

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
JANUARY 20, 2017**

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 20, 2017, at 9:02 a.m. in the Conference Room located on the first floor of the Tom C. Clark Building, 205 W. 14th Street, Suite 500, Austin, Texas.

Members present and constituting a quorum were: Sandra Zamora, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Barbara Ellis, John Cayce, Jr., Anna McKim, Cynthia Eva Orr and Alfred Mackenzie.

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:

September 15, 2016 Hearings Panel (Cynthia Orr);
October 7, 2016 Hearings Panel (Sandra Zamora);
October 7, 2016 Hearings Panel (Al Odom);
November 3, 2016 Hearings Panel (Augustin Rivera, Jr.);
November 4, 2016 Finance Committee;
November 4, 2016 Board Meeting;
December 9, 2016 Uniform Bar Exam Evaluation Committee Meeting; and
December 9, 2016 Hearings Panel (Alfred Mackenzie).

3. Review Audit Report. Rod Shaheen introduced Tony Emadi and Adam McCane, with Weaver & Tidwell LLP, accounting firm, who recently performed the Board's annual audit. Mr. McCane presented the Independent Auditor's Report, indicating that BLE received an unqualified "clean" opinion with the highest level of attestation available and found that BLE's Annual Financial Report fairly represents its financial condition in all respects. Mr. McCane also advised that BLE is in full compliance with the Public Funds Investment Act (PFIA), and that no management letter was issued as there were no management issues identified. He noted that the staff's cooperation made the audit process both effective and efficient.

Sandra Zamora thanked Mr. McCane and Mr. Emadi and they departed the Board meeting at 9:15 a.m.

Sandra Zamora introduced new Licensure Analysts Jasmine McEntire and Chris Copeland and welcomed them to the Board of Law Examiners.

4. a) Investment Report. Rod Shaheen summarized, and the Board reviewed, the Investment Report dated November 30, 2016.

b) Financial Reports. Rod Shaheen explained, and the Board reviewed, the Financial Reports for the period September 1, 2016 through November 30, 2016.

5. Report of Executive Director.
- a) Calendar Update. Ms. Henricks advised that the March 3, 2017 Panel Hearings have been combined. Sandra Zamora volunteered to represent the Board at the May, 2017 Swearing-In Ceremony.
 - b) General Agency Operations. Susan Henricks reported to Board members on her meeting with Nina Hess Hsu, General Counsel to the Supreme Court of Texas. Ms. Hess Hsu was asked by the Court to inquire about the possibility of shortening the grading timeline on the bar exam. Ms. Henricks explained that it would require hiring an additional 16 graders. Additional time would be needed to hire and train these individuals. Because supervising additional graders would increase the Board's workload, it was suggested the Court consider eliminating informal reviews to balance the workload. Ms. Hess Hsu agreed to relay this information to the Court and report back to Ms. Henricks in the near future.

The Board discussed additional responsibility for Board members to supervise more graders, including required calibration of grading by two graders working on answers to the same question. Staff will investigate time frames for grading exams in similar jurisdictions and report this information to Board members at the April board meeting.

The Board discussed other ideas for shortening the grading period, including reducing the number of essay questions from twelve to six; changing the rule to shorten the length of the bar exam; the possible effect of fewer questions on the pass rate; and whether questions need to be longer to accommodate more detailed answers.

The grading process was also discussed. Re-grades currently require a month to complete for a 6 point score range of 669 to 675. Sandra Zamora asked how the 6 point system was established and would it make sense to consider reducing the range of re-grades by narrowing the range to 3 points? The Rules do not require re-grading. Ms. Zamora recalled that approximately 80 exams from the July 2016 bar exam were re-graded. After discussion by the Board, it was determined that Nahdiah Hoang and Ky Strunc will gather information for the Board, provide statistics on the regrading process for the past two exam cycles, including the difference of a 3 point vs. 6 point range and make a recommendation to the Board at the April 2017 Board Meeting regarding changes to the current regrade process.

John Cayce requested we inform the Court of any suggestion to reduce the number of essays from twelve to six. Susan Henricks can prepare a letter to the Court addressing possible changes discussed, if the Board decides to propose these changes.

Ms. Henricks reported that no action has been taken on the Sunset Commission recommendations since the last Board meeting. She suggested a Board retreat in September after the conclusion of the Legislative Session to address any changes mandated by the Legislature and any changes to the grading process accepted by the Supreme Court.

Ms. Zamora suggested that the Executive Director be delegated authority to make internal decisions on requests regarding the minimum required MPRE score of 85. This item will be put on the April agenda for action.

Ms. Henricks reminded Board members of the upcoming May 15, 2017 Swearing-In Ceremony and Luncheon and asked for program ideas. Additional information will be provided at a later date.

