

Texas Forensic Science Commission – Licensing Advisory Committee Minutes from April 24, 2017

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:00 a.m. on Monday, April 24, 2017, at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744.

Members of the Committee were present as follows:

Members Present: Greg Hilbig, Chair
James Miller
Robert Sailors
Timothy Sliter
Robert Middleberg
Chris Heartsill
Keith Hampton
Thomas Ashworth

Members Absent: Michael Ward

Staff Present: Lynn Garcia, General Counsel
Leigh M. Savage, Associate General Counsel

Review and adoption of minutes from March 3, 2017 meeting.

MOTION AND VOTE: *Middleberg moved to adopt the March 3, 2017 meeting minutes draft. Sliter seconded the motion. The Committee unanimously adopted the motion.*

Administrative update (update on any outstanding reimbursements or other administrative items from staff).

Members and staff briefly discussed whether there were any outstanding reimbursement requests from Committee members.

Members also discussed their April 30, 2017 workshop/presentation at the ASCLD Symposium in Dallas related to the licensing program. Garcia will reach out to the other presenters (Hilbig and Sliter) to finalize presentation plans. Savage will find out how many attendees have registered for the workshop.

Review and discussion of updates to proposed license discipline categories and subcategories chart, components requirements matrix for each forensic discipline and program summary.

Members discussed removing the license discipline categories and subcategories chart as a program document now that the licensing program is in its later stage of development. The chart was useful in the beginning, but the different discipline and subdisciplines are now listed and described in better detail in the draft rules for adoption by the Commission discussed below.

Staff will make updates to the components requirements matrix and the program summary as necessary to match today's edits to the draft rules and other program materials. Updated drafts of these documents will be presented for review by Committee members at its May 25 meeting.

Discussion of proposed statistics requirement for examiners applying after January 1, 2019 and potential development of financially accessible, online statistics course for forensic examiners.

Garcia discussed reaching out to Sam Houston State University ("SHSU") professor Patrick Buzzini regarding potentially developing or using a current online statistics course offered by SHSU. The statistics courses offered at SHSU are geared more toward Master's level or advanced degree candidates. The offered courses cover curriculum beyond the basics the Licensing Advisory Committee is looking to cover in a stats course for forensic examiners.

Sliter suggested potentially endorsing a variety of stats programs that are endorsed by the American Council on Education ("ACE"). The ACE evaluates the content of certain non-traditional college-level programs and endorses those that meet its qualifications. The ACE endorses several stats programs Sliter feels would meet the basic-level stats exposure the Committee is seeking for forensic examiners in the State. Sliter also mentioned another organization, the National College Credit Recommendation Service ("NCCRS") that endorses qualified college-level programs, including several statistics courses the Commission could recommend to examiners who need to fulfill this requirement in order to obtain a license.

Garcia and staff will research the different options offered by both ACE and NCCRS and come to the next meeting with an update.

Review and discussion of proposed draft rules for Licensing Program to be presented to the Commission at its May 26, 2017 quarterly meeting.

Savage, Garcia and members reviewed and pointed out requested changes and revisions to the draft rules since the Committee's last meeting. Committee members approved of changes made.

Members suggested adding to the continuing forensic education requirements language in the draft rules that the requirements are pending finalization of the FSC's CFE program (in the event the program is not finalized in time for the requirements to take effect).

Staff will make revisions to the rules as discussed and also reflect changes made later in the meeting to the Forensic Analyst License Application draft questions and the Guidelines for Consideration of Criminal Convictions document in the new draft version of the rules to be presented at the Committee's May 25 meeting.

Committee members plan to present the draft rules for discussion and vote at the Commission's May 26 quarterly meeting.

Review and discuss Forensic Analyst License Application draft questions.

The Licensing Advisory Committee plans to present a draft of the application questions for a Forensic Analyst License Application for approval by the full Commission at its May 25 quarterly meeting along with the draft rules. The application will be offered online through the

licensee's online portal for answering application questions and submitting required documentation.

Members reviewed draft content for the Forensic Analyst Licensing Application. Members discussed that the focus should be on asking questions of applicants upon which the Committee can base actions, particularly related to the criminal history and disciplinary action questions.

With regard to the Forensic Analyst Discipline History section of the application draft, members requested the question language be changed to, "have you ever been disciplined or resigned in lieu of potential disciplinary action?"

MOTION AND VOTE: *Sliter moved to change the language of the question to, "Have you ever been disciplined or resigned in lieu of potential disciplinary action?" Sailors seconded the motion. The Committee unanimously adopted the motion.*

Staff will change the language in the draft content to reflect the vote.

With regard to the Complaints or Grievances, Regardless of Discipline section of the application, members suggested changing the question language to, "has any professional association or employer sustained a complaint against you or otherwise made a finding adverse to you as a result of the complaint?"

