

## TEXAS COMMISSION OF LICENSING AND REGULATION

Meeting of December 6, 2022  
1106 Clayton Lane, Austin, TX 78723  
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 8:35 a.m. Members present were Chairman Rick Figueroa, Commissioners Thomas Butler, Nora Castaneda and Dr. Gary Wesson. A quorum was present. Commissioner Butler, seconded by Commissioner Castaneda, made a motion to excuse the absence of Commissioners Ray Callas, Lori High and Helen Callier. Motion passed by unanimous vote.

Staff present included: 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, Public Comment. Six in-person public comments were made.

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

Chairman Figueroa moved to agenda item F, Presentation and discussion of report required by H.B. 1560 (87R), Section 2.09, on the study of the regulation of auctioneering, including findings and recommendations to improve public safety and the department's processes to eliminate inefficiencies.

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

Chairman Figueroa moved to agenda item H, Approval of Minutes – Meetings of October 18, 2022. Commissioner Butler, seconded by Commissioner Wesson, made a motion to approve the October 18, 2022, minutes as presented. Motion passed by unanimous vote.

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

Docket Number ELC20220009755, ELC20220009756/ 452-22-2583; David Keith Fansler. Commissioner Wesson, seconded by Commissioner Castaneda, made a motion to adopt the Administrative Law Judge's Proposal for Decision without changes. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item J, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code (TAC), **Chapter 114**, §114.50 regarding the **Orthotists and Prosthetists** program. The proposed amendments expand the categories of activities eligible for continuing education (CE) credit by allowing licensees to claim up to one hour of CE credit per renewal period for completing the human trafficking prevention training required by Occupations Code, Chapter 116, and up to one hour CE credit per renewal period for completing the jurisprudence examination required for

initial licensure by Department rules. Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the rules as proposed with an effective date of January 15, 2023. Motion passed by unanimous vote.

Chairman Figueroa moved to agenda item K, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code, **Chapter 60**, Subchapter A, §60.1; Subchapter B, §§60.20 - 60.23; Subchapter D, §§60.40 - 60.42; Subchapter F, §§60.80, 60.81, and 60.83; Subchapter G, §§60.100 - 60.102; the proposed **new rules** at Subchapter C, §60.36; Subchapter D, §60.43; and new Subchapter L, §60.600 and §60.601; and the proposed **repeal** of existing rules at Subchapter D, §60.36, regarding the **Procedural Rules of the Commission and the Department**. The proposed rules make substantive and clean-up changes to the agency's procedural rules and include changes resulting from staff and strategic planning, the four-year rule review, and the Department's Sunset legislation. The proposed rules address the authority and applicability of the Chapter 60 rules; the powers and responsibilities of the Commission, Executive Director, and Department; license eligibility after revocation; criminal history and license eligibility; fees; rulemaking; and Department personnel. Commissioner Butler, seconded by Commissioner Wesson, made a motion to adopt the rules with changes to 60.102, with an effective date of January 1, 2023. 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, **Chapter 59**, §59.3, regarding **Continuing Education Requirements**. The proposed amendments are necessary to implement House Bill (HB) 1560, 87th Legislature, Regular Session (2021) and Senate Bill (SB) 2065, 85th Legislature, Regular Session (2017). The proposed rule amends §59.3, Purpose and Applicability, to update the list of occupations subject to the continuing education provider and course requirements in Chapter 59 by adding barbers and removing booting operators and polygraph examiners. Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the rules in items L and N collectively with changes to §§83.28, 83.72, 83.200 and 83.202, with an effective date of January 1, 2023. 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 82**, §§82.10, 82.20, 82.80, and 82.120; and the proposed **repeal** of existing rules at §§82.21-82.23, 82.26, 82.28, 82.29, 82.31, 82.40, 82.50-82.52, 82.54, 82.65, 82.70-82.74, 82.77, 82.78, 82.90, and 82.100-82.114, regarding the **Barbering and Cosmetology** program. The proposed rules implement House Bill (HB) 1560, Article 3, 87<sup>th</sup> Legislature, Regular Session (2021), which consolidates the barbering and cosmetology professions into a single Barbering and Cosmetology program, with new license types and standardized requirements for practitioners, establishments, and schools. This agenda item includes discussion of the public comments received on the proposed rules. Commissioner Wesson, seconded by Commissioner Butler, made a motion to adopt the rules with a change to §82.80, with an effective date of January 1, 2023. Chairman Figueroa requested a rollcall vote. The vote was three (3) to one (1) in favor of the motion and passed.

