

TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of May 6, 2021

Videoconference

Summary of Minutes

Chairman Rick Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 8:31 a.m. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Dr. Gary Wesson, Dr. Ray Callas, Helen Callier and Nora Castañeda. Commissioner Joel Garza was not present. A quorum was present. This meeting was held by videoconference under procedures approved by the Office of the Governor and the Office of the Attorney General.

Staff present included: Brian Francis, Executive Director; Christina Kaiser, Deputy Executive Director; Mike Arismendez, Deputy Executive Director; David Gonzales, Deputy Executive Director; Della Lindquist, Deputy General Counsel; and Charles Johnson, Deputy General Counsel.

Chairman Figueroa moved to agenda item C, Acknowledgement of Commissioner Callier, President of Permit Us Now, in supporting National Women in Construction Week.

Chairman Figueroa moved to agenda item D, Public Comment. Five written public comments were received, one of which was a phone-in public comment.

Chairman Figueroa moved to agenda item E, Commission Action. Discussion and possible action to authorize that Commissioners' electronic signatures be placed on written orders and decisions resulting from today's meeting. Commissioner Callas, seconded by Commissioner Wesson, made a motion to approve the use of electronic signatures. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item F, Approval of Minutes – Meeting of March 3, 2021. Commissioner Callas, seconded by Commissioner Callier, made a motion to approve the March 3, 2021 minutes as presented. Motion passed by unanimous vote.

Chairman Figueroa adjourned to agenda item G, Executive Session. The Commission recessed at 8:43 a.m. and went into to Executive Session.

Chairman Figueroa reconvened at 9:10 a.m. and moved to agenda item H, Action on items discussed in Executive Session. No action was taken on this item.

Chairman Figueroa moved to agenda item I, Contested Cases - consideration and possible action on cases heard before State Office of Administrative Hearings:

Docket Number ELC20180013873, ACR20200005995 / 452-20-2551.ACR; Kyle Pentecost, d/b/a One Call Enterprise, Inc., d/b/a One Call Home Handyman. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the amended Proposal for Decision. Motion passed by unanimous vote.

Docket Number VSF20180007719, VSF20200005115 / 452-20-1697.VSF; J and B Hicks, d/b/a US 59 Enterprise. Commissioner Butler, seconded by Commissioner Wesson, moved to adopt the Proposal for Decision. Motion passed by unanimous vote.

Docket Number ELC20200008904 / 452-20-4190.ELC; Brayon Estrada. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the Proposal for Decision. Motion passed by unanimous vote.

Docket Number MAS20200007089 / 452-20-4215.MAS; Sandra V. Munoz. Commissioner Wesson, seconded by Commissioner Callas, made a motion to dismiss the Proposal for Decision because an agreed settlement was reached by the parties and an Agreed Order issued on March 5, 2021. Motion passed by unanimous vote.

Docket Number TOW20200003794, TOW20200008073 / 452-20-3923.TOW; Miguel A. Roman, Jr., d/b/a Austinite Towing. Commissioner Butler, seconded by Commissioner Callier, made a motion to adopt the Proposal for Decision with amendments to Findings of Facts nos. 10 and 14, and Conclusions of Law nos. 12, 18 and 19, revoking Respondent's Incident Management Tow Operator License and Tow Truck Company License, probating the revocation until the term of community supervision in the May 2018 felony conviction has ended and add the assessment of a \$2,000.00 administrative penalty. Commissioners Castaneda, Callier, Callas and Butler voted in favor. Chairman Figueroa and Commissioner Wesson voted against. Motion passed.

