

TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of August 4, 2020
Twin Towers Office Center
1st Floor Public Meeting Room
Austin, Texas

Summary of Minutes

Chairman Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 9:05 a.m., August 4, 2020. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Helen Callier, Dr. Ray Callas, Dr. Gary Wesson, Joel Garza and Nora Castaneda. Commissioner Callas was excused to leave the meeting at 9:13 a.m. This meeting was held by videoconference under procedures approved by the Office of the Governor and the Office of Attorney General.

Staff present included: Brian Francis, Executive Director; Christina Kaiser, Deputy Executive Director; Mike Arismendez, Deputy Executive Director; David Gonzales, Deputy Executive Director and Brad Bowman, General Counsel.

Chairman Figueroa moved to agenda item C, Chairman Figueroa and Brian Francis, spoke words of kindness and shared memories of Dickie Cole, former Combative Sports Program Manager. A video was shown in memoriam of Mr. Cole. A ten-count bell was rung, followed by a moment of silence to honor Mr. Cole's passing.

Chairman Figueroa moved to agenda item D, Public Comment. Fourteen written public comments were received including four phone-in public comments.

Chairman Figueroa moved to agenda item E, Approval of Minutes – Meeting of June 30, 2020. Commissioner Butler seconded by Commissioner Callier, made a motion to approve the minutes. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item F, Discussion and possible action to authorize that Commissioners' electronic signatures be placed on written orders and decisions resulting from today's meeting. Commissioner Callier 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 G, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code, Chapter 84, Subchapter A, §§84.1 and 84.2; Subchapter C, §§84.40 – 84.42 and §§84.44 – 84.46; Subchapter D, §§84.51 and 84.52; Subchapter E, §§84.60, 84.62, and 84.64; Subchapter F, §§84.70 and 84.72; Subchapter G, §§84.80 – 84.82 and 84.84; Subchapter H, §§84.90; Subchapter J, §§84.200; Subchapter K, §§84.300 – 84.302; Subchapter M, §§84.500 – 84.506; and Subchapter N, §§84.600; proposed **new rules** at Subchapter C, §§84.43; Subchapter G, §§84.85; Subchapter I, §§84.103; Subchapter M, §§84.507; and Subchapter N, §§84.601; and the proposed **repeal** of existing rules at Subchapter C, §§84.43; and Subchapter N, §§84.601 regarding the **Driver Education and Safety** Program (DES). The proposed rules are necessary to implement three separate rulemaking initiatives: (1) implement House Bill (HB) 2847, Article 2, 86th Legislature, Regular Session (2019); (2) address the need to update

course curriculum requirements to complete the second phase of the Department's reorganization and clarification of the rules, following the transfer of the DES program to the Department in 2015; and (3) implement recommendations of the DES Fees and Curriculum Workgroups pertaining to reducing program fees and course curriculum changes. Commissioner Callier seconded by Commissioner Wesson moved to adopt the rules with changes, to be effective September 1, 2020.

Chairman Figueroa moved to agenda item H, **Discussion and possible action** on the proposed **new rules** at 16 Texas Administrative Code (TAC), Chapter 97, Subchapter A, §§97.1, 97.2 and 97.3; Subchapter B, §§97.20, 97.21, 97.22, 97.23, 97.24, 97.25, 97.26, 97.27, and 97.28; Subchapter C, §§97.40, 97.41, 97.42, and 97.43; Subchapter D, §§97.50, 97.51, 97.52, 97.53, 97.54, 97.55, 97.56, 97.57, 97.58, 97.59, and 97.60; Subchapter E, §§97.70, 97.71, 97.72, 97.73, and 97.74; and Subchapter F, §97.80, regarding the **Motor Fuel Metering and Quality** program. The proposed new rules are necessary to implement Senate Bill 2119, 86th Legislature, Regular Session (2019), effective September 1, 2020, which transfers the Motor Fuel Metering and Quality Program from the Texas Department of Agriculture to the Texas Department of Licensing and Regulation, and which, creates new Texas Occupations Code, Chapter 2310, Motor Fuel Metering and Quality. Commissioner Butler seconded by Commissioner Callier moved to adopt the rules with changes, to be effective September 1, 2020.

Chairman Figueroa moved to agenda item I, **Discussion and possible action** on the proposed **new rules** at 16 Texas Administrative Code, Chapter 98, §§98.1, 98.10, 98.20 - 98.23, 98.25 - 98.27, 98.30, 98.40, 98.50, 98.60, 98.65 - 98.70, 98.72, 98.74, 98.76, 98.80, 98.90, 98.92, 98.100, 98.102, 98.104, 98.106, 98.108, 98.110, 98.112, and 98.114, regarding the **Motorcycle Operator Training and Safety** program. The proposed new rules implement Senate Bill 616, Article 8, 86th Legislature, Regular Session (2019), which transfers the Motorcycle Operator Training and Safety program from the Texas Department of Public Safety to the Texas Department of Licensing and Regulation. Commissioner Callier seconded by Commissioner Wesson moved to adopt the rules with changes, to be effective September 1, 2020.

