

TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of March 3, 2021

Videoconference

Summary of Minutes

Chairman Rick Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 8:43 a.m. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Dr. Gary Wesson, Dr. Ray Callas, and Nora Castañeda. Commissioner Helen Callier and Joel Garza were 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; Brad Bowman, General Counsel; and Della Lindquist, Deputy General Counsel.

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

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 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 E, Approval of Minutes – Meeting of January 19, 2021. Commissioner Callas, seconded by Commissioner Wesson, made a motion to approve the January 19, 2021 minutes as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item F, Executive Session.

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

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

Docket Number ELC20190016427 / 452-20-4030.ELC; Ali Etebari. Commissioner Butler, seconded by Commissioner Castaneda, moved to accept the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number BAR20190003216 / 452-20-0888.BAR; Brandon Allen. Commissioner Callas, seconded by Commissioner Wesson, moved to adopt the Proposal for Decision and make technical corrections to Findings of Fact nos. 1 and 6 and Conclusions of Law nos. 5 and 6. Motion passed by unanimous vote.

Docket Number SPA20200002609 / 452-20-4091.SP; Alison Elizabeth Kolojaco. Commissioner Butler, seconded by Commissioner Wesson, moved to adopt the Proposal for

Decision, but amended it to probate the license revocation through Respondent's criminal probationary period, with terms and conditions, ending in 2024. The Proposal for Decision was amended at Findings of Fact nos. 16 and 17 and Conclusions of Law nos. 14, 16, and 17. Motion passed by unanimous vote.

Docket Number MAS20190009471 / 452-20-4662.MAS; Brian Curtis Beckvold. Commissioner Callas, seconded by Commissioner Wesson, moved to adopt the Proposal for Decision, and amend Conclusions of Law no. 13 to add the assessment of a \$5,000.00 fine, and amend Findings of Fact nos. 2 and 8, and Conclusions of Law nos. 1, 2 and 6, to correct technical and grammatical errors. Motion passed by unanimous vote.

Docket Number MAS20200007441 / 452-21-0494.MAS; Darryl Glen Johnson. Commissioner Callas, seconded by Commissioner Wesson, moved to adopt the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number MAS20200008011 / 452-20-4085.MAS; Sharon A. Blackwell. Commissioner Butler, seconded by Commissioner Callas, moved to adopt the Proposal for Decision with technical corrections to Findings of Fact nos. 4 and 11. Motion passed by unanimous vote.

Docket Number BAR20190013885 / 452-20-4110.BAR; Timothy Wayne Williams. Commissioner Callas, seconded by Commissioner Wesson, moved to adopt the Proposal for Decision as presented. Motion passed by unanimous vote.

Docket Number ACR20190010718 / 452-20-2363.ACR; Isaias Ybarra. Commissioner Callas, seconded by Commissioner Butler, moved to dismiss the Proposal for Decision because an agreed settlement had been reached between the parties. Motion passed by unanimous vote.

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 67, §67.20, regarding the Auctioneers program. The proposed rule implements necessary changes required by Senate Bill (SB) 1531, 86th Legislature, Regular Session (2019), which amends §67.20 by removing the restriction which prevents an applicant with a felony conviction during the five years prior to application from being licensed as an auctioneer. Commissioner Butler, seconded by Commissioner Callas, 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 117, §§117.20, 117.24, 117.30, 117.31, 117.64, 117.82, 117.90, 117.91, and 117.92; and proposed new rule at §117.35 regarding the Massage Therapy program. The proposed rules implement House Bill 2059, 86th Legislature, Regular Session (2019), which requires completion of a human trafficking course. The proposed rules also address continuing education, procedures related to breast massage of a female client, and make additional clean up and clarification changes. Commissioner Callas, seconded by Commissioner Castañeda, 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 proposed amendments to an existing rule at 16 Texas Administrative Code (TAC), Chapter 130, Subchapter E, §130.59; and proposed repeal of an existing rule at Subchapter G, §130.74, regarding the Podiatry program. The proposed rules implement House Bill 2174, 86th Legislature, Regular Session (2019), by establishing a procedure for the Department to issue waivers of the requirement for controlled substance prescriptions to be issued electronically, and repeal the rule adopting a penalty matrix. Commissioner Butler, seconded by Commissioner Callas, made a motion to adopt the rules as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item L, Discussion and possible extension of the previously adopted emergency new rule at 16 Texas Administrative Code (TAC), Chapter 60, Subchapter C, §60.351, Expiration of Certain Licenses During the COVID-19 Pandemic, regarding the expiration of licenses issued by the Texas Department of Licensing and Regulation (Department). The expiration date for this emergency rule is March 22, 2021. Commissioner Callas, seconded by Commissioner Butler, made a motion to extend the emergency rule for an additional 60 days for emergency licensure. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, Discussion and possible action on the re-adoption of 16 Texas Administrative Code, Chapter 76, Water Well Drillers and Water Well Pump Installers; Chapter 84, Driver Education and Safety; Chapter 85, Vehicle Storage Facilities; Chapter 86, Vehicle Towing and Booting; Chapter 100, General Provisions for Health-Related Programs; Chapter 110, Athletic Trainers; Chapter 111, Speech-Language Pathologists and Audiologists; Chapter 112, Hearing Instrument Fitters and Dispensers; Chapter 114, Orthotists and Prosthetists; Chapter 115, Midwives; and Chapter 116, Dietitians, as a result of the four-year rule review. Commissioner Callas, seconded by Commissioner Wesson, made a motion to readopt the rules. Motion passed by unanimous vote.