Chairman Figueroa moved to agenda item J, Discussion and possible action on the proposed amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 86, §86.700, regarding the Vehicle Towing and Booting program. The proposed amendments explicitly prohibit tow truck companies and tow truck operators from: (1) towing vehicles involved in Non-Consent tows to locations other than those stated in rule; (2) recommending that vehicles be towed to any location other than a licensed Vehicle Storage Facility; and (3) obtaining authorization from vehicle operators for repairs or any fees other than those required to perform the tow. Commissioner Callier, seconded by Commissioner Wesson moved to adopt the rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item K, Discussion and possible action on the proposed amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 121, §§121.10, 121.21, 121.22, 121.70, 121.75, and the proposed new rule at §121.71, regarding the Behavior Analysts program. The proposed amendments establish standards and responsibilities for delivering behavior analysis services by license holders who choose to provide their services using telehealth. Commissioner Callas, seconded by Commissioner Callier, moved to adopt the rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item L, Discussion and possible action on the proposed amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 60, Subchapter D, §60.42, regarding the Procedural Rules of the Commission and the Department. The proposed amendments to an existing rule reduce the current fee amount in administrative rules charged for the Criminal History Evaluation Letter (CHEL) from \$25 to \$10. Commissioner Callas, seconded by Commissioner Callier, moved to adopt the rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, Discussion and possible action on the proposed amendments to existing rules at 16 Texas Administrative Code (TAC), Chapter 120, §§120.21, 120.22, 120.23, 120.25, and 120.90, regarding the Dyslexia Therapy program. The proposed amendments make updates relating to license applications, examinations, continuing education courses, and telehealth services. Commissioner Butler, seconded by Commissioner Wesson, moved to adopt the rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item N, Discussion and possible action on the emergency rulemaking adoption of amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 60, Subchapter B, §60.22, General Powers and Duties of the Department and the Executive Director, regarding the issuance of emergency licenses by the Texas Department of Licensing and Regulation. The effective date for this emergency rule is May 22, 2021. Commissioner Wesson, seconded by Commissioner Butler, moved to adopt the guidelines as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item O, Discussion and possible action to approve the Criminal Conviction Guidelines for the Motorcycle Operator Training and Safety Program. Commissioner Callas, seconded by Commissioner Butler, moved to adopt the guidelines as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item P, Approval of appointments and or reappointment of members to Advisory Boards, including appointment of presiding officers. Commissioner Callas, seconded by Commissioner Callier, made a motion to approve Chairman Figueroa's Board Appointment recommendation. Motion passed by unanimous vote.

- Advisory Board of Athletic Trainers** - Re-Appoints Britney Webb, San Marcos, TX
- Architectural Barriers Advisory Council** - Re-Appoints Ron Menard, Dripping Springs, TX and Kathy-Ann Riley, Austin, TX
- Combative Sports Advisory Board** - Re-Appoints Dr. Wayne Lee, San Antonio, TX and Blane Sibille, Sr., Austin, TX
- Licensed Breeders Advisory Committee** - Re-Appoints Joseph Levine, Burleson, TX
- Property Tax Consultants Advisory Council** - Re-Appoints Stephen R. Dunson, Fort Worth, TX
- Texas Tax Professional Advisory Committee** - Re-Appoints Michael Craig McDougal, Lubbock, TX
- Towing and Storage Advisory Board** - Re-Appoints James Spears, San Antonio, TX
- Used Automotive Parts Recycling Advisory Board** - Re-Appoints Brian Burgess, Lubbock, TX
- Texas Water Well Drillers Advisory Council** - Re-Appoints Johnny L. "Rusty" Gilmore, Dalhart, TX

- Air Conditioning and Refrigeration Contractors Advisory Board** - Appoints James Graves, Jr., Houston, TX
- Board of Boiler Rules** - Appoints John Iannone, Dallas, TX
- Combative Sports Advisory Board** - Appoints Forris Washington, Houston, TX
- Electrical Safety and Licensing Advisory Board** - Appoints Christopher Bass, Nederland, TX
- Midwives Advisory Board** - Appoints Teree Fruga, Colleyville, TX and Melissa Bates, Katy, TX
- Property Tax Consultants Advisory Council** - Appoints Andrea Fahrenthold, Conroe, TX

Advisory Board of Athletic Trainers - Appointed as Presiding Officer Britney Webb, San Marcos, TX
Dietitians Advisory Board - Appointed as Presiding Officer Janet Suzanne Hall, Florence, TX
Dyslexia Therapists and Practitioners Advisory Council - Appointed as Presiding Officer Helen Macik, Dallas, TX

Chairman Figueroa moved to agenda item Q, Staff Reports: Briefing from agency staff on monthly activities, statistical data, personnel changes, communications, and public outreach. May include discussion of the following topics: Legislative Update; COVID-19 Response Update; Agency Reports, Statistics, and Trends; HUB Report Update and Mentor Protégé Program; Update on any delays, changes, and improvements in TDLR's licensing process; Update on Issuing Emergency Licenses; and Update on Personnel Changes – retirements, promotions, etc. Legislative updates were provided by Steve Bruno, Government Relations Officer and Deputy Executive Directors Mike Arismendez and Christina Kaiser. A COVID-19 update was provided by David Gonzales, Deputy Executive Director.

Chairman Figueroa moved to agenda item R, Agenda items for future commission meetings. No action was taken on this item.

Chairman Figueroa moved to agenda item S, Discussion of date, time, and location of future commission meetings. To be set later. No action was taken on this item.

Chairman Figueroa adjourned the meeting at 1:05 p.m.

Rick Figueroa, Chairman
Texas Commission of Licensing and Regulation