

Board of Law Examiners

5/22/20

2:00 PM

1. Call to Order/Determination of Quorum. The meeting of the Board of Law Examiners was convened in open session by Augustin Rivera, Jr., Chair, on Friday, May 22, 2020, at 2:02 PM via videoconference as authorized by Order of Governor Greg Abbott, suspending Application of Tex. Gov't Code Sec. 551.127(b). The meeting was conducted through Zoom at <https://txcourts.zoom.us/j/2792541638>. All Board Members were present for the meeting. Members of public present included Erika Flynn, Dean Michael Barry, Karen Jones, Catalina Flores, Dean Leonard Baynes, and Kyle Coker.
2. Consider Approval of the Minutes and Certified Agendas. No materials were offered for approval.
3. Consider Communications from the Public. Public Comments were taken up later in the meeting at 4:18 PM. Kyle Coker addressed the Board regarding a request for regrade. Rivera thanked Coker for his comments and explained that because the item was not in the agenda, it could not be discussed or acted upon by the Board.
4. Report of Executive Director – Susan Henricks
 - a. Update on the effect of COVID-19 on Agency Operations. Henricks informed the Board that BLE staff continue to work from home with little negative effect on operations.
 - b. Plans for July/September 2020 Texas Bar Examination.
 - i. Hoang provided a copy of the Governor's proclamation and explained the staff's plan to conduct the examination in compliance with local health and safety requirements.
 - ii. BLE personnel have been allowed to opt out of the July 2020 exam administration. Because of the health risk, no staff will be required to work at the examination.
 - iii. BLE staff plans to conduct the examination in two administrations: July and September. Currently, approximately 1,100 examinees are scheduled for July. Additional applicants will be seated in September 2020, although cities and venues have not been yet identified for that exam.
 - iv. Medical personnel will screen all persons before entering examination sites and all staff, proctors, and examinees will be required to wear masks at all time. Masks will be provided by BLE. Anyone exhibiting symptoms will not be allowed to enter the facility.
 - v. BLE will provide bottled water and all necessary test-taking supplies, to limit personal items that would require inspection and avoid use of water fountains.
 - vi. Examinees will not be allowed to mingle or visit before the exam. Once examinees check in to the test site, they will be required to take their seat. No talking will be allowed.

- vii. Bathrooms will be limited to 1 – 2 examinees at a time depending on the size of the bathroom facility.
 - viii. Proctor training will be conducted remotely the week before the exam.
 - ix. Henricks presented a proposal to the Board recommending administration of a 2-day exam versus the standard 3-day exam. After discussion of the 2018 psychometric study on the reliability of a 2-day exam, the impact of a shortened exam on students, and input from the law school deans in attendance, Ellis submitted a motion to submit a proposal to request Supreme Court approval for administration of a 2-day exam. The motion was seconded by Soltero. After questions from Mackenzie regarding plan specifics, Ellis amended her motion that BLE present to the Supreme Court a 2-day exam consisting of 6 Texas law essay questions and scoring weighted at 50% MBE, 30% essay, 10% MPT, and 10% P&E. Mackenzie seconded the amended motion. The motion was unanimously approved.
- c. Formal Reviews. – Because Formal Reviews are typically held in-person in Austin to coincide with the February and June Board Meetings, Staff proposed to the Board that Formal Reviews scheduled for June 26, 2020, be held remotely via Zoom. Massey submitted a motion to allow Formal Reviews to take place outside of Austin and in a manner best decided by the staff. Odom seconded the motion. The motion carried unanimously. Staff will forward to the Board the procedures for June 26, 2020, Formals in the early part of June, 2020.
- d. Waiver of Rule 13, Sec 9 (b) (9) disallowing credit for LL.M. Courses completed online or by other distance learning, where in-person law school instruction is not available in respond to COVID-19 pandemic. – Due to the pandemic, many law schools had to conduct classes remotely during the Spring and Summer 2020 semesters, and it may continue to future semesters. Because Rule 13, Sec 9(b)(9) prohibits online learning for LL.M. programs, BLE staff recommended that the Board grant a general waiver of the rule for applicants who were transitioned to online learning due to COVID-19 response. After discussion of the issue, Ellis submitted a motion that the Board approve a general waiver of rule 13 (9)(b)(9) for the duration of the pandemic to allow for online learning of LL.M. students. The motion was seconded by Massey. The motion passed unanimously.
- e. Status of Recovery of OCA Electronic Network Following Malware Attack on May 8, 2020. Henricks told the Board that because BLE’s electronic admission system and website is hosted on an external server, there was minimal impact on BLE’s ability to continue operations as normal due to the ransomware attack on Office of Court Administration servers. Some services are unavailable until access to the OCA servers is restored, but staff are working diligently to maintain normal processing and response times. BLE is without phones and fax since those systems are VOIP, requiring network access, but staff is maintaining communication through email, Teams, and Zoom. OCA does not have an estimated date by which its servers and BLE computers will be restored.

