

**MINUTES OF THE MEETING OF THE  
BOARD OF LAW EXAMINERS  
September 15, 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, September 15, 2017 at 9:05 a.m. in the Tom C. Clark Building, 205 W. 14th Street, 1<sup>st</sup> Floor Conference Room, Austin, Texas.

Members present and constituting a quorum were: Sandra Zamora, Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Barbara Ellis, Anna McKim, C. Alfred Mackenzie, and Dwaine Massey. Cynthia Hujar Orr's absence was excused.

2. Approval of Minutes and Certified Agendas. Upon motion made and seconded, the Board voted to approve the minutes of the following meetings:

April 7, 2017 Board Meeting;  
May 15, 2017 Bar Admission Forum  
June 15, 2017 Hearings Panel (Odom);  
June 16, 2017 Accommodations Review Committee; and  
June 16, 2017 Board Meeting.

3. Report of Accountant. Rod Shaheen, Accountant, summarized, and the Board reviewed the Investment Report of August 31, 2017. Mr. Shaheen reported that the audit report is expected to be completed by the November Board meeting. Financial statements for FY 2017, ending on August 31, 2017 are not yet finalized.

Susan Henricks recognized Rod Shaheen for 20 years of service to the State of Texas.

Sandra Zamora acknowledged John Cayce, Jr.'s resignation from the Board, effective August 31, 2017 and introduced new Board Member, Dwaine Massey, appointed to replace John Cayce, Jr. and new Board Staff Attorney, Georgette Oden.

4. Report of Executive Director.

a. Calendar update. Susan Henricks referred Board Members to the 2017 Board calendar and proposed 2018 Board calendar. Ms. Henricks asked that Board Members review the proposed 2018 Calendar and notify Kendelyn Schiller of any conflicts or coverage issues as soon as possible.

b. General Agency Operations. Ms. Henricks summarized the Sunset Advisory Commission's *Final Results of Sunset Reviews 2016-2017*. Sunset will follow up with the BLE in 2018 to determine whether the agency complied with statutory changes and legislative directives, including development of guidelines to support consistency for character and fitness determinations and requiring annual training for Board members on changes in Board operations and laws governing the Board.

Ms. Henricks announced that the swearing-in ceremony for examinees who passed the July 2017 Texas Bar Examination and are eligible for licensure will be held on November 20, 2017. Board member Dwaine Massey agreed to represent the Board at the November swearing-in ceremony and Barbara Ellis agreed to fill in if Mr. Massey is unable to attend.

Ms. Henricks announced Rebecca Henly's retirement at the end of September. Kendelyn Schiller has been hired as the new Executive Assistant, and Jessica Cox and Andrew Sanchez have been hired to fill two Licensure Analyst positions.

Ms. Henricks also announced that Georgette Oden will be responsible for reviewing and processing testing accommodations requests for the bar examination.

Ms. Henricks reported that staff is considering holding future bar examinations administered in San Antonio at the Alzar Shrine, but will continue looking for other suitable venues.

- c. Report on NCBE Conference. Susan Henricks reported on the recent NCBE-CBAA conference held in Halifax, Nova Scotia in August. Ms. Henricks, Nahdiah Hoang, Ky Strunc, and Allison Drish attended the conference. Ms. Henricks gave a presentation regarding electronic bar admissions and Allison Drish spoke on a panel addressing character and fitness issues. Staff also attended sessions on testing accommodations and developments in bar admissions. NCBE President and CEO Erica Moeser formally retired and Judith Gunderson has been named as the new NCBE President.
- d. Complaint Resolution. Susan Henricks reviewed the Complaint Resolution list contained in the meeting book. She noted that only two complaints have been received since the June Board meeting.
- e. Administratively-Determined Waiver Report. Susan Henricks and Nahdiah Hoang reviewed the Administratively-Determined Waiver Report. Ms. Henricks informed the Board of the staff decision to administratively extend the timely-filing deadline for the February 2018 Texas Bar Examination application from August 30<sup>th</sup> to September 6<sup>th</sup> for applicants residing in counties declared to be a disaster due to Hurricane Harvey. Forty-seven applicants requested and qualified for the extension.
- f. Revision to Supreme Court Rules. Susan Henricks reviewed revisions to the *Rules Governing Admission to the Bar of Texas*, including replacement of Roman numerals with Arabic numbers; clarification that all forms are required to be filed electronically; revision of mental health questions to clarify that the investigation is conduct-focused rather than diagnosis-focused; expansion of choices of chemical dependency evaluators; change of deadline dates from the 30<sup>th</sup> of the month to the 1<sup>st</sup> of the following month; addition of a final exam application deadline that is 30 days later and requires payment of another \$150 in addition to the current \$150 late filing fee (total \$300); clarification of the requirement for applicants transferring from out of state law schools to Texas law schools to file a Declaration of Intention to Study Law within 60 days; providing that certain information is confidential, such

as raw scores and contact information for graders as well as character and fitness records; removal of references to outdated statutes; revisions for informal review and formal review procedures; extension of the character and fitness investigation period for out of state applicants from 150 days to 270 days; and authorizing electronic service for notice of hearings.

