

# TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of December 7, 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 8:32 a.m. Members present were: Chairman Rick Figueroa, Commissioners Thomas Butler, Helen Callier, Dr. Ray Callas, and Nora Castañeda. A quorum was present. Commissioner Callas, seconded by Commissioner Callier, made a motion to excuse the absence of Dr. Gary Wesson. 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 item T, Discussion and possible action to consider proposals received in response to Request for Proposals for Internal Audit Services and to authorize the Department to enter into a contract with the selected vendor. Commissioner Butler, seconded by Commissioner Castañeda, made a motion to accept the recommendation made utilizing the best value approach. Motion passed with four Commissioners voting in favor of the motion. Commissioner Callier abstained.

Chairman Figueroa moved to agenda items F and G, Executive Session. The Commission recessed at 8:37 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 9:06 a.m.

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

Chairman Figueroa moved to agenda item I, Approval of Minutes – Meeting of October 5, 2021. Commissioner Callas, seconded by Commissioner Callier, made a motion to approve the October 5, 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 ELC20190014857 / 452-20-4084.ELC; Jesus Perez, Jr. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the PFD as written. Motion passed by unanimous vote.

Docket Number MAS20200015191 / 452-21-0795.MAS; Jennifer Hollenbeck. Commissioner Callas, seconded by Commissioner Callier, made a motion to table this item until a later date. Motion passed by unanimous vote.

Vice-Chairman Butler left the meeting at 9:53 a.m.

Docket Number ELC20200013263 / 452-21-0515.ELC; Cody M. Lynn. Commissioner Callier, seconded by Commissioner Callas, made a motion to dismiss the matter. Motion passed by unanimous vote.

Docket Number TOW20200013206 / 452-21-2009.TOW; Todd E. Roach. Commissioner Callas seconded by Commissioner Callier, made a motion to adopt the PFD as written. Motion passed by unanimous vote.

Docket Number TOW20200007642 / 452-21-0339.TOW; Sonny G. Harding. Commissioner Callier, seconded by Commissioner Callas, made a motion to dismiss the PFD. Motion passed by unanimous vote.

Docket Number ELC20200003709 / 452-21-0042.ELC; Miguel Soriano. Commissioner Callas, seconded by Commissioner Callier, made a motion to dismiss the PFD. Motion passed by unanimous vote.

Chairman Figueroa recessed the meeting at 10:02 a.m. and reconvened at 10:16 a.m.

Docket Number COS20210003392 / 452-21-2648.COS; Hoi T. Duong. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the PFD as written. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item K, Motions for Rehearing. The Commission heard the following case: DOCKET NO, 452-20-4393; 452-29-4402; MAS20190009155; MAS20190009183; MAS20190016967; Cristobal L. Gonzalez. Commissioner Callier, seconded by Commissioner Callas, made a motion to deny the motion for rehearing. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item L, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC), **Chapter 117**, Subchapter A, §117.2, Subchapter F, §§117.50, 117.55, 117.58, 117.59, 117.62, 117.66, 117.67, and 117.68, Subchapter G, §117.82, and Subchapter H, §§117.91 and 117.92, regarding the **Massage Therapy** Program. The proposed rules implement Senate Bill 1130, 87<sup>th</sup> Legislature, Regular Session (2021), pertaining to distance learning, and House Bill 1540, 87<sup>th</sup> Legislature, Regular Session (2021), which amended the definition of “sexual contact” in the Massage Therapy statute. The proposed rules also include clarification and clean-up changes and make amendments in response to violence and other misconduct against massage therapists. Commissioner Callas, seconded by Commissioner Castañeda, made a motion to adopt the proposed rules with the recommended changes. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, **Discussion and possible action** on the proposed **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 and §111.211; the proposed **new rule** at Subchapter V, §111.212; and the proposed **repeal** of existing rules at Subchapter V, §§111.212-111.216, and

Subchapter X, §§111.230-111.232, regarding the **Speech-Language Pathologists and Audiologists Program**. The proposed rules implement the telehealth emergency rules on a permanent basis; implement SB 40, 87<sup>th</sup> Legislature, Regular Session (2021); and include changes as a result of the four-year rule review related to telehealth and remote supervision (tele-supervision). The proposed rules also reorganize the current provisions and eliminate duplicative provisions. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the proposed rules as published, with an effective date of December 30, 2021. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item N, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 112**, Subchapter A, §112.2; the proposed **new rules** at Subchapter N, §112.130 and §112.132; and the proposed **repeal** of an existing rule at Subchapter P, §112.150, regarding the **Hearing Instrument Fitters and Dispensers Program**. The proposed rules implement the telehealth emergency rules on a permanent basis; implement SB 40, 87<sup>th</sup> Legislature, Regular Session (2021); and include changes as a result of the four-year rule review related to telehealth. The proposed rules also reorganize the current provisions. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the proposed rules as published, with an effective date of December 30, 2021. 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 60**, Subchapter B, §60.24, regarding the **Procedural Rules of the Commission and the Department**. The proposed rule updates the list of the Department's advisory boards and their abolishment dates, as applicable. Commissioner Castañeda, seconded by Commissioner Callier, made a motion to adopt the proposed rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item P, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC), **Chapter 115**, §115.14 and §115.115, regarding the **Midwives** program. The proposed amendments update the list of conditions during labor or delivery that require immediate emergency transfer; provide standards for assessing fetal heart rates; require continuing education covering fetal heart rates for license renewal; and create an audit system for reporting completion of continuing education. Commissioner Callas, seconded by Commissioner Callier, made a motion to adopt the proposed rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item Q, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code, **Chapter 83**, §83.80, regarding the **Cosmetologists** program. The proposed amendments implement House Bill 1560, 87<sup>th</sup> Legislature, Regular Session (2021) by reducing instructor renewal fees and eliminating fees related to wig specialty certificates. Commissioner Callier, seconded by Commissioner Callas, made a motion to adopt the proposed rules as published. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item R, **Discussion and possible action** on the proposed **amendments** to an existing rule for the **Barbering** Program at 16 Texas Administrative Code, **Chapter 82**, §82.80. The proposed **amendments** implement House Bill 1560, 87<sup>th</sup> Legislature, Regular Session (2021) by reducing instructor license renewal fees to match the renewal fees for the Class A Barber certificate and specialty licenses and certificates. Commissioner Callier, seconded by

