

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
JANUARY 9, 2015**

1. Call to Order/Determination of Quorum/Excused Absences. The meeting of the Board of Law Examiners was convened in open session by Sandra Zamora, Chair, on Friday, January 9, 2015, at 9:03 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: Sandra Zamora, John Simpson, Michael Sokolow, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Laura R. Swann, John Cayce, Jr. and Barbara Ellis.

Sandra Zamora welcomed Executive Director Susan Henricks to the Board of Law Examiners.

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:
October 10, 2014 Hearings Panel (Ereon Giltner);
October 10, 2014 Hearings Panel (Sokolow);
November 6, 2014 Hearings Panel (Zamora);
November 7, 2014 Board Meeting;
November 7, 2014 Certified Agenda of Executive Session Proceedings; and
December 5, 2014 Hearings Panel (Simpson).

3. Review Audit Report. Rod Shaheen introduced Anna Swenson, CPA, who recently performed the audit. Ms. Swenson presented the Independent Auditor's Report, which indicated that BLE received an unqualified "clean" opinion with the highest level of attestation available. Ms. Swenson found that BLE's Annual Financial Report fairly represents its financial activity in all respects. Internal controls studied this year were the accounts payable process and general accounting process. Ms. Swenson also advised that BLE is in full compliance with PFIA.

Sandra Zamora thanked Ms. Swenson and Ms. Swenson departed the Board meeting at 9:19 a.m.

4. Investment Report. Rod Shaheen summarized, and the Board reviewed, the Investment Report dated December 29, 2014.

5. Financial Reports. Rod Shaheen explained, and the Board reviewed, the Financial Reports for the period September 1, 2014 through November 30, 2014.

6. Report of Executive Director.

- a) Calendar Update. Ms. Henricks reported that the February 2015 Panel Hearings will most likely be combined. Barbara Ellis indicated she could serve for Mr. Simpson if needed. Members of the combined panel will be determined within the next week. Ms. Henricks advised the Board that the carpet in the office will be replaced soon, most

likely in March. Bids are being obtained and if possible, the carpet will be purchased through the Texas Facilities Commission to match the carpet being installed on the north side of the floor by the new agency, the Judicial Branch Certification Commission. Carpet installation should take approximately two to three days.

- b) NCBE Conference. The Spring NCBE Meeting will be held in Chicago, Illinois April 30 through May 2, 2015. Board members Barbara Ellis and Sandra Zamora will attend as designated representatives. Board members Al Odom, Augustin Rivera, Jr. and Laura R. Swann also indicated that they plan to attend, as well as Supreme Court Liaison Don Willett and several staff members. Ms. Henricks reminded Board members to let Becky Henly know as soon as possible if they will be attending so travel arrangements can be made and all requests for registration and lodging can be fulfilled.
- c) Construction Project Update. Ms. Henricks updated the Board on the status of the office construction. Construction should be complete once the carpet has been installed.

7. Consider Board's response to Request of Law School Deans seeking information from NCBE to evaluate MBE. Ms. Henricks directed the Board members' attention to a letter received by Julia Vaughan signed by the deans of all Texas law schools, requesting information and data to confirm representations made by NCBE President Erica Moeser regarding the equating and evaluation of scoring for the July 2014 MBE. The Board members reviewed the letter from the deans as well as a more recent response from Ms. Moeser addressed to the University of North Dakota law school dean, in which she explained the equating and validation performed on the July 2014 MBE scores. It was noted that no equating questions will be available for scoring the new civil procedure section of the February 2015 MBE. After discussion, Ms. Henricks was directed to write a letter to the Texas law school deans in response to their request for more information, offering to facilitate a telephone conference call with Erica Moeser and the deans, to request permission to share the deans' letter with Ms. Moeser and to determine if any law school deans have yet met with Ms. Moeser in response to her invitation. Ms. Henricks will draft the response to the deans in consultation with Ms. Zamora and will communicate with the General Counsel to the Texas Supreme Court about the actions taken on this subject.