- g. Results of Public Information Request re: Jamar Osborne. Board Members discussed this matter in Executive Session.
  - h. Articles of Interest. Susan Henricks referred to articles of interest including the effects of Hurricane Harvey on Texas law students; two studies evaluating performance changes on the California bar exam and whether the California bar exam cut score is appropriate to evaluate minimum competency; Texas Tech University School of Law's new Dean, Jack Nowlin; and Texas A&M University School of Law's search for a new Dean to replace Andrew Morriss.
5. Report of Director of Character and Fitness - Probationary Licenses. Lori Adelman, Director of Character and Fitness, summarized the report on the conversion of Probationary Licensees to Regular Licensees contained in the meeting book.
  6. Report of Director of Eligibility & Examination.
    - a. July 2018 Question Preparation. Nahdiah Hoang, Director of Eligibility and Examination, provided resource materials for writing and grading essay questions and proposed that review groups be shuffled; there were no objections. Barbara Ellis expressed concern about the timing of the editor's review of essay questions and edits made by Board Members. C. Alfred Mackenzie expressed concern about allowing adequate time to edit questions and proof for errors; Ms. Hoang stated that staff and graders are conducting additional proofing and pre-testing of questions for errors. Board Members discussed the appropriate length and complexity of essay questions and the possibility of conducting a workshop on question drafting. Sandra Zamora and Augustin Rivera, Jr. requested data regarding how much time examinees spend on each essay question; Ms. Hoang will contact ExamSoft to see if this information can be obtained.
    - b. MPRE Waiver Guidelines. Nahdiah Hoang proposed guidelines for the Board to consider waivers of the Rule 5 requirement of a scaled score of 85 or higher on the MPRE if applicants can prove they were licensed prior to their jurisdiction requiring the MPRE score, have not failed the MPRE, and have not been the subject of discipline in any jurisdiction. Upon motion made and seconded, the Board voted to adopt the policy as set out in the book, with one revision to replace "consider" with "grant" in the third paragraph.
    - c. Updates on July 2017 Texas Bar Exam. Nahdiah Hoang reported that exam answers are being graded. The Board did not receive any complaints regarding the administration and conditions of the July bar exam. Board Members and staff discussed issues arising from the Personal Belongings areas at exam sites, and that certain sites do not allow unattended belongings. Board Members directed staff to evaluate whether we should continue providing Personal Belongings areas.

7. Report on Supreme Court Task Force on the Bar Exam and UBE Committee of the Board. Augustin Rivera, Jr. has been appointed as Vice Chair of the Bar Exam Task Force. Members of the Task Force have scheduled meetings for the third Friday of every month. Sandra Zamora requested a presentation on the UBE at the November 2017 Board meeting.

8. Report of Staff Attorney. Kristin Bassinger summarized the Litigation Update Memo contained in the meeting book. She reported that the Board's attorney filed a Motion to Dismiss Andrew Glueck's claims on September 8, 2017.

9. Communications from the Public. The Chair called for communications from the public. No additional public comments were offered.

At 10:55 a.m., Sandra Zamora declared a five-minute break.

At 10:59 a.m., Ms. Zamora declared the meeting closed to the public, pursuant to the provisions of Texas Government Code §551.071, whereupon the Board proceeded to meet in executive session for the purpose of discussing potential litigation on Jamar Osborne's June 19, 2017 Public Information Request.

The executive session of the Board of Law Examiners was concluded at 11:32 a.m. and the Board reconvened in open session.

10. Action on Public Information Request of Jamar Osborne and OR2017-20028 dated September 1, 2017. Motion was made for Susan Henricks to file a request for representation with the Attorney General's Office to file suit for review of the recent ruling on Jamar Osborne's Public Information Request. Upon motion made and seconded, the motion passed unanimously.

11. Adjournment. The meeting was adjourned at 11:35 a.m.

Respectfully submitted,



Susan Henricks,  
Executive Director

APPROVED:



Sandra Zamora, Chair