Chairman Figueroa moved to agenda item J, **Discussion and possible action** on the proposed **new rules** at 16 Texas Administrative Code, Chapter 99, §§99.1, 99.10, 99.20, 99.22, 99.24, 99.26, 99.30, 99.90, 99.92, 99.100, and 99.102, regarding the **Off-Highway Vehicle Operator Education and Certification** program. The proposed new rules implement Senate Bill 616, Article 8, 86th Legislature, Regular Session (2019), which transfers the Off-Highway Vehicle Operator Education and Certification program from the Texas Department of Public Safety to the Texas Department of Licensing and Regulation. Commissioner Callier seconded by Commissioner Garza moved to adopt the rules without changes as published, to be effective September 1, 2020.

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 112, Subchapter B, §112.13; Subchapter C, §§112.23 - 112.26; Subchapter D, §§112.30, 112.32, and 112.33; Subchapter E, §112.40 and §112.42; Subchapter F, §112.52 and §112.53; Subchapter G, §112.60 and §112.61; Subchapter H, §112.71; Subchapter J, §112.91 and §112.98; Subchapter L, §112.110; and Subchapter M, §112.120; the proposed **new rules** at Subchapter C, §112.21 and §112.22; and Subchapter M, §§112.121 - 112.125; and the proposed **repeal of existing rules** at Subchapter C, §112.21 and §112.22; and Subchapter N, §§112.130-112.132 and 112.134, regarding the **Hearing Instrument Fitters and Dispensers** program. The proposed rules implement House

Bill (HB) 1899, HB 2059, HB 2699, and HB 2847, Article 7, 86th Legislature, Regular Session (2019); clarify the submission of surety bonds or other financial security to the Department; address the permit extension requirements; and make terminology and other clean-up changes. Commissioner Callier seconded by Commissioner Wesson moved to adopt the rules with changes, to be effective September 1, 2020.

Chairman Figueroa moved to agenda item L, Discussion and possible action to approve the penalty matrix for the Sanitarians program. Commissioner Garza seconded by Commissioner Wesson moved to approve the penalty matrix as presented.

Chairman Figueroa moved to agenda item M, Commission Work Groups – including update from work groups discussion, and possible action on items discussed. Sunset, Strategic Plan, Legislative Appropriations Request Work Group. There was no discussion on this item.

Chairman Figueroa moved to agenda item N, Briefing from agency staff on monthly activities, statistical data, personnel changes, communications and public outreach. May include discussion of the following topics: COVID-19 Response; Agency Reports, Statistics, and Trends; Legislative Appropriation Request, Strategic Plan; Sunset Report; Budget Reductions and Current Projects. David Gonzales, Deputy Executive Director provided an overview of the Department's external and internal Covid19 responses, and reported the Licensing System is within scope, on track and within budget. Brian Francis, Executive Director provided a brief overview of the impact COVID-19 has had in the Customer Service Division, Enforcement Division and the Licensing Division and employees working from home. Mike Arismendez, Deputy Executive Director reported there is no update for the Legislative Appropriations Request from the previous meeting. The Department has identified and met the 5% budget cut, the Motor Fuel Metering and Quality program and Motorcycle and ATV Operator Safety programs transfers are on target. Christina Kaiser, Deputy Executive Director provided an update on the Department's Management Actions Team meetings that have taken place and reported progress has been made on some management actions items.

Chairman Figueroa moved to agenda item O, Agenda items for future Commission Meetings. There was no discussion on this item.

Chairman Figueroa moved to agenda item P, The next Commission meeting date is September 29, 2020.

Chairman Figueroa moved to agenda items Q and R, Executive Session and Action on items discussed in Executive Session. There was no action on this item.

Chairman Figueroa moved to agenda item S, Contested Cases - consideration and possible action (heard before State Office of Administrative Hearings):

Docket Number TOW20190003340 / 452-20-1172.TOW; Chad Joshua Beard. Commissioner Wesson seconded by Commissioner Butler moved to adopt the PFD, revoking and denying the renewal of Respondent's Incident Management Tow Operator license with one change to amend Finding of Fact No. 3, a technical error, replacing '2018' with '2017'.

Docket Number TOW20190011167 / 452-19-6080.TOW; Dalton Dakota Mosley. Commissioner Butler seconded by Commissioner Callas moved to adopt the PFD, denying Respondent's application for Incident Management Tow Operator license, with an amendment to add Conclusions of Law Nos. 12 and 13, authorizing the Department to deny the Respondent's application because of Respondent's apparent lack of honesty, trustworthiness and integrity pursuant to Section 51.4012(a), Occupations Code.

Docket Number ELC20200000565 / 452-20-0999.ELC; Jeremy M. Brizendine. Commissioner Callier seconded by Commissioner Wesson moved to adopt the PFD, denying Respondent's application for an Apprentice Electrician license.

Docket Number ELC20190012228 / 452.20.0856.ELC; Bradley Spencer. Commissioner Garza seconded by Commissioner Wesson moved to adopt the PFD revoking and denying the renewal of Respondent's Apprentice Electrician license, with a modification to add new Conclusions of Law Nos. 10 and 11, relating to Respondent's deferred adjudication making him unfit for the license, pursuant to Chapter 53, Occupations Code.

Docket Number MAS20190015164 / 452-20-1758.MAS; Xin Liu. This item was postponed until the September 29, 2020 meeting.

Docket BAR20190013563 / 452-20-1030.BAR; Shaun Michael Lee. Commissioner Callier seconded by Commissioner Wesson moved to adopt the PFD, denying the renewal of and revoking the Class A Barber license of Respondent.

Chairman Figueroa adjourned the meeting at 12:50 p.m.

Rick Figueroa, Chairman
Texas Commission of Licensing and Regulation