

MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS

June 21, 2019

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, 6/21/2019, at 9:05 AM, in the Tom C. Clark Building, 205 W. 14th Street, 1st Floor Conference Room, Austin, Texas.

Members present and constituting a quorum were: Al Odom, Augustin Rivera, Jr., Teresa Ereon Giltner, Barbara Ellis, Anna McKim, C. Alfred Mackenzie, Dwaine Massey, Cynthia Orr, and Carlos Soltero.

2. Consider Communications from the Public. There were no public communications submitted for this meeting.
3. Approval of Minutes and Certified Agendas. Upon motion made by Ereon Giltner and seconded by Ellis, the Board voted to approve the minutes and/or certified agendas of the following meetings:
 - 2/15/2019 Hearings Panel (Odom)
 - 3/21/2019 Hearings Panel (Ellis)
 - 3/22/2019 Board Meeting
 - 4/26/2019 Hearings Panel (Odom)
4. Report of the Accountant.
 - A. Investment Report. Rod Shaheen presented and the Board reviewed the Investment Report for the period ending 4/30/2019.
 - B. Financial Reports. Shaheen presented and the Board reviewed the Financial Reports for the period ending 4/30/2019.
5. Proposed Budget for Fiscal Year 2020. Shaheen opened the discussion of the proposed 2020 budget by mentioning that preparation of the numbers was complicated due to BLE's upcoming transition to the Uniform Bar Exam (UBE). Staff expect that the number of examinees will decline in 2020, as some potential examinees will wait to take the Uniform Bar Exam in 2021 in Texas or take the UBE in 2020 in another jurisdiction, rather than taking the Texas Bar Exam in 2020. Additionally, BLE will incur UBE-related expenses, including creation of the Texas Law Component.

Other factors that may impact the FY20 budget are proposed reclassification of some BLE staff, primarily within the licensure analyst team, and elimination of the investigative fee for exam re-takers, which is projected at a \$136,000 reduction in FY 20's income. Elimination of the investigation fee is proposed in response to communication received from the Supreme Court regarding BLE's reserve funds; Executive Staff proposes eliminating the fee for reapplicants who may already be experiencing hardship because they are unable to practice law. Reapplicants have been preliminarily investigated and usually require less re-investigation than new applicants. Ereon Giltner asked that the minutes reflect that the removal of the \$75 investigative fee for reapplicants is a substantial contribution that the Board is making relative to other entities in legal education. Henricks is

confident BLE can absorb this fee reduction and may even benefit by eliminating some fee waivers that would otherwise be requested by re-applicants.

To help offset the FY20 deficits, Henricks proposed to the Board that the July 2020 Texas Bar Exam be offered in fewer sites. She explained that staffing has become difficult with the number of accommodation rooms needed at each site. In the past two July examinations, the BLE provided 20 additional rooms for examinees requiring accommodation. BLE can better provide the level of management required if it only hosts four exam sites, especially since three sites are within a 100-mile radius of Austin. Henricks proposes that BLE will host the Texas Bar Exam in four cities in July 2020: the DFW metroplex, Austin, Houston, and Lubbock. Additionally, the exam in Lubbock will be moved to the Lubbock Civic Center, which is available, reasonably priced, and includes free parking.

As motioned by Rivera and seconded by Mackenzie, pursuant to Texas Government Code §82.003(b), at 9:25 AM the Board convened to executive session to further discuss the proposed FY20 budget, to complete the annual evaluation of the Executive Director, and to discuss proposed staff salary increases.

The Board returned to open session at 10:16 AM, at which time Rivera motioned that the proposed FY20 budget be approved, including proposed re-classifications and a 3% salary increase for all staff, including the Executive Director. The motion was seconded by Massey and unanimously approved by the Board.

6. Report of the Executive Director.

A. Recognize Staff for Years of Service. Ky Strunc was recognized for 15 years of service and Nahdiah Hoang for five years of service to BLE.

