

**Minutes of the Meeting of  
the Board of Law Examiners  
November 17, 2021**

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

Chair Augustin Rivera, Jr. called the meeting to order at 9:03 a.m. with a quorum present. Rivera, Giltner, Mackenzie, Odom, and Soltero attended in person. Ellis, Massey, and McKim attended remotely. Orr joined the meeting at 9:30 a.m., attending remotely.

**2. Consider approval of minutes and certified agendas of board meetings, panel hearings, waiver panels, and committees**

The Chair presented minutes of the waivers and hearings panel of 9/17/2021. Massey moved to accept the minutes as presented. Mackenzie seconded. The Board voted unanimously to approve the minutes.

**3. Consider communications from the public**

No members of the public were present.

**4. Report of Accountant**

**(a) Review Report of Auditors**

Chief Accountant Rod Shaheen and Rebecca Goldstein, auditor with Weaver, presented the FY 2021 Annual Audit. Staff provided an electronic copy to each Board member before the meeting and made paper copies available at the meeting.

Giltner moved to accept the report as presented. Odom seconded. The Board voted unanimously to approve.

**(b) Review investment reports**

The Board deferred this agenda item to January 2022.

**(c) Review annual financial report and budget variance report**

Shaheen presented the budget variance report.

**5. Report of General Counsel**

**(a) Litigation report**

At 9:19, on motion approved by the Board, the meeting moved to executive session pursuant to Tex. Gov't Code §551.071, which allows a governmental body to consult with its attorney in a closed meeting when the governmental body seeks the advice of its attorney about pending or contemplated litigation or a settlement offer, or on a matter in which the duty of the attorney to the

governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

At 10:03 a.m., the Chair called the meeting to open session. He announced a five-minute break.

At 10:10 a.m., the meeting resumed in open session, **returning to agenda item 4**. The Board considered a potential correction to page 13 of the Report of the Auditors. Soltero moved that the report be accepted as presented with the understanding that a correction would be made on page 13 as was discussed in executive session. Mackenzie seconded. The motion carried unanimously. Rivera authorized Hoang to work with the auditors to amend the report for final review at a future meeting.

## **6. Report of Finance Committee**

The Board deferred this agenda item to January 2022.

## **7. Report of Executive Director**

### **(a) General agency operations**

Due to the continuing COVID-19 pandemic, staff continues to work from home, but staff may choose to work from the office.

### **(b) Report on 2021 CBAA Fall Meeting**

Hoang, Drish, Parks, Strunc, and Schiller attended the November 2021 CBAA Fall Meeting in-person in Boston. Texas had a strong presence at the event, chairing three committees and participating as a panelist for a plenary presentation. It is Hoang's understanding that future NCBE meetings will be held in-person, including the upcoming UBE Jurisdictions Forum.

### **(c) Complaint resolution report**

Hoang presented the complaint resolution report and answered Board members' questions. No member requested any further action on any complaint in the report.

### **(d) Administratively-determined waivers report**

Hoang presented the administratively-determined waivers report.

### **(e) Articles of interest, including Texas's Task Force Report from 2018**

Hoang included articles of interest in the Board Meeting Book for the Board to review at their convenience.

### **(f) Calendar updates, including approval of proposed CY2022 calendar presented during the June 2021 meeting**

Hoang noted upcoming events, including:

- UBE Jurisdictions Forum: January 21-23, 2022 (San Diego)
- 2022 NCBE Annual Bar Admissions Conference: April 28-May 1, 2022 (New Orleans)
- 2023 NCBE Annual Bar Admissions Conference: May 4-7, 2023 (Nashville)

One hearings panel has been scheduled for December 17, 2021, with Soltero, Ellis, and Mackenzie scheduled to participate. McKim has agreed to substitute for Mackenzie. The Board agreed that Rivera, Giltner, and Massey would serve on a second panel on that date. Gonzales will send calendar holds to the newly-added panelists.

