

# TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of August 10, 2021

Videoconference

## Summary of Minutes

Chairman Rick Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 8:32 a.m. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Dr. Ray Callas, and Dr. Gary Wesson. A quorum was present. Commissioner Callas, seconded by Commissioner Wesson, made a motion to excuse the absence of Commissioner Callier and Commissioner Castaneda. Motion passed by unanimous vote. 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; David Gonzales, Deputy Executive Director; Mike Arismendez, Deputy Executive Director; Brad Bowman, General Counsel; and Della Lindquist, Assistant General Counsel.

Chairman Figueroa moved to agenda item C, Public Comment. Four written public comments were received, and two public commenters presented during the Commission meeting.

Chairman Figueroa moved to agenda items D and E, Executive Session. The Commission recessed at 8:45 a.m. and went into Executive Session. Action on items discussed in Executive Session. No action was taken on this item. Chairman Figueroa reconvened at 9:18 a.m.

Chairman Figueroa moved to agenda item F, 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 Wesson, seconded by Commissioner Callas, made a motion to approve the use of electronic signatures. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item G, Approval of Minutes – Meeting of July 6, 2021. Commissioner Callas, seconded by Commissioner Wesson, made a motion to approve the July 6, 2021, minutes as presented. Motion passed by unanimous vote.

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

Docket Number ELC20200003709 / 452-21-0042.ELC; Miguel Soriano. Commissioner Wesson, seconded by Commissioner Butler, made a motion to remand the case back to the Department and give 30 days during which he can submit a Journeyman's license application, and find a Master Electrician to supervise him in order to consider issuing a restricted license. Chairman Figueroa and Commissioners Butler and Wesson voted in favor. Commissioner Callas voted against. Motion passed.

Docket Number TOW20200007642 / 452-21-0339.TOW; Sonny G. Harding. Commissioner Callas, seconded by Commissioner Butler, made a motion to make a technical correction to Conclusion of Law no. 7, and remand the case back to staff to work with Mr. Harding for him to pay for random drug testing to be monitored. Motion passed by unanimous vote.

Docket Number ELC20200015314 / 452-21-0202.ELC; Toriano Adarryl Goods. Commissioner Callas, seconded by Commissioner Butler, made a motion to adopt the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number ATH20200014583 / 452-21-0565.ATH; Brian Isaiah Fisher. Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number ELC20200006125 / 452-21-0067.ELC; Benjamin Kyle Meece. Commissioner Butler, seconded by Commissioner Callas, made a motion to adopt the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number ELC20200012723 / 452-21-0659.ELC; Joe Nathen Brown, Jr. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the Proposal for Decision with a technical correction to Finding of Fact no. 1. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item I, **Discussion and possible action** on the proposed **amendments** to 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 (Department). Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the rules as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item J, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC), Chapter 98, §§98.10, 98.20, 98.21, 98.22, 98.23, 98.26, 98.70, 98.100, 98.104, 98.106, 98.108, 98.110, 98.112, 98.114; and proposed new rule at §98.116, regarding the **Motorcycle and ATV Operator Safety** program. The proposed rules create new eligibility requirements for instructor licenses; additional safety requirements for training sites; increased information disclosure for student enrollment; and new curriculum standards for courses in motorcycle operation. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the rules as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item K, **Discussion and possible action** on the emergency rulemaking adoption of **amendments** to existing rules at 16 Texas Administrative Code (TAC), **Chapter 111**, Subchapter A, §111.2; Subchapter E, §111.41; Subchapter F, §111.50 and §111.51; Subchapter J, §111.91 and §111.92; Subchapter V, §§111.210-111.212 and §111.215; and Subchapter X, §§111.230-111.232; and the **repeal** of existing rules at Subchapter V, §111.213 and §111.216, regarding the **Speech-Language Pathologists and Audiologists** program. This emergency rulemaking is necessary to ensure that services to clients and supervision of certain licensees may continue to be provided through telehealth as was allowed under the waivers that were granted by the Governor during the COVID-19 pandemic. This emergency rulemaking also reflects the change in the statutory authority regarding telehealth. This emergency rulemaking is necessary to protect the public health, safety, and welfare. Commissioner Callas, seconded by Commissioner Butler, made a motion to adopt the emergency rules as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item L, **Discussion and possible action** on the emergency rulemaking adoption of **amendments** to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 112**, Subchapter P, §112.150, regarding the **Hearing Instrument Fitters and Dispensers** program. This emergency rulemaking is necessary to ensure that services to clients may continue to be provided through telehealth as was allowed under the waivers that were granted by the Governor during the COVID-19 pandemic. This emergency rulemaking also reflects the change in the statutory authority regarding telehealth. This emergency rulemaking is necessary to protect the public health, safety, and welfare. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the emergency rules as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, **Discussion and possible extension** of the previously adopted emergency **amendments** to an existing rule at 16 Texas Administrative Code (TAC), Chapter 75, §75.100, regarding the **Air Conditioning and Refrigeration** program, regarding delaying the effectiveness of Section 210.8(F) of the 2020 National Electrical Code. Commissioner Wesson, seconded by Commissioner Callas, made a motion to extend the emergency rules as presented with an effective date of November 16, 2021. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item N, **Discussion and possible extension** of the previously adopted emergency **amendments** to an existing rule at 16 Texas Administrative Code (TAC), Chapter 73, §73.100, regarding the **Electricians** program, regarding delaying the effectiveness of Section 210.8(F) of the 2020 National Electrical Code. Commissioner Wesson, seconded by Commissioner Callas, made a motion to extend the emergency rules as presented with an effective date of November 16, 2021. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item O, **Discussion and possible action** on the proposed **new** rule at 16 Texas Administrative Code, **Chapter 84**, Subchapter A, §84.3; and **amendments** to existing rules at Subchapter C, §84.44 and §84.45; Subchapter D, §84.50; Subchapter L, §84.400; Subchapter M, §§84.500-84.506; and Subchapter N, §84.600, regarding the **Driver Education and Safety** Program. The proposed rules complete implementation of House Bill 105, 86<sup>th</sup> Legislature, Regular Session (2019), by requiring the curriculum of a specialized driving safety course to include information relating to safely operating a motor vehicle near an oversize or overweight vehicle. The proposed rules also implement a recommendation by the Curriculum Rules Workgroup and Department staff to transfer rule text relevant to curriculum requirements for driver training courses from 16 TAC, Chapter 84, to Department created program guides for use by licensees. Commissioner Butler, seconded by Commissioner Wesson, made a motion to adopt the rules as presented, including program guides. 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 Butler, seconded by Commissioner Callas, made a motion to approve Chairman Figueroa's Board Appointment recommendation. Motion passed by unanimous vote.

