

TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of September 29, 2020

Videoconference

Summary of Minutes

Chairman Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 8:35 a.m., September 29, 2020. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Helen Callier and Joel Garza. Commissioner Callier, seconded by Commissioner Garza, moved to excuse the absence of Commissioner Gary Wesson and Commissioner Ray Callas. Commissioner Nora Castaneda joined the meeting at 8:45 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 O, Celebration of Louis G. Ayala's 90th Birthday and 75 Years as a Barber. Brian Francis, Executive Director recognized Mr. Ayala and congratulated him on his lifetime achievements and accomplishments. Mr. Ayala thanked the Commission for the recognition of his lifetime achievements and accomplishments.

Chairman Figueroa moved to agenda item P, Celebration of the life of Ms. Frazier of Frazier Barber College. Brian Francis, Executive Director reminisced about Ms. Frazier's achievements and accomplishments and spoke words of kindness in her memory. Mr. Francis offered condolences to the family on behalf of the agency for Ms. Frazier's passing. Commissioner Callier offered remarks and condolences to the family. Ms. Frazier's family thanked the Commission for recognizing their mother and her achievements and accomplishments.

Chairman Figueroa moved to agenda item Q, Celebration of the life of Juan "Johnny" Garcia of South Texas. Brian Francis, Executive Director reminisced about Mr. Garcia's achievements and accomplishments and spoke words of kindness in his memory. Mr. Francis offered condolences to the family on behalf of the agency for Mr. Garcia's passing. Mr. Garcia's family thanked the Commission for recognizing their father and his achievements and accomplishments.

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

Chairman Figueroa moved to agenda item E, Approval of Minutes – Meetings of August 4, 2020 and September 10, 2020. Commissioner Callier seconded by Commissioner Garza, made a motion to approve the August 4, 2020 minutes with a correction. Commissioner Callier seconded by Commissioner Garza, made a motion to approve the September 10, 2020 minutes as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item F, Audits. Discussion and possible action to

approve the Fiscal Year 2020 Annual Internal Audit Report including review of the Fiscal Year 2020 audit and follow-up of prior years' audits. Mr. Daniel Graves of Weaver and Tidwell, LLP, provided an overview of the audits. Commissioner Butler seconded by Commissioner Castaneda, made a motion to approve the FY Fiscal Year 2020 Annual Internal Audit Report, which passed by a 4-1 vote. Commissioner Callier abstained.

Chairman Figueroa moved to agenda item G, Audits. Discussion and possible action to approve the Fiscal Year 2021 Internal Audit Plan. Mr. Daniel Graves of Weaver and Tidwell, LLP, provided an overview of the Internal Audit Plan. Commissioner Butler seconded by Commissioner Castaneda, made a motion to approve the FY Fiscal Year 2020 Internal Audit Plan, which passed by a 4-1 vote. Commissioner Callier abstained.

Chairman Figueroa moved to agenda item C, Public Comment. Three written public comments were received including two phone-in public comments.

Chairman Figueroa moved to agenda item I, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code (TAC), Chapter 83, §83.72, regarding the **Cosmetology** program. The proposed rule amends §83.72 in a manner identical to the June 30, 2020, emergency rulemaking, and corrects errors in the text of §83.72(w)(9)-(10), reverting the requirements for Beauty Culture Schools offering the esthetician and manicurist curriculum standards to those in place prior to the March 15, 2020, changes to this section. Commissioner Callier seconded by Commissioner Butler moved to adopt the rule to be effective October 20, 2020. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item H, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC), Chapter 65, Subchapter A, §65.2, and Subchapter I, §65.64, regarding the **Boilers** program. The proposed amendments simplify and clarify the process to apply for extensions of the internal inspection interval for boilers (extensions) in §65.64; add specific conditions under which boiler operators may obtain extensions; and add four new related definitions to §65.2. The proposed rules are necessary to provide clarity and certainty to boiler operators to plan the frequency of internal inspections. Commissioner Callier seconded by Commissioner Garza moved to adopt the rule, to be effective November 1, 2020. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item J, **Discussion and possible action** on the re-adoption of 16 Texas Administrative Code, Chapter 120, **Licensed Dyslexia Therapists and Licensed Dyslexia Practitioners**, as a result of the four-year rule review. Commissioner Callier seconded by Commissioner Garza moved to adopt the rule, to be effective October 1, 2020. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item K, Discussion and possible action to approve the penalty matrix for the Motor Fuel Metering and Quality program. Commissioner Butler seconded by Commissioner Callier moved to approve the penalty matrix as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item L, Discussion and possible action to approve the Criminal Conviction Guidelines for the Motor Fuel Metering and Quality program. Commissioner

