

# TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of October 5, 2021  
Twin Towers Office Center  
1<sup>st</sup> Floor Public Meeting Room  
Austin, Texas

## Summary of Minutes

Chairman Rick Figueroa called the meeting of the Texas Commission of Licensing and Regulation to order at 8:41 a.m. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Helen Callier, 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 Castaneda. Motion passed by unanimous vote.

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, Deputy General Counsel.

Chairman Figueroa moved to agenda items D and E, Executive Session. No action was taken on this item.

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 Callier, 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 to approve the Fiscal Year 2021 Annual Internal Audit Report including review of the Fiscal Year 2021 audit and follow-up of prior years' audits. Daniel Graves, CPA, of Weaver and Tidwell, L.L.P., presented on this item. Commissioner Callas, seconded by Commissioner Wesson, made a motion to approve the 2021 Internal Audit Report.

Chairman Figueroa moved to agenda item H, Discussion and possible action to approve the Fiscal Year 2022 Internal Audit Plan. Daniel Graves, CPA, of Weaver and Tidwell, L.L.P., presented on this item. Commissioner Callas, seconded by Commissioner Wesson, made a motion to approve the 2022 Internal Audit Report.

Chairman Figueroa moved to agenda item I, Approval of Minutes – Meeting of August 10, 2021. Commissioner Callas, seconded by Commissioner Callier, made a motion to approve the August 10, 2021, minutes as presented. Motion passed by unanimous vote.

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

Docket Number MAS20190016967; MAS20190009183; MAS20190009155 / 452-20-4408.MAS; 452-20-4402.MAS; 452-20-4393.MAS; Cristobal Lizandro Gonzalez. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the PFD. Motion passed by unanimous vote.

Docket Number ELC 20200011999; ELC20210000355 / 452-21-0380.ELC; Edgar Antonio Larios. Commissioner Wesson, seconded by Commissioner Callas, made a motion to motion to amend Finding of Fact no. 14, and Conclusion of Law nos. 14 and 15, to allow Respondent to renew his licenses, and upon renewal, suspend them, with the suspension fully probated for one year from the date of the renewal. Terms and conditions of the probated suspension to include remaining in compliance with his criminal probation. Motion passed by unanimous vote.

Docket Number TOW20200013603 / 452-21-1228.TOW; Herbert L. Smith, III. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the PFD as presented. Motion passed by unanimous vote.

Docket Number COS20200015266 / 452-210630.COS; Garrett Paul Phillips. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the PFD as presented. Motion passed by unanimous vote.

Docket Number ACR20200013172 / 452-21-0612.ACR; Galen R. Smith. Commissioner Wesson, seconded by Commissioner Callas, made a motion to adopt the PFD as presented. Motion passed by unanimous vote.

Docket Number ELC20200009230 / 452-21-1272.ELC; Jazman Glenn. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt PFD as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item Q, Motions for Rehearing. The Commission heard the following cases:

MAS20200012401; Miranda Bloom. Commissioner Callier, seconded by Commissioner Wesson, made a motion to deny the motion for rehearing. Motion passed by unanimous vote.

DOCKET NO 452-19-6995 TOW20190015970 TOW20200007996; Kareem Aziz. This item was withdrawn by respondent's Counsel.

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 97**, Subchapter A, §97.1 and §97.2, and Subchapter D, §97.59; and proposed a **new rule** at Subchapter B, §97.29, regarding the **Motor Fuel Metering and Quality Program**. The proposed rules implement House Bill (HB) 2106, 87th Legislature, Regular Session (2021), which enables the Texas Commission of Licensing and Regulation, the Department's governing body (Commission), and the Department to administer Chapter 607, Texas Business and Commerce Code. Commissioner Callier, seconded by Commissioner Wesson, made a motion to adopt the rules as presented with an effective date of November 1, 2021. 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 85**, §85.722, regarding the **Vehicle Storage Facilities** program. Pursuant to Occupations Code §2303.1552, the

proposed rule increases the allowable vehicle storage facility impoundment fee and daily storage fees in accordance with changes in the Consumer Price Index (CPI) during the preceding state fiscal biennium. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the rules as published with an effective date of November 1, 2021. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 86**, §86.455, regarding the **Vehicle Towing and Booting** program. Pursuant to Occupations Code §2308.0575, the proposed amendments address the maximum amounts for private property tow fees and drop charges that may be charged by a towing company. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the proposed rules as published with an effective date of November 1, 2021. Motion passed by unanimous vote.

Commissioner Callier left the meeting at 9:55 a.m.

Chairman Figueroa moved to agenda item N, **Discussion and possible action** on the proposed **repeals** of existing rules at 16 Texas Administrative Code, **Chapter 88**, §§88.1, 88.10, 88.20 - 88.29, 88.40, 88.70 - 88.80, 88.90, 88.91, 88.100, and 88.101, regarding the **Polygraph Examiners** program. The proposed repeals implement House Bill (HB) 1560, 87<sup>th</sup> Legislature, Regular Session (2021), which deregulates the Polygraph Examiners program by repealing Chapter 1703, Occupations Code, effective September 1, 2021. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the repeal of the rules and deregulate the program. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item O, **Discussion and possible action** on the proposed amendments to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 75**, §75.100, regarding the **Air Conditioning and Refrigeration Contractors** program. The proposed new rule amends §75.100 by adding new subsection (a)(5) to state that compliance with Section 210.8(F) of the 2020 NEC is not required until January 1, 2023. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the permanent rulemaking with an effective date of November 17, 2021. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item P, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 73**, §73.100, regarding the **Electricians** program. The proposed rule amends §73.100 by placing the existing rule text into new subsection (a) and adding new subsection (b) to state that compliance with Section 210.8(F) of the 2020 NEC is not required until January 1, 2023. Commissioner Callas, seconded by Commissioner Wesson, made a motion to adopt the permanent rulemaking with an effective date of November 17, 2021. Motion passed by unanimous vote.

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

#### APPOINTMENTS

- Mark Matheny of San Antonio, TX to Electrical Safety and Licensing Advisory Board
- Lydell Toye of New Braunfels, TX to Electrical Safety and Licensing Advisory Board
- Callie Morris of Houston, TX to Massage Therapy Advisory Board

Commissioner Butler left the meeting at 10:15 a.m., and the quorum was lost.

Chairman Figueroa moved to agenda item C, Public Comment. Six written public comments were received, one call-in and one public commenter presented during the Commission meeting.

Chairman Figueroa moved to agenda item S, Updates on implementation of the Sunset requirements. Briefing from agency staff on activities, rule and policy changes, communications and actions taken to implement the Sunset bill (HB 1560) and management action recommendations approved by the Sunset Commission. May include discussion and update of the following topics: Commissioner Training manual. Christina Kaiser, Deputy Executive Director and Brad Bowman, General Counsel reported on this item.

Chairman Figueroa moved to agenda item T, 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: Impact of COVID cases on Staff, Agency Reports, Statistics, and Trends, HUB Report and Mentor Protégé Program, State Employee Charitable Campaign, Veterans Committee meetings and Veteran's Day, Update on the Texas Licensing System and Personnel Changes – retirements, promotions, new hires etc.

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

Chairman Figueroa moved to agenda item V, Discussion of date, time, and location of future commission meetings. Next meeting set for November 16, 2021.

Chairman Figueroa adjourned the meeting at 10:35 a.m.

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Rick Figueroa, Chairman  
Texas Commission of Licensing and Regulation