

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
June 5, 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, June 5, 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, Al Odom, John Simpson, Michael Sokolow, Augustin Rivera, Jr., Teresa Ereon Giltner and Barbara Ellis.

Laura R. Swann and John Cayce, Jr. were unable to attend and excused from the meeting.

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 6, 2015 Hearings Panel (Simpson);
April 9, 2015 Hearings Panel (Sokolow);
April 10, 2015 Board Meeting; and
April 10, 2015 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, 2015.

b. Financial Reports. Rod Shaheen explained and the Board reviewed Financial Reports for the period from September 1, 2014 through April 30, 2015 as contained in the meeting book.

4. Review and Approve Proposed Budget for Fiscal Year 2016.

Rod Shaheen reviewed the highlights of the proposed budget for FY 2016 and detailed revenue and expense projections, year-end profit and loss figures, reserve account usage, as well as staff salaries. Rod Shaheen projected spending from reserves for the upcoming Fiscal Year in the amount of approximately \$121,000, or \$70,000 if the Board voted to consolidate the February 2016 bar exam at one site.

At approximately 9:15 a.m. Staff was temporarily excused for a discussion of employee compensation in accordance with proposed salary increases for Staff. The Board discussed personnel portions of the budget with Susan Henricks and Rod Shaheen.

At 9:45 a.m., Board Staff returned to the meeting. The Board considered staff's proposal to administer the February 2016 bar exam at one site, in Austin, Texas. Nahdiah Hoang, Director of Eligibility and Examination, explained that for some time, the Board has administered the February and July bar exams in 6 different locations, which correspond to the locations of all of the ABA-approved Texas law schools. Ms. Hoang proposed that the February Bar Exam be administered at one site only. She explained that, due to availability of venues, Austin is the only viable site at which all examinees could be tested in February 2016. Future February exams could be consolidated in other cities, such as Houston.

Ms. Hoang reported that after the new lawyer's induction ceremony on May 11, 2015, Staff hosted an informal gathering for deans and administrators of all Texas law schools. At the gathering, Staff discussed that the Board would consider this proposal to consolidate the February Bar Exam at its public board meeting on June 5, 2015, and explained that deans and administrators were welcome to attend the board meeting. Some of the deans and administrators expressed concerns about administering the February exam at one site. These concerns included the increased expense and stress for examinees who must travel for the exam. Also, some of the schools associated with some of the smaller test sites currently provide breakfast and lunch for test takers at those sites, which may be more difficult to do if the sites are consolidated.

Ms. Hoang explained that each bar exam should be administered as uniformly as possible in order to most fairly assess the candidates' qualifications to practice law. Administering the exam in one location offers a uniform environment to all examinees—all examinees test under the same conditions, hear the same instructions, are timed by the same timer, and are exposed to the same disruptions (if any). Ms. Hoang noted that consolidating the February exam in particular has several unique advantages in addition to providing a uniform experience:

- Not having any February exam sites in north Texas reduces the significant potential impact of bad winter weather.
- In July, there is some correspondence between the first-time takers at each of the 6 testing locations and the law schools near each of those locations. For example, 55% of first-time takers in July 2014 were from Texas law schools. But in February, that correspondence is not as strong—only 27% of first-time takers in February 2015 were from Texas law schools. Because most February examinees are not current Texas law school students or new Texas law school graduates, there is less benefit to administering the February exam in multiple locations to correspond to the locations of all of the ABA-approved Texas law schools.
- Typically, the number of February examinees is considerably smaller than the number of July examinees. The economies of scale achieved by consolidating the smaller number of February examinees into one site will allow the Board to rent better venues; provide non-standard testing accommodations more efficiently, securely, and discretely; and attempt to negotiate reduced rates and reserved rooms at one or more area hotels, to facilitate out-of-town examinees, as well as for local examinees who prefer to rent a room near the testing facility.

Board members discussed the possibility of offering the February exam at two or three sites, as well as the possibility of gradually reducing the number of February exam sites. Board members noted that Houston would also be a good site for the February exam—bad winter weather would be less likely, and traveling to Houston could be easier.

The Chair noted that no members of the public, including deans or administrators from Texas law schools were in attendance.

Upon motion made and seconded, the Board unanimously voted to approve Staff's proposal to consolidate the February Bar Exam at one site.

After discussion by the Board, upon motion made and seconded, the Board unanimously approved the proposed Fiscal Year 2016 budget in the form attached to the minutes¹. With the decision to consolidate the February 2016 exam, the Board voted to approve the revised Budget. The budget includes a 1% pay increase for all employees in addition to the 2.5% pay increase required by the legislature to partially compensate for the increased contribution of 2.6% by all active employees to the Employees Retirement System. The net pay increase is .9% after the increased retirement contribution by each employee.

¹ See attached Budget Order for FY 2016.

5. Report of Executive Director.

a. Calendar Update. Susan Henricks reviewed the 2015 calendar of events and reminded Board Members the calendar contained in the meeting book had been revised since the book was posted and was therefore not correct.