Rivera called a break in the agenda at 4:09 PM. The meeting resumed at 4:20 PM.

- f. Proposal for Conducting Character and Fitness Hearings by Video Conference. – Recently approved Informal Settlement Conferences have been very successful and Staff proposed to the Board that BLE develop a plan to conduct some Character and Fitness hearings remotely, as well. After discussion of the issue, the Board requested Staff to develop a proposal for conducting Character and Fitness hearings remotely that would be presented at the June 2020 Board Meeting.

5. Report of the Director of Character and Fitness. – Allison Drish
BLE has conducted 11 Informal Settlement Conferences; four in April and seven in May. The ISCs resulted in two cases deferred for decision by a hearing panel, eight applicants recommended for certification by staff, and one applicant recommended for an Agreed Order for probation.

The agreed order requires approval of the Board. As such, pursuant to Government Code 82.003(b), at 4:42 PM Rivera called for a closed session, whereupon the Board proceeded to meet in Executive Session for the purposes of discussing the probationary license order recommended by Informal Settlement Conference panel.

The Board returned to open session at 4:48 PM.

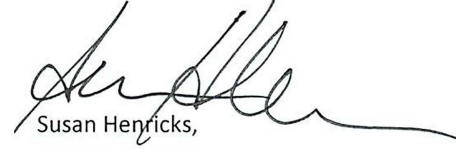
Odom presented a motion to approve the agreed order for “HN 4/24/2020.” Soltero seconded the motion. The motion passed unanimously.

6. Report of the Director of Eligibility and Examination. – Nahdiah Hoang
Board Member coverage for the six July 2020 exam sites needs to be determined. Hoang asked Board Members who are not available to participate to notify Laurie Gonzales no later than Wednesday, May 27, 2020. Hoang will then assign coverage at exam sites.

The Board was provided with a question drafting timeline for a 3-day exam (12 essay questions). Twelve essays for the July examination have been drafted. If a 2-day exam is approved by the Supreme Court, the exam will only use six essay questions for each examination. An additional set of P&E questions would be necessary for the September examination. Hoang asked Board Members to be prepared for this possible change.

7. Consider Issues Arising from Reports of the Executive Director, Director of Character and Fitness, and Director of Eligibility and Examination. – Rivera told the Board that he would provide a copy of the Zoom chat that Kyle Coker sent him offline during the meeting. If a Board Member would like to take additional action, Rivera asked that the Board Member contact him or Henricks with a request to include the item on the June 2020 Board Meeting agenda.
8. Adjourn. – With no additional business to discuss, the meeting adjourned at 4:54 PM.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Susan Henricks", written over a horizontal line.

Susan Henricks,
Executive Director

Approved:

A handwritten signature in blue ink, appearing to read "Augustin Rivera, Jr.", written over a horizontal line.

Augustin Rivera, Jr., Chair