

MINUTES OF THE MEETING OF THE
BOARD OF LAW EXAMINERS

June 26, 2020

1. Call to order, determine quorum, and consider requests for excused absences.
Board Chair Augustin Rivera, Jr., called the Board Meeting to order at 9:36 AM. In light of the COVID-19 pandemic crisis, the Meeting was held virtually via Zoom and Youtube in accordance with guidance from the Offices of the Texas Governor and Attorney General and the suspension of certain requirements of the Texas Open Meetings Act. All Board Members were present, constituting a quorum. Members of the public Dean Michael Barry and Natalie Dalia were in attendance.
2. Consider approval of minutes and certified agendas of board meetings, hearings/waiver panels and committee meeting.
Orr made a motion to approve minutes of the April 2020 and May 2020 Board Meetings. Soltero seconded the motion. The motion was unanimously approved.
3. Consider communications from the public, if any.
Dean Barry spoke briefly on students' interest in exam scheduling. He thanked the Board for continuing to evaluate the situation while taking students' needs into consideration.
4. Report of Accountant.
 - a. Review investment reports.
Shaheen presented the investment report for period through 5/31/20, which represents the end of the 3rd quarter.
 - b. Review financial reports.
Shaheen presented the financial reports for period through 4/30/20.
5. Consider budget for fiscal year 2021.
Shaheen presented the proposed budget for Fiscal Year 2021. He noted that changes to the 2020 bar examination schedule would have some impact on the 2021 budget, as are changes to the 2021 examination administration and the addition of a legal assistant to the BLE staff roster. Henricks stated that the addition of a legal assistant is not only to provide support to BLE's attorneys, who currently have no administrative support, but also to provide onsite support during exam administrations. Shaheen indicated that in order to meet the FY21 budget, the Board will require use of reserve funds.

Justice Brett Busby joined the meeting at 10:03 AM to participate in Agenda Item 6. The budget discussion was tabled until after completion of the agenda item(s) requiring Justice Busby's input.

Budget discussion continued at 11:07 AM. Odom made a motion to approve the proposed FY 2021 budget. The motion was seconded by Orr. The motion passed unanimously.

Rivera called for a break at 11:08 AM.

The meeting resumed at 11:17 AM.

6. Report of Executive Director – Henricks

- a. General agency operations including update on effect of Covid-19 pandemic.
 - i. Henricks discussed the status of the ransomware attack that occurred against the Supreme Court servers on 5/8/2020. Phones and computers were fully returned to service on 6/23/20. Henricks asked that the minutes reflect a thank you to Office of Court Administration for their quick response to the issues. Henricks mentioned that there is currently no set date for staff to return to working from the office, but will continue work-from-home until further notice.
 - ii. The City of Austin has cancelled its contract with BLE for the July 2020 exam administration. Other local government officials may also enact social distancing issues that put the July exam in jeopardy. Henricks, staff, and Board Members engaged in lengthy discussion of the July exam, the September exam, remotely-proctored online exams, provisional licenses, diploma privilege, and other options, all of which Rivera said would be included at an upcoming meeting.

On mention of a future meeting, Rivera told the Board that the COVID-19 Response Team will meet on Tuesday, 6/30/20, at 2:00 PM, to discuss options for the exam administration and alternate licensure. In addition to appointed Board members and staff, Deans Barry, Baynes, and Collins have been invited to the meeting. Rivera relayed to the Board that an additional Board Meeting has been scheduled for Friday, 7/3/2020, 10:00 AM to focus on the July and September 2020 bar examinations. Rivera told the Board that during the July 3rd meeting the Board would discuss a recommendation to the Supreme Court regarding administration of the July and September examinations with alternate options if one or both exams must be cancelled. Justice Busby confirmed that if the Board provides a proposal on Friday, July 3rd or shortly thereafter, the Supreme Court would be able to meet quickly to review it.

- b. Calendar update, including proposed 2021 calendar.

Henricks asked Board Members to contact Laurie Gonzales with any issues or conflicts related to the proposed 2021 calendar, a copy of which is in the Meeting Book.
- c. Complaint Resolution Report.

Henricks stated that no formal complains had been submitted for this period.
- d. Report on administratively determined Waiver Decisions.

There were a record number of waivers for this period. Many were fee related and/or due to rescheduling of Texas and other jurisdictions' exams. Of the waivers, 81 were approved, 14 were denied, and the remaining waivers were partially granted.
- e. Report on June 2, 2020 Supreme Court Order.

A copy of the order authorizing a 2-day exam for July and September 2020 was provided in the Meeting Book.

- f. Proposed plan for conducting Character and Fitness hearings by videoconference.
The Board asked Staff to draft a proposal to hold Character and Fitness hearings via teleconference. The staff proposal was included in the Board Meeting Book. BLE currently has 3 applicants who completed ISCs, but now require a full hearing. Henricks indicated they would be good candidates for the proposed remote hearings, if approved.