Commissioner Callas, made a motion to adopt the proposed rules as published. Motion passed by unanimous vote.

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

#### APPOINTMENTS

- Mary Paschal-Lindsey of Houston, TX to Barbering and Cosmetology Advisory Board
- Le'Detrick Leonard of Austin, TX to Barbering and Cosmetology Advisory Board
- Salvador Flores of McAllen, TX to Barbering and Cosmetology Advisory Board
- Ron Jemison of Houston, TX to Barbering and Cosmetology Advisory Board
- Natalie Inderman of Lubbock, TX to Barbering and Cosmetology Advisory Board
- Naylan Holman of Frisco, TX to Barbering and Cosmetology Advisory Board
- Darren Peterson of Austin, TX to Barbering and Cosmetology Advisory Board
- Laura Valdez of Coupland, TX to Barbering and Cosmetology Advisory Board
- Aurora Farthing of Lubbock, TX to Barbering and Cosmetology Advisory Board
- Carlos Reyna of Corpus Christi, TX to Driver Training and Traffic Safety Advisory Committee
- Nina Jo Saint of Houston, TX to Driver Training and Traffic Safety Advisory Committee
- James Hiller of Austin, TX to Driver Training and Traffic Safety Advisory Committee
- David Bruce of Houston, TX to Driver Training and Traffic Safety Advisory Committee
- Matthew White of San Antonio, TX to Driver Training and Traffic Safety Advisory Committee
- Rodolfo "Rudy" Martinez of Katy, TX to Driver Training and Traffic Safety Advisory Committee
- Elizabeth Madden of Grand Prairie, TX to Driver Training and Traffic Safety Advisory Committee
- Mary Lloyd of Austin, TX to Driver Training and Traffic Safety Advisory Committee
- Anna Freeman of Fort Hood, TX to Driver Training and Traffic Safety Advisory Committee
- Jason Harris of Lake Jackson, TX to Motor Fuel Metering and Quality Advisory Board
- Carlos A. Garza of Edinburg, TX to Motor Fuel Metering and Quality Advisory Board
- Terry Harrah of Temple, TX to Motor Fuel Metering and Quality Advisory Board
- Seth Stephens of Floydada, TX to Motor Fuel Metering and Quality Advisory Board
- Wes Nance of San Antonio, TX to Motor Fuel Metering and Quality Advisory Board
- Adam Thompson of Watauga, TX to Motor Fuel Metering and Quality Advisory Board
- Terry Maxey of Uvalde, TX to Motor Fuel Metering and Quality Advisory Board
- Keesha Esqueda of Wichita, KS to Motor Fuel Metering and Quality Advisory Board
- Nathan Winkelmann of Brenham, TX to Motor Fuel Metering and Quality Advisory Board
- Ex-Officio Member Stephen Scurlock of Austin, TX, to Motor Fuel Metering and Quality Advisory Board
- Ex-Officio Member Jeff Headley of Houston, TX, to Motor Fuel Metering and Quality Advisory Board

#### REAPPOINTMENTS

- John Sparrow of Austin, TX to Electrical Safety and Licensing Advisory Board

#### PRESIDING OFFICER APPOINTMENTS

- Mary Paschal-Lindsey of Houston, TX to Barbering and Cosmetology Advisory Board
- Carlos Reyna of Corpus Christi, TX to Driver Training and Traffic Safety Advisory Committee
- Jason Harris of Lake Jackson, TX to Motor Fuel Metering and Quality Advisory Board

Chairman Figueroa moved to agenda item E, Presentation of Veterans Day Certificate to Commissioner Callas.

Chairman Figueroa moved to agenda item D, Recognition and celebration of the life for

cosmetology student, Tara Blanquiz.

Chairman Figueroa moved to agenda item C, Public Comment. Six written public comments were received.

Chairman Figueroa moved to agenda item U, 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: Agency Reports, Statistics, and Trends, HUB Report and Mentor Protégé Program, Veterans Committee meetings and Veteran’s Day, Update on the Texas Licensing System Process and Personnel Changes – retirements, promotions, new hires etc.

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

Chairman Figueroa moved to agenda item W, Discussion of date, time, and location of future commission meetings. No action was taken on this agenda item.

Chairman Figueroa adjourned the meeting at 11:19 a.m.

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Rick Figueroa, Chairman  
Texas Commission of Licensing and Regulation