Butler seconded by Commissioner Callier moved to approve the penalty matrix as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, Approval of Appointments and Reappointments to Advisory Boards, including appointments of presiding officers. Commissioner Callier, seconded by Commissioner Castaneda, made a motion to approve the Chairman's board appointment and reappointment recommendations. Motion passed by unanimous vote.

Air Conditioning and Refrigeration Contractors Advisory Board

Appoint: Suzanne Smith, Austin, TX

Auctioneer Advisory Board

Appoint: Douglas Oldmixon, Austin, TX

Combative Sports Advisory Board

Appoint: Luis Chapa, Dallas, TX

Advisory Board on Cosmetology

Appoint: Aleshia Rivera, Mt. Pleasant, TX, as Presiding Officer

Appoint: Aurora B. Farthing, Lubbock, TX

Driver Training and Traffic Safety Advisory Committee

Appoint: Mary Lloyd, Austin, TX

Reappoint: Nina Jo Saint, Katy, TX

Licensed Breeder Advisory Committee

Appoint: Laura Donahue, Austin, TX

Property Tax Consultants Advisory Council

Appoint: Jeffrey R. Burgher, Irving, TX

Reappoint: Debra Bawcom, Austin, TX

Chairman Figueroa moved to agenda item N, Staff Reports. 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. Brian Francis, Executive Director provided an update of Customer Service Division high volume incoming phone calls and the videoconference meeting for the Sunset Advisory Commission. Christina Kaiser, Deputy Executive Director provided an update on activities related to the Sunset Management Actions Team.

Chairman Figueroa moved to agenda item R, Executive Session.

Chairman Figueroa moved to agenda item S, Action on items discussed in Executive Session. No action was taken on this item.

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

Docket Number MAS20180013206 / 452-19-6575.MAS; Margarita Dritsas. Respondent requested a continuance. Commissioner Callier seconded by Commissioner Garza moved to continue the matter until the next scheduled Commission meeting. Motion passed by unanimous

vote.

Docket Number TOW20190002499 & TOW20200004456 / 452-20-1302.TOW; Gareth Francis d/b/a Lightning Towing & Recovery. Commissioner Butler seconded by Commissioner Castaneda moved to adopt the Proposal for Decision revoking the respondent's Tow License, with a technical change to Finding of Fact No. 17, correcting the Licensee's License number. Motion passed by unanimous vote.

Docket Number MAS20190015164 / 452-20-1758.MAS; Xin Liu. Commissioner Butler seconded by Commissioner Garza moved to adopt the Proposal for Decision, revoking the respondent's Massage Therapist license. Motion passed by unanimous vote.

Docket Number VSF20190016118 / 452-20-1710.VSF; Christopher S. George. Commissioner Callier seconded by Commissioner Garza moved to adopt the Proposal for Decision (PFD) denying applicant's original application for a Vehicle Storage Facility license, with a modification. The Commission modified the PFD by removing Conclusions of Law Nos. 8 & 9 which cited a statute that was not pled in the Notice of Hearing, but nonetheless did not change the ultimate outcome of the matter. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item U, Motion for Rehearing. TOW20190016126; Olufunso Balogun. Commissioner Garza seconded by Commissioner Butler moved to Deny the Motion for Rehearing. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item V, Agenda items for future Commission Meetings. Commissioner Callier requested House Bill 1342 be an agenda item at the next Commission meeting.

Chairman Figueroa moved to agenda item W, Discussion of date, time, and location of future Commission Meetings. To be set at a later date.

Chairman Figueroa adjourned the meeting at 1:27 p.m.

Rick Figueroa, Chairman
Texas Commission of Licensing and Regulation