B. Calendar update.

- i. Meetings related to the Texas Law Course will be scheduled independently by that committee, but the Board at large will be notified of the dates.
- ii. Ellis and Soltero volunteered to represent the Board at the November 2019 Swearing In Ceremony. Laurie Gonzales will confirm which Board member will attend closer to November.
- iii. McKim volunteered to attend the May 2020 Swearing In.
- iv. Henricks asked Board Members to review the proposed 2020 Board calendar and then relay to Gonzales any conflicts and/or trades she needs to facilitate.

C. Report on Bar Admission Forum and Luncheon. Professor Lawrence Krieger from Florida State University provided this year's presentation, "What Makes Lawyers and Law Students Happy? Causes Bring Solutions: A Factor Analysis of Lawyer Well-Being." Dr. Krieger made his remarks remotely from Tallahassee, FL via Skype. His talk was well-received and generated much discussion. Henricks said she was quite pleased with the event and thanked BLE Board and staff for their efforts.

D. General Agency Operations. BLE's Supreme Court liaison, Justice Jeff Brown, has been nominated for a position on the federal bench. If approved, a new Supreme Court Liaison will be appointed.

The Texas Bar Journal published Henricks' article about Texas's transition to the UBE. Unfortunately, the Journal mistakenly referred to the exam as the "universal bar exam" on the cover of the Journal, but it should have been corrected on the electronic version after SBOT was notified of the error by Henricks.

The number of examinees registered for the July 2019 Texas Bar Exam is approximately 3,200. In 2015, ABA accredited law schools received the lowest number of law school applications in approximately 40 years, but the number of applicants has been increasing in the past three years. There was an increased LSAT participation last year of 7.3%, which is the fourth year of increases, presumably resulting in an increased number of law school applicants and, ultimately, a greater number of examinees.

Nahdiah Hoang and Allan Cook attended the State Bar Annual Meeting in Austin in June. BLE also sponsored a vendor booth to provide information about the UBE. Staff were able to interact with members of the legal community about the BLE and changes to the bar examination.

- E. Articles and Communications of Interest to Board Members. Included in the articles of interest in the Board book were several that are relevant to changes that are being observed in legal education, especially related to law school attendance, test applicants, and bar pass standards approved by ABA for accredited law schools.
- F. Complaint Resolution Report. BLE has received no complaints since 3/14/19, the ending date of the last complaint resolution report.
- G. Report on Administratively Determined Waiver Decisions. BLE received 51 waiver requests, of which 38 were fee waivers that were administratively granted in whole or in part and six that were administratively denied.
- H. Report on Supreme Court Adopting Rules for UBE Administration. The Supreme Court received several comments on the language of Rule 13(1)(c), which requires graduation from an ABA-accredited law school in order to transfer a UBE score. This language rendered foreign trained applicants ineligible. This was not an intended result of the rule, so the Board has recommended the Supreme Court delete that language from Rule 13(1)(b), as well as subsection 2(b), pertaining to Admission without Examination (AWOX) as other AWOX rules require graduation from an ABA-approved law school.

The new UBE Committee, now known as the Texas Law Course Committee, has met twice. The committee has set a timeline by which faculty will be established no later than 7/15/19. The committee is asking Board Members to submit additional faculty recommendations to Mackenzie and to also contact proposed faculty listed on the handout "Texas Law Course – Updated June 21, 2019" to confirm their participation by 7/15/19. The committee also requests that Board Members work with faculty to develop rough outlines of materials by 7/31/19. Hoang will work with the State Bar of Texas to secure style guidelines by the first week of July and distribute to the Board shortly thereafter. At BLE's expense, faculty will be invited to Austin for November production of the Texas Law Course video. The anticipated format is approximately 20 – 25 minutes of video-taped lectures, followed by 3 – 4 hurdle questions based the presentation, that must be completed before the applicant proceeds to another topic. The course is intended to provide basic information on the selected topics, with short presentations to promote attention from the participants.