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

RE-APPOINTMENTS

Air Conditioning and Refrigeration Contractors Advisory Board

David Morris, Austin, TX

Suzanne Smith, Austin, TX

Behavior Analyst Advisory Board

Dr. Joyce Mauk, Fort Worth, TX

Carol Sloan, The Woodlands, TX

Board of Boiler Rules

Allan Cripe, Temple, TX

Brian Mallynn, Santa Fe, TX

Code Enforcement Officers Advisory Committee

Teresa Adrian, Irving, TX

Driver Training and Traffic Safety Advisory Committee

David Bruce, Houston, TX

Dyslexia Therapists and Practitioners Advisory Committee

Helen M. Macik, Dallas, TX

Electrical Safety and Licensing Advisory Board

Marcus Lundegreen, Amarillo, TX

Hearing Instrument Fitters and Dispensers Advisory Board

Lance Brooks, Paris, TX

Licensed Breeders Advisory Committee

Andrea Greig, Austin, TX

Cynthia Rothermel, Houston, TX

Midwives Advisory Board

Dr. Michael Nix, Austin, TX

Orthotists and Prosthetists Advisory Board

Catherine Mize, Double Oak, TX

Registered Sanitarian Advisory Committee

Dalton “Ray” Knight, Jr., Flint, TX

Texas Tax Professional Advisory Committee

James Radloff, Lubbock, TX

Gary Earnest, Lubbock, TX

Towing and Storage Advisory Board

Thomas Griffin Houston, TX

Kyle Jackson, Austin, TX

Used Automotive Parts Recycling Advisory Board

Kailen Thomas, Waxahachie, TX

Weather Modification Advisory Committee

Aurora B. Farthing, Lubbock, TX

Alan Zeman, Pecos, TX

APPOINTMENTS

Advisory Board of Athletic Trainers

Ronald Hebert, III, Cypress, TX

Architectural Barriers Advisory Committee

Jyoti Naik, Bay City, TX

Behavior Analyst Advisory Board

Mariel Fernandez, Houston, TX

Brian Findlay, Dallas, TX

Board of Boiler Rules

Palmer Dent, III, Cypress, TX

Code Enforcement Officers Advisory Committee

Hubert McKinney, Pecos, TX

Combative Sports Advisory Board

Roger Temple, Magnolia, TX

Driver Training and Traffic Safety Advisory Committee

Dr. Julie Chancler, Kingsville, TX

Hearing Instrument Fitters and Dispensers Advisory Board

Dustin Potter, Wichita Falls, TX

Registered Sanitarian Advisory Committee

Kent Manton, Garland, TX

PRESIDING OFFICER REAPPOINTMENTS

Speech Language Pathologists and Audiologists Advisory Board

Sherry Sancibrian Lubbock, TX

Used Automotive Parts Recycling Advisory Board

Tchad Taormina, New Braunfels, TX

PRESIDING OFFICER APPOINTMENTS

Hearing Instrument Fitters and Dispensers Advisory Board

Lance Brooks, Paris, TX

Orthotists and Prosthetists Advisory Board

Catherine Mize, Double Oak, TX

Chairman Figueroa moved to agenda item O, 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 TDLR's response to winter events; Update on Issuing Emergency Licenses; and Update on proposed rule amendment to reduce the fee to obtain a criminal history evaluation letter. Deputy Executive Directors Mike Arismendez and Christina Kaiser provided the agency staff reports.

Chairman Figueroa moved to agenda item P, Agenda items for future Commission Meetings. No action was taken on this item.

Chairman Figueroa moved to agenda item Q, 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