- c) Articles of Interest. Ms. Henricks reviewed articles of interest with Board members and reported on her meeting with University of North Texas at Dallas Law School students last week. Ms. Henricks advised that, due to the recently signed Supreme Court Order allowing University of North Texas at Dallas law students to file their Declaration and Application by February 15, 2017, they will be eligible to take the July 2017 bar exam, even though the law school has not yet received provisional accreditation. Ms. Henricks also pointed out the article in the meeting book entitled "Meet the Woman with the Highest Score on the Texas Bar Exam" and Sandra Zamora asked that copies be made to hand out at formal reviews today. The top scorer reported that she relied heavily on past exam questions and sample answers posted on the Board's website.
 - d) Complaint Resolution Report. Ms. Henricks advised that no complaints have been received since the last Board meeting.
 - e) Report on administratively determined Waiver Decisions. Susan Henricks summarized the written report on the administratively determined waiver decisions as contained in the meeting book.
 - f) Travel Expenses for Board members on the Supreme Court Task Force. Susan Henricks requested Board approval for current and future travel expenses for Board members Al Odom, Augie Rivera and Alfred Mackenzie in their capacity as members of the Task Force on the Bar Exam appointed by the Supreme Court. Upon motion made and seconded, the Board unanimously approved paying Board members' Task Force travel expenses. Since the Task Force was created in June 2016, it has only met one time.
 - g) New Employees and Staff Retirements. Ms. Henricks announced the December 31st retirement of Cynthia Wilson and Angus Tilney and employment of the two new licensure analysts hired to replace them, Jasmine McEntire and Chris Copeland, who started on January 2nd.
6. Report on Task Force on Texas Bar Exam.
Augie Rivera reported on the recent Task Force meeting held in Austin, which he and Al Odom attended in person and Alfred Mackenzie attended by telephone. The Task Force heard a presentation by Greg Murphy, former Chair of the NCBE, about the Uniform Bar Exam (UBE) which has been adopted in 25 states and the District of Columbia.

If the UBE is adopted in Texas, changes to be made to the current Bar Exam format would require reducing the number of essay questions and using the NCBE Multistate Essay Exams that would replace Texas' current essay questions.

Mr. Rivera indicated there will be another meeting in February 2017, but he is not sure of the exact date. He believes Dean Stephen Sheppard will submit an information request to the Board in the near future, which Susan Henricks will respond to when received. Ms. Henricks will consult with Nina Hess Hsu about any requests for confidential information.

Al Odom indicated he believes some members of the Task Force are in favor of adopting the UBE, but some Deans may want additional options available such as a diploma privilege or an "alternate test" that would present certain challenges for implementation. Although the portability of UBE scores is appealing, he noted that variations in the required passing score from state to state impede portability. He noted that a report from the Task Force is due to the Court in May 2017.

7. Report on Uniform Bar Exam Committee. Al Odom reported that the committee met and is reviewing the components of the UBE, in particular the MEE that is not currently used on the Texas Bar Exam.

8. Report of Director of Character and Fitness.

a) 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 Austin Exam Site-February 2017. Nahdiah Hoang, Director of Eligibility & Examination, summarized the February 2017 bar exam enrollment. Board member Barbara Ellis advised she is available to cover all three days.

b) Release of Additional Data on MBE performance. Nahdiah Hoang reviewed an example of information NCBE will begin providing to the Board and asked for guidance on whether the information should be passed on to examinees. This information includes percentile rankings and can be misconstrued. Ms. Henricks commented that psychometricians have advised against releasing this information for that reason. Options discussed included keeping the information and not releasing, releasing the information to law schools; or releasing the information to failing students. Consensus by the Board was to have staff prepare disclaimer language that could be implemented in releasing the data to students. The proposed language will be presented at the next Board meeting for consideration.

c) Use of Barcodes. Nahdiah Hoang explained the reason for advance preparation and distribution of bar code labels for laptop examinees who opt to handwrite any portion of the bar exam. Ms. Hoang believes this will eliminate the chances of an exam answer being mislaid in the grading process.

d) Review policy on experience required to satisfy requirements for Admission without Examination. Ms. Hoang reviewed the current AWOX policy for the Board's consideration of whether certain categories of work experience should count towards

meeting the practice experience requirement. Ms. Hoang proposed a policy to specifically address a licensed attorney in a judicial clerkship that does not require a license but clearly requires the practice of law, similar to a lawyer working as in-house counsel without a Texas license, which is considered toward the practice requirement. Board members discussed possible changes of the current policy to allow judicial clerkship experience to meet the practice requirements. Ms. Hoang will revise the Policy language for review by the Board at the April Board meeting.

10. Report of Staff Attorney. There are no pending litigation matters to report.

At approximately 11:03 a.m., Sandra Zamora called for a break and asked Board Members to reconvene in the Board Room on the 5th Floor at 11:30 a.m. for question review.

11. Question Review. At 11:35 a.m. Sandra Zamora declared the meeting closed to the public, pursuant to the provisions of Sec. 82.003(b), Texas Government Code, 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 1:45 p.m., the meeting was reconvened in open session, and adjournment was called at 1:46 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 2016 Bar Exam. (*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 2016 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, 2016 examinees