7. Report of Director of Character and Fitness.

- a. Recommendation of probationary licenses to be converted to regular licenses.
Two probationary licenses were converted to regular licenses for this period, as outlined in the Board Meeting Book.
- b. Update on Informal Settlement Conferences.
BLE has held 17 Informal Settlement Conferences total since ISCs were approved by the Board. Of these, 12 have resulted in approval, 2 in recommended probationary licenses, and 3 that will require full Character and Fitness hearings.

8. Report of Director of Eligibility and Examination.

- a. Pretest of exam questions.
Hoang described the process by which exam questions are pretested. Hoang wanted the Board to understand that questions are fully vetted and refined prior to administration.
- b. Board Members confirmation of graders, question assignments, shipping address, and delivery date and time for iPads.
Hoang stated that Board Members will be contacted by Ky Strunc regarding graders, addresses, and dates.
- c. Consider timing and sequence of grade release for two examinations.
Hoang relayed that Dean Ahdieh of Texas A&M University School of Law had raised a concern that releasing July bar exam results before September bar exam results would allow July examinees to be licensed sooner and give them an advantage in the job market, which would put September examinees at disadvantage. One way to eliminate this disparity would be to release results for both exams at the same time. Hoang said that this was an issue she had not considered before, and asked the Board for guidance. The Board asked that exam results be released as they become available.
- d. Consider grading plan for two examinations.
Hoang said that the plan for scoring of the UBE when it begins in February 2021 is to release grades approximately a month earlier than grades for the Texas Bar Examination, which can only be accomplished by using more than one grader per essay question. . Because the July and September exams are also 2-day exams with only 6 essay questions, Hoang and Henricks suggested that the 2-graders-per-essay method be used. This will require different methods of calibration, so Hoang would like to hold a workshop hosted by former BLE grader Brad Rice on July 18th, which will be focused on calibration for Graders and Board Members. Two sessions would be offered, one AM and one PM. Hoang asked that Board Members please hold their calendars for that workshop. These will be in-person or

via Zoom, depending on each attendee's preference. Additional information will be provided once the workshop is confirmed.

e. Consider policy on courtesy seating at February 2021 examination.

Hoang explained that courtesy seating would allow anyone wanting to sit for the UBE to sign up for the Texas exam whether they will seek licensure in Texas or not, and BLE's Rules do allow for that. Some jurisdictions allow for this, while other jurisdictions restrict enrollment to those applicants who are intending to seek licensure in that jurisdiction. With Covid-19 resulting in cancelled and rescheduled exams, Texas is anticipating increased interest in courtesy seating for the February 2021 examination. Hoang asked the Board if they want to allow courtesy seating or restrict applications to only those examinees who intend to seek licensure in Texas. The Board suggested that courtesy seating be allowed, as planned, and that staff monitor the situation to see if changes might be needed.

9. Report of Staff Attorneys.

Cook provided a copy of the current Litigation Report to the Board.

10. Consider June 11, 2020 Texas Supreme Court statement on "Equality and Justice Under the Law."

Rivera asked that a copy of the Supreme Court's statement of 6/11/2020 "Equality and Justice Under the Law," be included in the Meeting Book for review by all Board Members. He wanted it noted in the public record that the Board continues its commitment to reviewing issues of race and inequality and how they may impact attorney licensure in our state, and there would be further discussion at a future meeting.

11. Consider issues arising from reports of Executive Director, Director of Eligibility & Examination, Director of Character & Fitness, and Staff Attorneys.

The Board did not bring up any issues for discussion.

12. Conduct review of questions to be used for future Texas Bar Examinations, including Texas essays and Multistate Performance Test questions. (This review will be conducted in executive session, pursuant to §82.003(b), Texas Government Code.)

Rivera called Executive Session at 12:03 PM for purposes of reviewing examination questions for the September 2020 Texas Bar Exam.

Executive Session ended at 2:52 PM.

13. July calendar.

This item was moved ahead of item 12. Gonzales will send an email outlining all currently scheduled events for July to the Board and Staff.

14. Closing Remarks


During today's Board meeting, BLE received an email from a group of law students identifying themselves as "Future Texas Attorneys for Diploma Privileges" requesting diploma privileges due to the Covid-19 pandemic. The request was also copied to Justice Busby. The email and attachments have been forwarded to all Board Members. Rivera asked that the email and proposal be reviewed, as the material may be included in the 7/3/2020 Board Meeting.

15. Adjourn

The meeting adjourned at 2:46 PM.

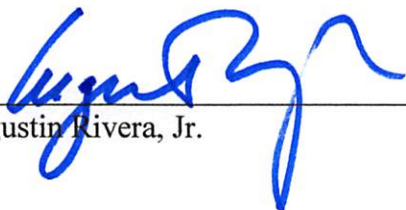
On Friday, June 26, 2020, at the conclusion of the Board meeting, the Board conducted individual Formal Reviews with unsuccessful examinees from the February 2020 Texas Bar Examination. The formal reviews were not part of the public meeting.

Respectfully Submitted,



Susan Henricks,
Executive Director

Approved by:



Augustin Rivera, Jr.