

## **MINUTES OF THE MEETING OF THE BOARD OF LAW EXAMINERS**

**February 9, 2018**

1. Call to Order/Determination of Quorum. The meeting of the Board of Law Examiners was convened in open session by Al Odom, Chair, on Friday, February 9, 2018, at 1:37 p.m., in the Tom C. Clark Building, 205 W. 14th Street, Board Conference Room, Austin, Texas.

Members present and constituting a quorum were: Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Anna McKim, Cynthia Eva Orr, and C. Alfred Mackenzie. Dwaine Massey appeared via videoconference. The absences of Sandra Zamora and Barbara Ellis were excused.

2. Consider Data Request Received Regarding Task Force on Texas Bar Exam. Psychometrician Dr. Roger Bolus attended the Board Meeting via teleconference. Susan Henricks reported that the Board received a data request for raw bar exam component scores from the past 17 years from Dean Stephen Sheppard and Political Science and Sociology Professor Christopher Zorn.

Henricks reported that she consulted with Bolus and NCBE staff. Henricks expressed concern that the data request offers little detail regarding the purpose of the study, how the data would be used, how researchers would protect examinee privacy and anonymity, and that Zorn has little experience studying the construction of bar exams or scaling raw scores to the MBE. Orr asked if this is considered a public information request and raised concerns about protecting examinees' information, and Henricks stated that the requested information is confidential and not subject to disclosure pursuant to a public information request. Rather, the request was made purportedly under the auspices of the Supreme Court Task Force. Nahdiah Hoang stated that historical data prior to 2000 is maintained on paper and would be onerous to provide, and that the only way to provide the requested information regarding exam re-takers would be to collect their data by name, then anonymize it before providing it to the requestors.

Odom asked if the data request appeared to address any of the seven questions asked of the Task Force by the Supreme Court. Bolus stated that he was unable to determine how the requested data would answer those questions and suggested that the Board ask Zorn to clarify his request to specify the purpose of the study, how the data would be used, and how reliability and validity would be addressed. Rivera asked Bolus if he would be willing to discuss the request with Zorn to clarify those issues and report back to the Board. Bolus responded that he could discuss those issues with Zorn but that he should not interpret Zorn's request and that Zorn should instead clarify his request to the Board. Hoang pointed out that Zorn proposed to take six months to conduct his analysis, but the Task Force is required to respond to the Supreme Court by May 31, 2018.

Henricks asked Bolus if he saw a reason for requesting 17 years of data. Bolus

responded that social scientists tend to study long-term trends and suggested that the Board ask Zorn to justify requesting 17 years of data instead of a shorter time period. Bolus also stated that one reason for requesting raw data could be to create an alternative weight mechanism to affect scaled and overall scores.

Upon motion made and seconded, the Board voted to direct staff to draft a list of questions and concerns in response to Zorn and set up a conference call with Henricks, Hoang, Bolus, and Zorn to discuss the data request. Bolus departed the meeting at 2:21 p.m.

3. Consider Proposed Settlement of Texas Board of Law Examiners v. Ken Paxton, Attorney General of Texas. Allan Cook reviewed a proposed settlement regarding the BLE suit against the Attorney General of Texas to challenge a public information ruling on release of grader identifying and contact information. The suit was filed as directed by the Board. The settlement provides that grader identifying and contact information is confidential and not subject to disclosure. Upon motion made and seconded, the Board voted to approve the settlement as proposed by counsel.

4. Agency Operations. Henricks introduced Justice Jeff Brown as the Board's liaison to the Supreme Court of Texas. She also notified the Board that current Director of Character and Fitness, Lori Adelman, resigned and will be replaced by current Assistant Director of Character and Fitness, Allison Drish.

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


6. Adjournment. There being no further business, the meeting of the Board of Law Examiners was adjourned at 2:28 p.m.

Respectfully submitted,



Susan Henricks,  
Executive Director

APPROVED:



~~Al Odory, Chair~~  
Augustin Rivera, Jr. Vice Chair