, a majority of the Board voted in favor of reporting the attached draft Order to the Court "without a recommendation." Board members expressed the belief that the Board should make this matter known to the Court and defer to the Court should the Court be inclined, on its own initiative, to consider whether to include this matter for comment with the Task Force's proposed amendment, simply because the ABA Model Rule carries weight as a consensus approach adopted by many jurisdictions.

Ms. Newton departed the meeting following this vote.

5. Review and Approve Proposed Budget for Fiscal Year 2015.

Julia Vaughan reviewed the highlights of the proposed budget for FY 2015 and detailed the revenue and expense projections included in the meeting book.

Ms. Vaughan distributed a Confidential Memo to board members, containing details as to projected revenues and expenses for FY 2015, several years of prior year-end profit and loss figures, and reserve account usage, as well as a recommendation for staff salary increases.

From the budget detail contained in the meeting book, it was noted that most of the Board's additional projected expenses in FY 2015 are exam related, including the cost of materials purchased from the National Conference of Bar Examiners (NCBE), the addition of proctors needed for disability accommodations, and facility costs. A non-recurring item, the cost of replacing 14-year old carpet in the Board office, is necessitated by the remodeling project undertaken by the Office of Court Administration.

Ms. Vaughan reviewed the Board's financials for the past several years and Mr. Parsley commented that the Board has conserved on expenses. Rod Shaheen projected spending from reserves for the upcoming Fiscal Year in the amount of approximately \$128,000.

The Board discussed personnel portions of the budget with Julia Vaughan and Rod Shaheen. Other staff were temporarily excused for a discussion of employee compensation in accordance with the Confidential Memo concerning proposed salary increases for Staff. At 10:40 a.m. Board Staff returned to the meeting.

After discussion by the Board, upon motion made and seconded, the Board unanimously approved the proposed Fiscal Year 2015 budget in the form attached to the minutes<sup>2</sup> with the understanding that approximately \$6,000 will be added to expenses due to additional retiree benefits to be paid by the BLE that were identified too late for inclusion in the meeting book. Mr. Parsley commented on Board member concerns that budget tightening could again be necessary if spending from reserves was required in 2015 and that the trend of employee across-the-board raises could not be sustained in that event. Mr. Parsley also suggested that an agenda item be added to the November Board meeting to address an exam fee increase to cover NCBE cost increases.

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<sup>1</sup> Amendment to Rule XIII.

<sup>2</sup> See attached Budget Order for FY 2015.

6. Report of Executive Director.

- a. Calendar Update. Julia Vaughan reviewed the 2014 calendar and encouraged Board members to register and attend the NCBE Grading Workshop scheduled in Madison, Wisconsin in early September. Ms. Vaughan plans a training session for John Cayce and his graders this summer and is available to help other Board members and their graders if needed. The Board discussed the need for graders to sync iPads on a regular basis. Al Odom suggested a Memo to graders from Julia Vaughan would be in order to reinforce best practices. Mr. Odom asked that Staff update Board members weekly regarding the pace of their graders in completing their assigned grading tasks. Mr. Parsley commented that Board members need to maintain close communication with their graders to gauge their progress and adherence to grading guidelines, in addition to reviewing weekly reports on the pace of grading.
- b. Update on Informal Meeting with Law Deans. Julia Vaughan reported to Board members on the recent informal gathering with law school Deans held after the swearing in ceremony on May 12, 2014. Ms. Vaughan noted that the National Conference of Bar Examiners (NCBE) proposal to change dates of the Multistate Bar Exam was not well received by the Deans. Participants recommended a letter be sent by Ms. Vaughan to NCBE outlining their concerns with this proposal. The length of the grading and regrading process was also discussed. Deans expressed their interest in meeting again in future years to discuss any new issues.
- c. Construction Update. Ms. Vaughan reported that there is no update at this time.
- d. General Agency Operations. Ms. Vaughan announced that Anahi Villanueva is the new Licensure Analyst who began work recently. All other positions are filled with current employees.
- e. Articles of Interest. Ms. Vaughan pointed out articles of interest, including the announcement of four new Deans at Texas law schools.
- f. Sunset Review. Ms. Vaughan explained to Board members that the Sunset Review process has been postponed by the Legislature until 2017. She reviewed the process involved, starting with a self-evaluation report that will be due in September 2015, followed by information-gathering by Sunset staff, public meetings with Sunset Advisory Commission members, and a report due in January 2017 to the Texas Legislature. Mr. Parsley asked Board members for a volunteer to review the Board's preparation for the upcoming Sunset Review process. This could involve reviewing statutes and reviewing policies and procedures to ensure that BLE is in compliance with statutory requirements. Mr. Parsley stressed the need for Board members to take ownership on behalf of the BLE for this upcoming review. Ms. Vaughan indicated that she hoped to have the Supreme Court Liaison as involved with the upcoming Sunset Review as had been the case with the previous Sunset Review conducted in 2003. John Simpson volunteered to help with the initial report that would be due in September 2015. Mr. Parsley expressed concern as to his own involvement in the Sunset Review process in light of his activities as a lobbyist.