8. Report of Director of Character and Fitness.

a) Character and Fitness Policy related to past due debt. Lori Adelman, Director of Character and Fitness, reviewed the current Board policy related to past due debt and discussed whether the Board should modify the guidelines related to investigating past due debt of an Applicant as a character issue. After discussion by the Board, and upon motion made and seconded, the Board unanimously approved changes to the policy. The new debt policy shall eliminate "charged off" debt from the calculation and raise the threshold amount of past due debts from \$50,000 to \$100,000 for consumer and mortgage debt. It remains at \$50,000 for student loans, tax debt, or any other debt not dischargeable in bankruptcy. Defaults of Texas Guaranteed Student Loans, employment withholding tax debt, and child support arrearages in any amount, continue to raise a character issue. Defaults of Texas Guaranteed Student Loans, child support arrearages and failure to turn over to the IRS funds withheld for income and social security taxes, in any amount, continue to raise a character issue.

- b) Policy related to chemical dependency evaluation. Ms. Adelman reviewed a staff recommendation to consider proposed changes to Rule I(a)(5) and the current chemical dependency evaluation form. After discussion by the Board, and upon motion made and seconded, it was the consensus to recommend the proposed rule change to the Court for consideration.
- c) Probationary Licenses. Lori Adelman summarized the report on the conversion of Probationary Licensees to Regular Licensees, as contained in the meeting book.

9. Report of Director of Examination and Eligibility

a) Board Coverage of Exam Sites-February 2015. Nahdiah Hoang, Director of Eligibility & Examination, summarized the February 2015 bar exam enrollment and Board members indicated their site administration preferences as follows: Augustin Rivera, Jr. and John Cayce, Jr. will cover San Antonio; Al Odom and Michael Sokolow will split coverage in Pasadena; Teresa Ereon Giltner and Sandra Zamora will share coverage in Fort Worth; John Simpson will cover Lubbock; Laura Swann will cover Waco, and Barbara Ellis will cover Austin.

b) New topic on MBE exam. Nahdiah Hoang advised that beginning with the February 2015 bar exam, civil procedure will be an additional topic on the MBE portion of the exam. The Appendix to the rulebook has been updated accordingly.

10. Report of Staff Attorney. Bruce Wyatt summarized the Litigation Update Memo contained in the Meeting book.

11. Consider request to adopt Certificate of Interested Parties. Mr. Wyatt and Michael Sokolow reviewed the proposed Certificate of Interested Parties for Applicants to complete before a Board hearing to assist staff in identifying any possible conflicts of interest. After discussion by the Board, the recommendation was tabled.

12. General Agency Issues. Augustin Rivera, Jr. asked if it would be possible for Board members to have a State issued badge to assist entering the Tom C. Clark Building as well as the fifth floor. Becky Henly will contact the Department of Public Safety to inquire if this will be possible and report to the Executive Director who will inform Board members about availability of badges for Board members.

Al Odom requested that graders be allowed to keep their iPads until regrades have been completed. Laura Swann indicated that the iPads are useful for Board members when preparing informal review letters and in training graders. Nahdiah Hoang will review the possibility of extending the length of time iPads can be kept by graders and Board members in the future, and will report at the next meeting.

At approximately 10:15 a.m., Sandra Zamora called for a break and asked Board Members to reconvene at 10:35 a.m. for question review.

13. Question Review. At 10:35 a.m. Sandra Zamora 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.

14. Adjournment/Formal Reviews. There being no further business, the executive session of the Board of Law Examiners was concluded at 1:15 p.m., the meeting was reconvened in open session, and adjournment was called at 1:15 p.m. The Chair reminded the Board members about their responsibilities beginning at the conclusion of this meeting in conducting Formal Reviews of certain applicants' performance on the July 2014 Bar Exam (excluding the MBE multistate portion). (*Formal reviews are not conducted in a "meeting" of the Board; only one Board member and one or more applicants are present.*) See attached¹ list of July 2014 examinees identified by examination number only, participating in Formal Reviews.

Respectfully submitted,



Susan Henricks,
Executive Director

APPROVED:



Sandra Zamora, Chair

¹ Formal Review list of July, 2014 examinees