

**MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS
June 16, 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, June 16, 2017 at 9:00 a.m. in the Tom C. Clark Building, 205 W. 14th Street, 1st Floor Conference Room, Austin, Texas.

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

April 6, 2017 Hearings Panel (Ereon Giltner);
April 7, 2017 Board Meeting (with revisions); and
May 12, 2017 Hearings Panel (Mackenzie).

3. Report of Accountant.

a. Investment Report. The Chief Accountant, Rod Shaheen, explained and the Board reviewed the Investment Report as of May 31, 2017.

b. Financial Reports. Rod Shaheen explained and the Board reviewed Financial Reports for the period from September 1, 2016 through April 30, 2017 as contained in the meeting book.

4. Review and Approve Proposed Budget for Fiscal Year 2018.

Rod Shaheen and Susan Henricks reviewed the highlights of the proposed budget for FY 2018 and detailed revenue and expense projections, year-end profit and loss figures, use of cash reserves, as well as staff merit pay raises.

Board members and Staff discussed budget items, including fees and technology updates.

At approximately 9:10 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 approximately 9:15 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 2018 budget in the form attached to the minutes¹.

¹ See attached Budget Order for FY 2018.

5. Report on Supreme Court Task Force. Augustin Rivera gave a report on the Task Force. Mr. Rivera advised that he has agreed to serve as Vice Chair of the Task Force to help with administrative matters and that the Supreme Court has granted an extension of time for the Task Force to complete its work and make a final report. Mr. Rivera also reported that Dean Stephen Sheppard had distributed a proposal from Lawyer Metrics, an affiliate of AccessLex Institute, to conduct an analytical study to determine the cause for recently declining bar passage rates. Lawyer Metrics has proposed, to a Data Committee of the Task Force, that it obtain 20 years of raw bar examination scores and other data on each examinee to perform this study. Ms. Henricks explained that bar exam score data prior to 2000 is stored in paper records and that 2000-2016 data is stored in the SOLAR database. Some of the demographic information sought by Lawyer Metrics is not collected by the Board. It would likely be necessary to employ the Board's former IT contractor to prepare the SOLAR data reports. Data from the last two exams is available in the ATLAS database. Retrieval of scores for the past 20 years would require additional staff time and financial resources.

After reviewing the proposal, members raised questions about the purpose of the proposed study and the qualifications of Lawyer Metrics staff to perform an analysis of bar exam scores. Lawyer Metrics staff members have political science degrees and may have experience with data analysis but do not appear to have any expertise in psychometrics. Additional concerns were raised including confidentiality of examinee information, publication of the Lawyer Metrics study, and applicability of the proposed study related to any of the seven topics of inquiry assigned to the Task Force.

Alfred Mackenzie questioned how the Task Force could obtain demographic information requested by Lawyer Metrics that the Board does not have but that the law schools do have. The law schools may have restraints in releasing student information due to FERPA privacy provisions.

Mr. Rivera reviewed the seven questions originally assigned by the Court to the Task Force. Mr. Rivera noted that the proposal received by Nahdiah Hoang was not an official request from the Task Force and that it has not yet been approved by the Task Force Data Committee. Susan Henricks said she might approach Nina Hess Hsu or Justice Willett, Board Liaison, to schedule a meeting with them, as well as Board Member Alfred Mackenzie to discuss the proposed study by Lawyer Metrics. Alfred Mackenzie has contacted Justice Willett to ask that he review the work of the Task Force.

After a lengthy discussion, based on the expressed consensus of the members, Board Chair Sandra Zamora directed the staff not to provide examinee data to Lawyer Metrics staff unless a request for the information has been approved by the full Task Force. Augustin Rivera will propose to the Task Force that a full in-person meeting be scheduled to review the proposed Lawyer Metric Study.

6. Report of Executive Director.

a. Calendar Update. Susan Henricks reviewed the 2017 calendar with Board Members and staff. Barbara Ellis and Sandra Zamora will switch panels in November 2017.

b. Report on Bar Admission Forum and Luncheon. Susan Henricks reported to Board Members on the recent Bar Admission Forum and Luncheon with Texas Supreme Court Justices, law school Deans and State Bar leaders, which was held after the swearing-in ceremony on May 15, 2017. John Garvey, Professor of Law and Director of the Daniel Webster Scholar Honors Program, University of New Hampshire School of Law was the guest speaker. Professor Garvey gave a presentation about the program and the intensive practical skills training it provides. Graduates of the program are eligible for admission to the New Hampshire Bar without passing a written examination. Ms. Henricks noted that the meeting was well attended and that the information presented appeared to be well received by attendees.

c. Update on Sunset Review. Susan Henricks advised that the Board's Sunset Bill was signed by the governor. As a result of the Sunset legislation, several rule changes are needed. In addition, the Staff proposes that Roman numerals be changed to Arabic numbers. Board members reviewed the changes as a group and made comments and revisions.

The Board approved the proposed rule amendments, with some additional revisions:

Rule 1 - Language to include a person approved for a probationary license; and changing timely filing deadline to the 1st day of the month. Electronically filed documents are considered timely filed at any time before 11:59 P.M. Central Time.

Rule 4 - Violation of the exam security policy may result in a hearing and scores being withheld. A link to the security policy will be in the on-line rulebook as well as in the General Instructions on the Board's website. Add a definition of "Exam Security Policy" in the definitions section.

Rule 6 - Language shortened to "any other law schools" and allowing declarants transferring from out of state law schools 60 days to timely file their Declaration.