7. Report of Director of Character and Fitness. - License Conversions.

Lori Adelman summarized the Report in the meeting book on conversions from probationary licensure to regular licensure.

8. Report of Director of Eligibility and Examinations.

a. Nahdiah Hoang reviewed regrade statistics as a follow-up to Dr. Stephen Klein's report. Mr. Parsley indicated that possible discussion at a future meeting could be in order to consider changes to the regrade process.

b. Ms. Hoang reviewed the updated survey for Formal Review participants. This form will be given to the twenty-two individuals participating in the process today with a follow up report to be given at the November Board meeting.

c. Ms. Hoang indicated that approximately 3,500 applicants have signed up to take the July 2014 bar exam.

d. Assignments for July 2014 Texas Bar Exam.

The Board members agreed to site assignments for July 2014 as follows:

Lee Parsley	Austin
Sandra Zamora & Augustin Rivera	San Antonio – divide responsibilities
Michael Sokolow & Al Odom	Houston – divide responsibilities
Sandra Zamora, Teresa Ereon Giltner & John Cayce	Arlington – divide responsibilities
John Simpson	Lubbock
Laura Swann	Waco

9. Report of Staff Attorney. Bruce Wyatt summarized his Litigation Update Memo contained in the Meeting Book.

Mr. Parsley inquired about the status of the recent Efast Pilot Project concerning February 2014 bar exam results. Ms. Vaughan commented that the process went well and a determination will be made soon whether to offer this service to all passers for the upcoming July 2014 bar exam.

Sandra Zamora asked Board members to consider changes to the current orientation process to include a mentor program for new Board members and possible additional training. John Cayce suggested that new member orientation be extended to a full day in order to spend more time on all duties, including question preparation, question review, grading, regrades, calibrating scores and what Board staff job duties entail. After discussion by Board members, it was agreed that this topic, together with the possibility of holding a Board retreat in the future, should be discussed at a future Board meeting.

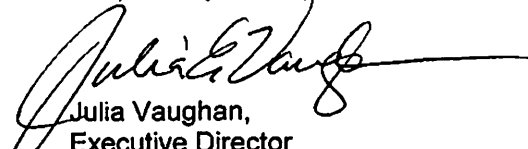
10. Communications from the Public. The Chair called for communications from the public. No members of the public were present.

At approximately 11:25 a.m., Lee Parsley called for a brief recess.

11. Question Review. At 11:35 a.m., Lee Parsley 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 Texas Bar Examinations. All members were present.

12. Adjournment/Formal Reviews. There being no further business, the Executive Session of the Board of Law Examiners was concluded at 2:15 p.m., the meeting was reconvened in open session, and adjournment was called at approximately 2:15 p.m. All Board Members were present. Mr. Parsley announced that Formal Reviews of failing February 2014 applicants' written answers would begin and continue until approximately 6:30 p.m. (*Such reviews are not conducted in a "meeting" of the Board and thus are not open meetings, since each review consists of an individual session in which only one Board member and one or more failing examinees are present*). See attached list of February 2014 examinees by examination number who participated in formal reviews of their examination performance in separate sessions with individual Board Members.<sup>3</sup>

Respectfully submitted,

  
Julia Vaughan,  
Executive Director

APPROVED:



Sandra Zamora, Vice Chair as of June 6, 2014  
Chair effective September 1, 2014

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<sup>3</sup> See attached Formal Review list.