Hoang reviewed the approved CY2021 calendar and the proposed CY2022 calendar. The Board approved the following changes:

- Ellis will serve for Massey on the February 2022 panel.
- McKim will serve for Mackenzie on the December 2021 panel.
- Mackenzie will serve for McKim on the March 2022 panel.

**(g) Scheduling and format for Formal Reviews during CY2022**

The Board decided to conduct all Formal Reviews for CY2022 via Zoom.

**8. Report of Director of Character and Fitness**

**(a) Character and Fitness Updates**

Drish gave an overview of the proposed NCBE Central Core Records Repository, which is very early in the planning stages.

**(b) Recommendations of probationary licenses to be converted to regular licenses and for minor modifications to probationary licenses**

Drish presented the conversion report to the Board.

**(c) Annual report of character and fitness determinations**

Drish presented the annual report of character and fitness determinations to the Board.

**(d) Discuss Informal Settlement Conference process**

The Board and staff discussed Informal Settlement Conferences, including the following topics:

- Should issues that give rise to a PDL be decided only after a hearing before a 3-member panel of board members?
- Should staff serve on an ISC panel? Staff issues the PDL, which could suggest that staff has already formed an opinion. Moreover, perhaps Board members, not staff, should determine character and fitness issues that are significant enough to give rise to a PDL.

- Do ISCs offer efficiencies to applicants, or have ISCs become “mini-hearings”?
- Should ISCs be limited to certain situations, such as PDLs issued to timely-filed declarants, pandemics, or other emergencies?
- Should ISCs be held by Zoom?
- Should the PDL guidelines be changed to give different guidance and/or discretion to staff?

Rivera said that this issue will be revisited at the January retreat, including information on how other jurisdictions administer similar programs.

Parks suggested scheduling more hearings. Soltero said he supported more hearings if it will help the dockets run more efficiently. Rivera and the Board authorized staff to add an extra day per month for hearings.

## 9. Report of Director of Admissions

### **(a) Discuss January retreat presentations, including regrading policies, and whether to include revisions of Rule 13(1) as a presentation**

Sullivan is developing a presentation for the January 2022 retreat on exam grading and regrading.

Sullivan proposed including discussion of the UBE score portability. The Rule currently allows two years without experience. He proposed the Board consider revisiting that two-year mark and/or removing the practice time requirements. The Board approved inclusion of that presentation for the retreat.

### **(b) Discuss Texas Task Force recommendation to conduct standard setting study**

Sullivan provided the Board with a copy of the Task Force recommendation to conduct a standard setting study and said that the topic would be presented at the January retreat.

### **(c) February 2022 Texas Bar Exam update, including discussion of two exam sites (Austin and Houston) and new proctor portal**

Although February exams are normally administered in one city only, staff will administer the February 2022 examination in Houston and Austin in order to allow space for social distancing.

### **(d) Discuss grade release server issues, including possible solutions for future grade releases**

Sullivan is working with ILG and other parties to figure out why the BLE continues to experience server issues when it sends results letters to examinees.

**10. Consider whether to begin collecting demographic information from Texas Bar Examinees**

The Board reviewed information on how the United States Census and New York Bar of Law Examiners gather demographic information, along with a survey of how other jurisdictions handle demographic information from applicants. The Board discussed whether collecting demographic information from Texas Bar Exam applicants would provide useful information. Rivera will work with the DEI Committee and with staff on developing a proposal on collection of demographic information.

**11. Consider issues arising from reports of Executive Director, Director of Character & Fitness, Director of Admissions, and General Counsel.**

No issues were presented.

**12. Report on NCBE**

Rivera presented updates on the NCBE.

**13. Adjourn**

Rivera adjourned the meeting at 12:07 p.m.

Respectfully Submitted,



Nahdiah Hoang  
Executive Director

Approved by:



Augustin Rivera, Jr.