

MINUTES OF THE MEETING
OF THE BOARD OF LAW EXAMINERS

August 19, 2020

1. Call to order, determine quorum, and consider requests for excused absences.

Board Chair Augustin Rivera, Jr. called the meeting to order at 2:01 PM. 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 members of the Board were in attendance, so the required quorum was met.

Rivera closed the meeting to the public by calling Executive Session at 2:04 PM, including stopping YouTube live streaming.

2. Executive Session to consider information regarding:

- a. Matters confidential under TEX. GOV'T CODE §552.139 (relating to efforts to prevent, detect, investigate, or mitigate a computer security incident) with possible discussion and action in open session.
- b. Matters confidential under TEX. GOV'T CODE §2059.055 (relating to restricted information under or to the design, operation, or defense of a computer network) with possible discussion and action in open session.
- c. Matters confidential under TEX. GOV'T CODE §82.003 and Rule 7(a)(1) of the Rules Governing Admission to the Bar of Texas concerning potential future bar examination questions, including drafts and related research with possible discussion and action in open session.

Open session was reinstated by Rivera at 2:31 PM, including reinstating the YouTube live streaming link.

3. Consider recommendations to the Texas Supreme Court regarding format, content and delivery of October 2020 Texas Bar Examination.

Software vendor ILG is no longer available to provide an examination as planned for October 2020. Texas has obtained a proposal from exam provider ExamSoft, the sole remaining provider authorized to utilize NCBE test materials. This would allow BLE to use the same format, same content, and same dates as were originally planned and is consistent with the Supreme Court order of July 3, 2020. The licensing fee for Exam Soft is \$50 more per applicant than ILG, but ILG will refund the examinees' previously-paid licensing fees and BLE will cover remaining fees between ILG and ExamSoft's licensing fees. BLE will need to secure a contract for the grading platform from ILG, separately from what is being provided by ExamSoft, but BLE is able to absorb that cost. Henricks did want it noted that a major difference between ILG and ExamSoft is that ILG uses live proctoring, while ExamSoft makes a recording of the entirety of the exam, which is reviewed post-exam by artificial intelligence and then further reviewed by staff. Ultimately, staff would make the determinations of any improprieties that required additional

evaluation. Henricks stated that she is seeking approval from the Board to pursue this change in vendor for the October 2020 online exam software.

4. Consider communications from the public, if any.

Public comments were offered by Dean Mike Barry, Pedro Segura, Dean Leonard Baynes, Jessica Kimes, Rohit Dahar, Tom McMasters, Katya (no last name provided), Leigh Ann Tognetti, Michael Aragon, Kevin Cook, Rachael Beavers, Hayden Carlos, Dak Cohen, Vivek Vedanara, Leslie Alvarez, Thomas Samuelson, Emily Ivey, Valerie Sanchez, Brian Wisenbaker, Dean Patricia Roberts, Mikayla McIntyre, L. Garza, Stacie Osborn, Ansa Aziz, and Zain Hassan.

At the commencement of public comments, Rivera called for a ten-minute break at 3:27 PM.

Rivera called the meeting to order at 3:41 PM and returned to agenda item #3. He asked Executive Director Henricks if she had any changes in recommendations based on public comments. Henricks noted that BLE staff would investigate the concerns raised during the public comments portion of the agenda, especially those related to artificial intelligence and ExamSoft reliability, and would address the issues within the BLE website's FAQ, but her recommendation to change exam software vendor from ILG to ExamSoft was unchanged.

Ellis submitted a motion to authorize a contract with ExamSoft as the software vendor for the online October 2020 bar examination. The motion was seconded by Odom. Rivera called for a vote, which passed unanimously.

5. Review letter to Texas Supreme Court from Texas Law School Deans dated July 25, 2020.

On July 25, 2020, the Texas Law School Deans submitted a letter to the Supreme Court of Texas outlining their proposal for an apprenticeship program, a copy of which was provided to the Board. Rivera sought any comments or input from Board Members that he could present to the Supreme Court during an upcoming meeting he has scheduled with the Justices.

Massey stated that because two Justices supported apprenticeship or diploma privilege and with the uncertainty of the September and October exams, he said he believed the Board should consider other licensure practices.

Orr complimented BLE staff on pursuing testing alternatives that would provide safety to examinees and thanked Deans for proposing an apprentice program, and encouraged the Board to consider the apprenticeship program but only if it could be administered equitably and with a more thorough review of how to administer such a program.

Soltero stated that the pandemic has provided a good opportunity to reevaluate all paths to licensure. He said that the focus right now is the Class of 2020 in administering an exam, but he feels certain that this pandemic will impact classes through at least 2022 so a long-term solution is needed. An apprenticeship program may be the appropriate choice, but it needs to be more closely evaluated.

Odom posed the question to the Board: is there any action that the Board could take on the letter? He asked if the Board endorsing the proposal would have any impact on its implementation. Rivera stated that it was his intention to start a discussion about the proposal that could be more fully discussed at the next board meeting, scheduled for August 24, 2020.

Ellis stated that she does not feel the proposal has sufficient details on how supervisors would assess competency or what subject areas would be required for each apprentice. She believes it is too radical a change for such a quick turn-around on approval. Ellis said that approving supervised practice or apprenticeship for licensing should follow a similar path as implementation of the UBE, including input from all vested parties. It should not be a quick-fix that only benefits the Class of 2020.

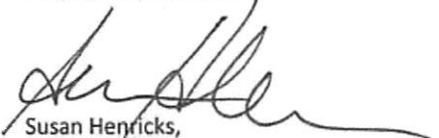
Ereon Giltner asked that BLE staff address all of the concerns identified by Board Members, Deans, and public commenters with ExamSoft prior to signing a final contract, ensuring that all voices are heard. She also noted that Texas lawyers are extremely generous in giving their "time, talent, and treasure" and would normally jump at the opportunity to supervise a new graduate, but she had concerns that with the pandemic it could be more of a challenge to identify enough available practicing attorneys to pair with all graduates.

Soltero noted that since there is no agenda item on which action could be taken, he motioned that discussion be tabled for the August 24, 2020, meeting. Rivera stated that a motion is not required since no action is on the table, but that discussion could be continued at the next scheduled meeting.

6. Adjourn.

Rivera adjourned the meeting at 4:24 PM.

Respectfully Submitted,



Susan Henricks,
Executive Director

Approved by:



Augustin Rivera, Jr.