Chairman Figueroa moved to agenda item N, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC) **Chapter 83**, §§83.1, 83.10, 83.20-83.26, 83.28, 83.29, 83.40, 83.51, 83.70-83.74, 83.77, 83.78, 83.80, 83.90, 83.100-83.108, 83.110-83.115, and 83.120; the proposed **new rules** at §§83.2, 83.31, 83.50, 83.65, and 83.200-83.202; and the proposed **repeal** of existing rules at §§83.31, 83.50, 83.52, 83.54, 83.65, and 83.109, regarding the **Barbering and Cosmetology** program. The proposed rules implement House Bill (HB) 1560, Article 3, 87<sup>th</sup> Legislature, Regular Session (2021), which consolidates the barbering and cosmetology professions into a single Barbering and Cosmetology program, with new license types and standardized requirements for practitioners, establishments, and schools. This agenda item includes discussion of the public comments received on the proposed rules.

Chairman Figueroa moved to agenda item O, **Discussion and possible action** on the proposed **amendments** to existing rules at 16 Texas Administrative Code (TAC), **Chapter 84**, Subchapter I, §84.100 and §84.101; and the proposed **repeal** of an existing rule at Subchapter I, §84.102, regarding the **Driver Education Safety** program. The proposed rules implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection policy. Notably, the proposed rules remove periodic inspections from the program. Commissioner Wesson, seconded by Commissioner Castaneda, made a motion to collectively adopt the rules in items O-U with an effective date of January 1, 2023. 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 117**, Subchapter F, §117.55; and Subchapter G, §117.82, regarding the **Massage Therapy** program. The proposed amendments implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection policy. Notably, the proposed amendments remove periodic inspections from the program.

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 85**, §85.450, and the proposed **repeal** of existing rules at §85.451 and §85.453, regarding the **Vehicle Storage Facilities** program. The proposed rules implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection policy. Notably, the proposed rules remove periodic inspections from the program.

Chairman Figueroa moved to agenda item R, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code, **Chapter 114**, §114.29, regarding the **Orthotists and Prosthetists** program. The proposed amendments implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection policy. Notably, the proposed amendments remove periodic inspections from the program.

Chairman Figueroa moved to agenda item S, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code, **Chapter 86**, §86.450; and the proposed **repeals** of existing rules at §86.451 and §86.453, regarding the **Vehicle Towing and Booting** program. The proposed rules implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection. Notably, the proposed rules remove periodic inspections from the program.

Chairman Figueroa moved to agenda item T, **Discussion and possible action** on the proposed **amendments** to an existing rule at 16 Texas Administrative Code, **Chapter 87**, §87.44; and the proposed **repeal** of existing rules at §87.45 and §87.47, regarding the **Used Automotive Parts Recyclers** program. The proposed rules implement the portions of House Bill 1560, 87th Legislature, Regular Session (2021), requiring the Department to adopt a risk-based inspection policy. Notably, the proposed rules remove periodic inspections from the program.

Chairman Figueroa moved to agenda item U, **Discussion and possible action** on the proposed **new rules** at 16 Texas Administrative Code, **Chapter 60**, Subchapter H, §§60.220, 60.221, and 60.222, regarding the inspection provisions of the **Procedural Rules of the Commission and the Department**. The proposed new rules implement the portions of House Bill (HB) 1560, 87th Legislature, Regular Session (2021), requiring the department to conduct risk-based inspections that prioritize inspections based on key risk factors.

Chairman Figueroa moved to agenda item V, 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 Appointment of presiding officer recommendation. Motion passed by unanimous vote.

**APPOINTMENT OF PRESIDING OFFICER**

Licensed Breeders Advisory Committee

- Joseph Levine, Burleson, Texas

Chairman Figueroa moved to agenda item W, 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 X, Recognition and celebration of the retirement of David Gonzales, Deputy Executive Director.

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

Chairman Figueroa moved to agenda item Z, Discussion of date, time, and location of future commission meetings. Chairman announced the next Commission meeting will be on January 24, 2023.

Chairman Figueroa adjourned the meeting at 11:15 a.m.

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Rick Figueroa, Chairman  
Texas Commission of Licensing and Regulation