

MINUTES OF THE MEETING OF THE  
BOARD OF LAW EXAMINERS

July 2, 2020

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 Thursday, July 2, 2020, at 8:35 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, with Orr excusing herself from the meeting at 1:00 PM.

Rivera provided a brief outline of efforts made to conduct a July and September 2020 bar exam, including the rapidly evolving COVID-19 pandemic impacting the examination. He noted that it appeared feasible to schedule July and September exams, with precautionary measures at the time that decision was made. The staff has now determined that administration of a July and/or September meeting would need to be reevaluated, prompting this meeting. At a board meeting held on June 26, 2020, Board Members were in apparent agreement that a July bar exam would not be feasible, and that a September examination may also need to be reconsidered.

2. Consider Communications from the Public.

Deans Michael Barry, Leonard Baynes, Jack Nowlin, Brad Toben, Robert Ahdieh, Joan Bullock, Patricia Roberts, Ward Farnsworth and Angela Epps were present but did not offer public comments. The Board entertained more than 60 comments from the public, including those given by faculty and staff from Texas and out-of-state law schools, as well as recent graduates, licensed attorneys, and applicants.

Rivera called a break at 10:32 AM.

Rivera returned the meeting to order at 10:49 AM. He thanked all of the speakers for their participation and acknowledged the presence of the deans in attendance.

3. Consider status of July/September Texas Bar Examination and any recommendations to the Texas Supreme Court in response to the Covid-19 epidemic.

Rivera stated that the Board would focus discussion on the scheduled July 2020 and September 2020 bar examinations and possible alternatives to either or both of these exams.

Based on previous committee and board meetings, Rivera reiterated his understanding of the Board's consensus that a July 2020 test administration is not feasible. He asked the Board to provide any comments counter to his understanding. There were no dissenting or clarifying comments made.

Rivera then asked the Board to consider prospects for the September examination, working under the assumption that there would not be a July administration. Rivera noted that the Texas Law School Deans had previously submitted a letter outlining three options: an online examination, a supervised apprenticeship requirement, or admission without examination for some or all pending applicants (diploma privilege). He noted that the Supreme Court had previously appointed a task force to consider the bar examination that reviewed diploma privilege and that the suggestion was not well received. Rivera said he understands that the pandemic calls for exceptional measures but it is his understanding that the Board does not consider a diploma privilege as a viable option based on previous review of the issue, regardless of the current circumstances. An online test was discussed during June 30, 2020, Covid-19 Response committee meeting and the committee supported the online exam and a September exam, if an in-person examination is feasible at the time of administration.

Rivera opened the floor for discussion regarding the proposed changes to test dates and administration formats and to other alternatives, such as a diploma privilege or qualification through an apprenticeship program.

Rivera called for a break at 12:44 PM.

Rivera called the meeting back to order at 1:04 PM.

The Board continued with its discussion of testing alternatives.

Mackenzie submitted a motion to offer all three options that the Board had discussed; keep September 2020 on the table as planned, until such time as the conditions warrant that the exam be cancelled with the proviso that a decision be made no less than 4 weeks before the exam and allow applicants to opt out of the September exam with fees moved to another examination; offer an online exam in October 2020; and, if neither of the tests is feasible for an applicant, that an apprenticeship program that is more robust than the current program be proposed, with law schools establishing the parameters of the program, including the qualifications for the supervisor, the apprentice, and some type of feedback or measure to assess if the applicant has proved competency. The apprenticeship applicant would also complete the TLC. After completion, the applicant could apply for a full license. This option would be only for applicants who have applied for the July/September exam or by UBE transfer. Odom seconded Mackenzie's motion.

During discussion of the motion presented by Mackenzie, Massey submitted a motion to amend Mackenzie's motion to instead recommend to the Supreme Court cancellation of the July and September exam administrations and offer an online October examination. Soltero seconded the amendment.

Rivera recognized that a motion was made and seconded to amend Mackenzie's motion and that the amendment would include cancellation of the July and September exams and add an October online exam. He clarified that the motion to amend Mackenzie's motion does not

include any mention of an apprenticeship or amended supervised licensure program. Rivera called for a roll-call vote on amending the motion, with the votes cast as:

- Barbara Ellis: Yes
- Al Odom: No
- Anna McKim: Yes
- Alfred Mackenzie: No
- Dwaine Mssey: Yes
- Carlos Soltero: Yes
- Teresa Ereon Giltner: Yes
- Augustin Rivera, Jr.: Yes
- Cynthia Orr: Absent (excused)

Rivera stated that the motion carried to amend Mackenzie's motion, indicating that a majority of the Board believes the best course of action would be to proceed with administration of an October online exam, only, in 2020. Rivera stated that the Supreme Court would be made aware of all options discussed with a notation that those additional options were not recommended by the Board.

Odom asked that the minutes reflect he is not opposed to an online exam, but voted against the change in motion because he would prefer that other options be included.

Rivera called for a vote on the motion as amended by Massey to cancel the July and September 2020 in-person exams and add an October 2020 online exam. On roll call, the members voted as follows:


- Barbara Ellis: Yes
- Al Odom: No
- Anna McKim: Yes
- Alfred Mackenzie: Yes
- Dwaine Massey: Yes
- Carlos Soltero: Yes
- Teresa Ereon Giltner: Yes
- Augustin Rivera, Jr. Yes
- Cynthia Orr: Absent (excused)

Rivera stated that the motion carried, and that the Board would recommend to the Supreme Court that the July and September exams be cancelled and an online exam be added in October 2020.

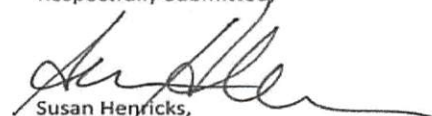
4. Adjourn.

Rivera thanked the Board, Deans, Staff, and members of the public for their participation. He adjourned the meeting at 2:11 PM.

Approved by:

  
Augustin Rivera, Jr.

Respectfully Submitted,

  
Susan Henricks,  
Executive Director