Ms. Henricks reported that a September Board Meeting would be necessary in order to review the pending Self Evaluation Report due on September 1, 2015 to the Sunset Commission as well as Question Review, which was postponed from June 5, 2015. Hearing panels will occur on Thursday, September 10, 2015 with the Board Meeting and Question Review on Friday, September 11, 2015.

Ms. Henricks reported that Staff and Board members Al Odom and Barbara Ellis recently attend the NCBE meeting in Chicago, Illinois and that the August CBAA/NCBE meeting will be in Wilmington, North Carolina. The Executive Director and other Staff plan to attend.

b. Update on meeting with Law Deans. Susan Henricks reported to Board Members on the recent luncheon with Texas law school deans held after the swearing in ceremony on May 11, 2015. Attending law school deans focused discussion on bar exam grades in recent years and expressed interest in receiving requested additional information on examinees from the National Conference of Bar Examiners. The deans are expected to detail this information request in a letter that has not yet been received.

c. General Agency Operations. Chair Sandra Zamora requested that Board Members not use their cell phones while serving on hearing panels.

Susan Henricks announced that the online payment project is expected to go online the week of June 8, 2015 for Non-Resident Attorney fee submissions, with Declarations scheduled to begin online payment in fall 2016.

Ms. Henricks announced that the Board website has been updated and biographies and portraits of Board members have been posted. In addition, a PowerPoint presentation on bar admission requirements for new law school students is now available on the website.

d. Articles of Interest. Ms. Henricks pointed out articles of interest, including Texas A & M School of Law reporting on effective measures taken to improve the performance of their graduates on the February 2015 exam.

e. Sunset Review. Ms. Henricks reported that she had attended the Sunset Review orientation meeting earlier in the week accompanied by other Staff. Ms. Henricks reminded Board members that the Sunset process is a good time to suggest statutory amendments such as raising the current fee ceiling, deleting the verified affidavit required on applications, and possible rule changes to re-examine Informal and Formal Review processes. The self-evaluation report will be due September 1, 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. John Simpson will assist with the initial report that is due September 1, 2015.

7. Report of Director of Character and Fitness.

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

b. Proposal to revise Application and Investigation procedures with mental health diagnosis. Ms. Adelman reviewed the Staff proposal to revise questions about mental health diagnosis. Investigation into misconduct relating to mental health issues will still need to be

investigated, but Ms. Adelman believes it is beneficial to change the application now to focus on misconduct matters before fall declarants start applying. Upon motion made and seconded, the Board voted to approve the proposed revised questions, with revisions to Question 10 to include any court ordered treatment.

8. Report of Director of Eligibility and Examinations.

a. Consolidation of February 2016 bar Exam. Staff proposal to consolidate the February 2016 bar examination was discussed earlier in the meeting and was approved by the Board.

b. Proposal to amend Rule 1(c) of the Rules Governing Admission to the Bar of Texas. Ms. Hoang reviewed current language for Rule 1(c) "mailbox rule," requiring the Board to accept filings and payment by mail. To facilitate a transition to on-line filing and payment, staff proposes changes to Rule 1(c) to (1) allow the Board to accept online filings, and to require online filings, and (2) clarify that electronic signatures can be accepted. The Board believes that the proposed language will allow improved filing practices to effectively utilize ever-changing technology without burdening the Court with numerous requests for rule changes. After discussion by the Board, and upon motion made and seconded, the Board unanimously approved recommending to the Court amending Rule 1(c).

c. Assignments for July 2015 Texas Bar Exam.

The Board members agreed to site assignments for July 2015 as follows:

Barbara Ellis	Austin
Sandra Zamora, John Cayce Augustin Rivera	Arlington – divide responsibilities
Al Odom	Houston
Teresa Ereon Giltner (Allison Drish)	San Antonio – divide responsibilities
John Simpson	Lubbock
Laura Swann	Waco

Coverage for Arlington and San Antonio will be determined at a later date.

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

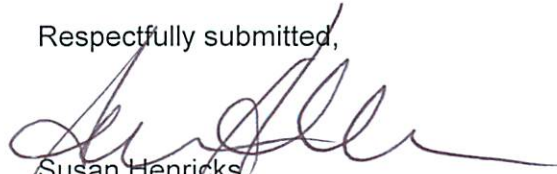
Mr. Rivera read two letters from applicants who passed the February 2015 bar exam, complimenting him and the Board. The letters will be retained in the compliment file.

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

11. Adjournment/Formal Reviews. There being no further business, the meeting of the Board of Law Examiners was concluded at 10:30 a.m. Ms. Zamora announced that Formal Reviews of participating February 2015 examinees, which began on June 4, 2015, would begin again at Noon and continue until approximately 5:00 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 2015 examinees by examination number who participated in formal reviews (on Thursday

and Friday, June 4 and 5, 2015) of their examination performance in separate sessions with individual Board Members.²

Respectfully submitted,



Susan Henricks,
Executive Director

APPROVED:



Sandra Zamora, Chair

² See attached Formal Review list.