Rule 7 - Adding a section on Confidential Information as it pertains to the Public Information Act, based on the Supreme Court's 1987 Order, clarifying application of the PIA.

Rule 9 - Adding language to provide for a late, late filing of an application, including a late, late fee of \$300; while nonstandard testing accommodation requests cannot be filed during the late, late filing period. (April 1 to May 1 and November 1 to December 1.) All filing deadlines will be changed to the first day of the month, to avoid confusion.

At 10:40 a.m., Ms. Zamora declared a 10 minute break.

Rule 10 - Changes investigation period to 270 days for out of state applicants, consistent with declarant investigations; revises language to provide for "obtaining a chemical dependency evaluation performed by a mental health professional approved by the Board;" and changing the informal review to be as directed by the Board.

Rule 15 - Language reflecting that notice of hearings may be served electronically.

Rule 16 - Changing the term "treatment facility" to "licensed mental health professional."

Rule 18 - Adding new late, late filing fees of \$300 and removal of the unnecessary application deposit fee.

After discussion by the Board, a motion was made to approve the rule changes, subject to further non-substantive changes made by the staff and approved by the Executive Director. Upon motion made and seconded, the Board unanimously voted to recommend the proposed rule changes to the Supreme Court. Ms. Henricks advised that Board members will be required to complete an annual review of training on Board service and she will prepare the training materials.

d. General Agency Operations. Susan Henricks announced that Bruce Wyatt has resigned, effective August 31, 2017, and staff was interviewing applicants for staff attorney. Ms. Henricks thanked Mr. Wyatt for his service.

Susan Henricks also informed the Board that Julie Lukenbill has resigned and that Apoorva Mahajan was hired as a full time Licensure Analyst to replace her.

e. Articles of Interest. Ms. Henricks pointed out articles of interest to Board members, including news of provisional accreditation for UNT Dallas law school and evaluation of the passing score on the California Bar Examination.

f. NCBE Conference. Ms. Henricks reported on the recent NCBE conference in San Diego that several Board members and staff attended.

g. Complaint Resolution. Ms. Henricks reviewed the Complaint Resolution list included in the meeting book. Ms. Henricks noted that the most recent complaint from an examinee inquiring why he had not received his grades resulted in a finding that the individual sat in the wrong seat during the bar exam and was not counted as an exam taker under his assigned number. His answers were graded and reported under the incorrect examinee number. Remedial steps will be taken to prevent a recurrence in future examination administrations.

h. Waiver Decisions. Susan Henricks summarized the written report on the administratively determined waiver decisions as contained in the meeting book.

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. Panel Meeting Format Checklist. Lori Adelman reviewed the panel meeting format check list recently revised at the request of Board members. Ms. Adelman advised that additional changes can be made. Ms. Zamora asked that the language be abbreviated. Anna McKim commented that this information is very useful and should be added to the New Board Member orientation notebook.

c. Stipulation Process. Lori Adelman asked Board members if they had any feedback or suggestions on how the Stipulation process was working during hearings. Board members generally agreed that the process was working well and provided no specific suggestions for improvement.

8. Report of Director of Eligibility and Examinations.

a. Report on pretest of exam questions by Graders. Nahdiah Hoang reported on graders that participated in pretesting July 2017 bar exam questions. Some changes were made due to grader comments and the Board members reported that the effort provided useful feedback on the questions.

b. MPRE Score Waiver Guidelines. Ms. Hoang asked that this subject be postponed until the September 2017 Board meeting.

c. Board Member Bar Exam assignments. Board members agreed to site assignments for July 2017 as follows:

Site	Board Member	Date
Austin (Palmer)	Barbara Ellis (TBD)	Tues. July 25 th
	Augustin Rivera, Jr.	Wed. July 26 th & Thur. July 27 th
Houston (NRG)	Al Odom	Tues. July 25 th & Thur. July 27 th
	Sandra Zamora	Wed. July 26 th
Irving	Teresa Ereon Giltner	Tues. July 25 th & Wed. July 26 th
	John Cayce, Jr.	Thur. July 27 th
Lubbock	Anna Mckim	All three days
San Antonio	Cynthia Orr	Tues. July 25 th & Wed. July 26 th
	Sandra Zamora	Thur. July 27 th
Waco	Alfred Mackenzie	All three days

d. February 2018 Bar Exam. Nahdiah Hoang advised the Palmer Event Center in Austin is unavailable and accordingly the February 2018 bar exam will be held in Houston, unless the Austin Convention Center can be leased.

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

10. Annual Evaluation of Executive Director. At approximately 11:15 a.m. Sandra Zamora, Chair, declared the meeting closed to the public, pursuant to §551.074, Texas Govt. Code, to conduct in executive session a personnel evaluation of Susan Henricks, Executive Director. The Board reconvened in Open Session at 11:30 a.m. The Board voted unanimously to award a two week bonus to the Executive Director as compensation for very good performance of her duties during the past year.

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

12. Question Review. At 11:35 a.m. Sandra Zamora declared the meeting closed to the public, pursuant to the provisions of Texas Government Code §82.003(b), 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.

At approximately 2:00 p.m., question review concluded and Ms. Zamora, Chair, declared the executive session concluded and reconvened the meeting in open session with all Board members present.

13. Adjournment/Formal Reviews. There being no further business, the meeting of the Board of Law Examiners was concluded at 2:00 p.m. Ms. Zamora announced that Formal Reviews of participating February 2017 examinees, would begin immediately and continue until approximately 4:00 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 2017 examinees by examination number who participated in formal reviews on Friday, June 16, 2017 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.