

TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of October 18, 2022
1106 Clayton Lane, Austin, TX 78723
1st 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 8:30 a.m. Members present were Chairman Rick Figueroa, Commissioners Thomas Butler, Nora Castaneda, Lori High and Dr. Gary Wesson. A quorum was present. Commissioner Wesson, seconded by Commissioner High, made a motion to excuse the absence of Commissioners Ray Callas and Helen Callier. Motion passed by unanimous vote.

Staff present included: Mike Arismendez, Executive Director; Christina Kaiser, Senior Deputy Executive Director; David Gonzales, Deputy Executive Director; Hemant Makan, Chief of Staff, and Brad Bowman, General Counsel.

Chairman Figueroa moved to agenda item C, Recognition of Richard Bergstrom Tow Licensee.

Chairman Figueroa moved to agenda item G, Discussion and possible action to approve the Fiscal Year 2022 Annual Internal Audit Report including review of the Fiscal Year 2022 audit and follow-up of prior years' audits. Commissioner Butler, seconded by Commissioner Castaneda, made a motion to adopt the Fiscal Year 2022 Annual Internal Audit Report as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item H, Discussion and possible action to approve the Fiscal Year 2023 Internal Audit Plan. Commissioner Butler, seconded by Commissioner Castaneda, made a motion to adopt the Fiscal Year 2023 Internal Audit Plan as presented. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item D, Public Comment. Two written public comments were received, no virtual public comments were made, and two in-person public comments were made.

Chairman Figueroa moved to agenda items E and F, Executive Session. No action was taken on these items.

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

Chairman Figueroa moved to agenda item J, Approval of Minutes – Meetings of August 9, 2022. Commissioner Wesson, seconded by Commissioner Butler, made a motion to approve the August 9, 2022, minutes as presented. Motion passed by unanimous vote.

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

Docket Number TOW20200008623, VSF20200011371 / 452-22-0176.TOW; Parking Compliance Solutions, LLC. Commissioner Butler, seconded by Commissioner Castaneda, made a motion to amend the PFD as

recommended by the ALJ as follows: Amendment of COL #9 to read: “The evidence demonstrates that Respondent violated Texas Occupations Code §2308.253(b) and (g) when it towed the 2013 Dodge Avenger on February 25, 2020 from the parking facility for the Saddle Creek Apartments, 10801 Old Manchaca Road in Austin, Texas” Amendment of COL #10 to read: “The Department has established an Enforcement Plan which describes the range of penalties and sanctions that apply to specific alleged violations of the Texas Occupations Code and the Commission’s rules and sets forth the criteria considered by Staff in determining the amount of an administrative penalty. Texas. Occ. Code § 51.302(c); Department Enforcement Plan, available at <https://www.tdlr.texas.gov/enforcement.htm>.” Adding COL #11 to read: “The Respondent’s Class B violation of the Department’s Enforcement Plan includes the towing of unattended vehicles and allows Staff to seek an administrative penalty ranging from \$500 to \$1,500.” Adding COL #12 to read: “Based upon the above Findings of Fact and Conclusions of Law, Respondent should be assessed a total administrative penalty of \$50.00. Tex. Occ. Code §§51.302, 2308.501.” Motion passed by unanimous vote.

Docket Number ELC20210013102 / 452-22-0333.ELC; David Chase Padgett. Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the PFD as presented. Motion passed by unanimous vote.

Docket Number BAR20220000668 / 452-22-0800.BAR; Stephen Anthony Parker. Commissioner Butler, seconded by Commissioner High, made a motion to adopt the PFD as presented. Motion passed by unanimous vote.

Docket Number ELC20220001244 / 452-22-1998.ELC; Jorge Alberto Pineda, Jr. Commissioner Butler, seconded by Commissioner High, made a motion to accept the PFD as written. Motion passed by unanimous vote.

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

MAS20210011965; Andrea Diaz. Commissioner Wesson, seconded by Commissioner High, made a motion to deny the motion for rehearing. Motion passed by unanimous vote.

BAR20210013728; Kadin Friswold. Commissioner Butler, seconded by Commissioner High, made a motion to deny the motion for rehearing. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item M, **Discussion and possible action** on the readoption, revision, or repeal of the rules at 16 Texas Administrative Code, Chapter 117, Massage Therapy; Chapter 121, Behavior Analysts; and Chapter 130, Podiatric Medicine Program, as a result of the **four-year rule review**. Commissioner Butler, seconded by Commissioner Castaneda, made a motion to recommend the readoption of the rules in 16 TAC, Chapters 117, 121 and 130, in their entirety and current form as a result of the rule review with an effective date of November 1, 2022. 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 75**, §75.100 regarding the **Air Conditioning and Refrigeration Contractors** Program. The proposed rule amends §75.100 to state that compliance with Section 210.8(F) of the 2020 NEC is not required. Commissioner Wesson, seconded by Commissioner Castaneda, made a motion to adopt the proposed rules with an effective date of December 31, 2022. 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, **Chapter 73**, §73.100, regarding the **Electricians** Program. The proposed rule amends §73.100 by stating that compliance with Section 210.8(F) of the 2020 National Electrical Code is not required. Commissioner Wesson, seconded by Commissioner Castaneda, made a motion to adopt the proposed rules with an effective date of December 31, 2022. Motion passed by unanimous vote.

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

APPOINTMENTS

Licensed Breeders Advisory Committee

- Amber Greene, Tyler, Texas
- Erin Shults, Carrollton, Texas

REAPPOINTMENTS

Architectural Barriers Advisory Committee

- Michael McDonald, Round Rock, Texas
- Rob Roy Parnell, Dripping Springs, Texas

Chairman Figueroa moved to agenda item Q, Executive Office Reports: Briefing from Executive Office staff on activities, statistical data, personnel changes, communications, and public outreach. Discussion and updates of the following topics: Agency Reports, Statistics, and Trends, Sunset Update, the Financial Crimes Intelligence Center and Recent Accomplishments.

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

Chairman Figueroa moved to agenda item S, Discussion of date, time, and location of future commission meetings. Chairman announced the next Commission meeting will be on December 6, 2022.

Chairman Figueroa adjourned the meeting at 11:23 a.m.

Rick Figueroa, Chairman
Texas Commission of Licensing and Regulation