- I. Law School Orientations. BLE will provide UBE information sessions and law school orientations simultaneously. Currently, BLE has scheduled sessions with Texas A&M for 8/19/19, The University of Texas at Austin, South Texas College of Law Houston, and Texas Southern University for 8/26/19, Baylor during the week of 8/22/19, St. Mary's for 8/28/19, and Southern Methodist University and University of North Texas for 9/9/19.
- J. Legislative Update. Two bills affecting the BLE passed and have become law. SB37 eliminates disqualification of applications for professional licenses based on defaults on Texas Guaranteed Student Loans. The legislature repealed Texas Government Code, Sec. 82.022(c), effective June 7, 2019. As a consequence, the BLE will no longer disqualify applicants because of defaulted TGSL debts.

SB1200 allows military spouses to practice their trade if licensed in another state by giving notice to the applicable state agency. The Supreme Court is aware of the statute and is working on a response to this legislation that takes effect on September 1, 2019.

7. Report of the Director of Character and Fitness.

- A. Recommendations of Probationary Licenses to be Converted to Regular Licenses. This report has been expanded to include revocations and surrenders. That data was not previously listed, but may be useful to the Board. From 3/22/19 to 6/21/19, three probationary licenses were converted to regular licenses.

8. Report of the Director of Eligibility and Examinations. Hoang reminded the Board that at the end of the meeting members would go into closed session to discuss 2020 examination questions. Upon full completion of question review, she would send the revised questions to the professional editor and all comments by the editor will be forwarded to the Board. Once those edits have been incorporated, two graders will be selected to pre-test the questions. Hoang reminded the Board that questions for the July 2020 examination are the last that would be written by the Board, as questions for the UBE will be provided by NCBE. Hoang asked each Board Member to review his or her grader worksheets, assign a topic to each grader, and confirm with Strunc and/or Hoang the assigned graders and topics.

Hoang confirmed with the Board which members would attend each of the July 2019 bar exam locations: Mackenzie will provide coverage for Waco, McKim will provide coverage for Lubbock, Ellis and Soltero will provide coverage for Austin, Massey and Odom will provide coverage for Houston, Ereon Giltner will provide coverage for Fort Worth, and Orr will provide coverage for San Antonio. Graders have been notified that their roles will change with the inception of the UBE. MPT graders will no longer attend the grader workshops in person in Madison; they will attend remotely starting with the Feb 2020 exam.

9. Report of Staff Attorneys. Four matters currently have pending litigation. These are:

- A. Malone has no change.
- B. Block has been dismissed by Judge Yeakel, but Block appealed. A brief was filed on 6/14/19. The assigned attorney for the Attorney General's office, Summer Lee, has received an extension, with a response due by 7/29/19.

C. Beyer, whose probationary license was revoked by the Supreme Court order on 4/25/19, filed a petition for review in Travis County on 5/3/2019. The assigned attorney from the Attorney General's Office, Karen Watkins, timely filed an answer with the administrative record.

D. Vela-Collins filed a petition for review of an order denying Certification of Character and Fitness. To date, the Board of Law Examiners has not been served with citation.

10. Reappointment of Board Members. The Supreme Court has issued an order confirming reappointment of Soltero, Ellis, and Massey to the Board of Law Examiners. All three were serving incomplete terms due to Board member resignations, and this order secures full terms for all three Board Members. No other Board member terms will expire for the next two years.

11. Consider Issues Arising from Reports of Executive Director, Director of Eligibility and Examinations, Director of Character and Fitness, and Staff Attorneys. No issues were raised.

The Board broke for lunch at 11:30 AM.

The Board reconvened at 12:30 PM.

12. Conduct Review of Questions to be Used for future Texas Bar Examinations. Pursuant to Texas Government Code §82.003(b), Rivera called for a closed session, whereupon the Board proceeded to meet in executive session for the purposes of reviewing and editing questions to be used on future bar examinations.

13. Adjournment. There being no further business, the meeting of the Board of Law Examiners was adjourned upon completion of question review at 2:05 PM.

Respectfully Submitted,



Susan Henricks, Executive Director

Approved:



Al Odom, Chair