## APPOINTMENT

- Claire De Guzman of Tyler, TX to Registered Sanitarian Advisory Committee

## REAPPOINTMENTS

- John Rickard of Austin, TX to Architectural Barriers Advisory Committee
- Michael T. Olson of McGregor, TX to Architectural Barriers Advisory Committee
- Rick Stroud of Boerne, TX to Auctioneer Advisory Board
- Mark G. Schroeder of San Antonio, TX to Auctioneer Advisory Board
- James Beasley of Arlington, TX to Auctioneer Advisory Board
- Martin Pessink of Gladewater, TX to Auctioneer Advisory Board
- Justin Adcock of Hammond, LA to Auctioneer Advisory Board
- Douglas Oldmixon of Austin, TX to Auctioneer Advisory Board
- Janet Suzanne Hall of Florence, TX to Dietitians Advisory Board
- Susan Sparks of Corpus Christi, TX to Massage Therapy Advisory Board
- Carol Willess of Round Rock, TX to Massage Therapy Advisory Board
- Roger A. Bowles of Waco, TX to Motorcycle Safety Advisory Board
- Michael Manser of Austin, TX to Motorcycle Safety Advisory Board
- Rowan J. Schexnyder of Atlanta, TX to Motorcycle Safety Advisory Board
- Jeffrey R. Alford of Austin, TX to Motorcycle Safety Advisory Board
- Sherry Sancibrian of Lubbock, TX to Speech-Language Pathologists and Audiologists Advisory Board

Chairman Figueroa moved to agenda item Q, Discussion on mandatory revocation of licenses in the Massage Therapy program based on Criminal history. Brian Francis, Executive Director provided an update to the Commission stating the General Counsel Division and Enforcement Division reviewed this issue and have submitted options for the Executive staff's review. Chairman Figueroa created a workgroup led by Dr. Wesson to review criminal history options and provide feedback.

Chairman Figueroa moved to agenda item R, Staff Reports: Briefing from agency staff on activities, statistical data, personnel changes, communications and public outreach. May include discussion and update of the following topics: COVID-19 Response, Agency Reports, Statistics, and Trends, HUB Report and Mentor Protégé Program, Improvements, delays, and changes in TDLR's licensing process, Emergency Licenses, Personnel Changes – retirements, promotions, new hires etc. and Impact of the rescission of COVID Open Meetings Act waiver on Commission meetings. Christina Kaiser, Deputy Executive Director provided an update on personnel, specifically the retirement of longtime employee Lee Parham, of the Regulatory Program Management Division. Mike Arismendez, Deputy Executive Director, provided an update on the Advisory Boards online application updates and an update on the end of the Fiscal Year and HUB activities. David Gonzales, Deputy Executive Director, provided an update and the Licensing Division stating the backlog is on a downwards trend and announcing Tuan Nguyen as the new Director of the Customer Service Division. Brian Francis, Executive Director reported the agency has dealt with losses recently, namely Elizabeth "Bebe" Perez. Chairman Figueroa requested a moment of silence to honor those loses.

Commissioner Callas left the meeting at 11:00 a.m.

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

Chairman Figueroa moved to agenda item T, Discussion of date, time, and location of future commission meetings. Next meeting set for October 5, 2021.

Chairman Figueroa adjourned the meeting at 11:10 a.m.

---

Rick Figueroa, Chairman  
Texas Commission of Licensing and Regulation