MOTION AND VOTE: *Sliter moved to change the language to, "Has any professional association or employer sustained a complaint against you or otherwise made a finding adverse to you as a result of the complaint?" or something similar. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

Garcia will work on revising the language to mirror the vote and comments from Committee members.

Hampton advised Committee members that, as a government organization, the Commission can ask about information subject to orders of non-disclosure (unlike expunged or sealed offenses). Staff will remove the language excepting information subject to an order of non-disclosure from criminal history information that must be reported on the licensing application.

Members also discussed whether, by law, the Committee can require applicants to report Class C misdemeanors. Staff reported that, in accordance with the Texas Occupations Code, the Committee is restricted from considering any Class C misdemeanors or below as a reason to deny, revoke or suspend a forensic analyst license. Staff will further research the issue and update the language in the application to mirror what the Committee is allowed to ask of applicants in accordance with the Texas Occupations Code. Staff will present revised language at the Committee's May 25 meeting.

MOTION AND VOTE: *Sailors moved to delete the second criminal conviction question from the draft licensing application content document because the question is repetitive of the first. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

Staff will remove the second criminal conviction question from the draft.

Members suggested adding a sworn statement to the signature portion of the application that an examiner or license applicant has not committed professional misconduct either in their profession as a forensic analyst or otherwise.

Other administrative-type revisions were made to the application draft and staff will bring an updated revised copy of the application's content to the Committee's May 25 meeting. A final version will be presented to the full Commission at its May 26 quarterly meeting.

Discussion regarding whether and how to consider criminal convictions in license application process, including review and discussion of required published Guidelines for Consideration of Criminal Convictions draft.

Members reviewed and discussed draft Guidelines for Consideration of Criminal Convictions of license applicants. In accordance with the Texas Occupations Code Chapter 53, the Commission must publish these guidelines in the Texas Register before the program takes effect so that applicants are on notice of the reasons and bases for which their forensic analyst license application may be denied based on a criminal conviction.

Committee members discussed removing any particular time limit on convictions required to be reported to the Commission. Members discussed adding language related to all crimes of moral turpitude to convictions that the Committee considers directly related to the duties of a forensic analyst. Members also suggested adding all felony convictions to this section. Members discussed the fact that most crimes of moral turpitude and all felony convictions are directly related to a forensic analyst's duties and may even impact their ability to do a particular job because they are subject to impeachment rules.

Members requested staff conduct research on different criminal history background check programs, both public and private. Staff will reach out to the Texas Department of Public Safety to find out whether DPS can offer the service to the Commission and how much it might cost. Staff will also research private companies such as Publicdata.com. Staff will work on building the cost into the licensing program. The cost of the background checks was not originally anticipated in the budget but likely can be absorbed depending on actions by the legislature this session.

Staff will revise the Guidelines for Consideration of Criminal Convictions incorporating any comments from today's meeting and bring a revised draft back to the Committee's May 25 meeting.

Discussion of proposed general exam requirement, including potential exam developer agreements, topics, structure and administration of the exam and discussion of whether recognized certification body exams may fulfill the general forensic exam requirement.

Garcia and members discussed the issue of timing with offering the general forensic exam. Most members and Garcia feel the exam may not be ready in time to meet the licensing deadline for examiners. The goal is for the exam to be ready, but there may be some unforeseen delays in the development of the exam (pending funding by the legislature this session) and the psychometric evaluation of the exam once it is developed. Members suggested extending the exam deadline and offering a provisional license to all candidates until the exam is ready, if it is not ready in time to meet the licensing deadline.

Members also discussed what companies/organizations may conduct a psychometric evaluation of the exam questions and how that might work. Garcia suggested reaching out to the University of Texas' Center for Applied Psychometric Research to see if they may be able to assist. Staff will call the center and inquire and report back at the Committee's next meeting.

Review proposed draft list of qualifying Natural Science degrees to fulfill educational component and waiver/exception process for same.

Members will continue to work on developing a list of generally accepted natural science degrees both in Texas and outside of Texas.

Discussion of disciplinary process for licensees as well as application questions/certification for employment.

Members discussed this item when reviewing the Forensic Analyst License Application draft questions item above.

Update from Texas Association of Crime Lab Directors ("TACLD"), including discussion of any comments and feedback related to the program summary, proposed program timeline, proposed requirements matrix, and proposed general forensic licensing exam.

There was no representative from the TACLD at this meeting to provide an update.

Discussion of legislative recommendations, revisions and/or clarifications to the statutory licensing requirement and report to the legislature for 85th Legislative Session.

Members did not discuss this agenda item but will continue to follow up with any legislative recommendations for the forensic analyst licensing mandate.

Discussion of funding necessary to fulfill the licensing mandate including the cost of examinations, Forensic Science Commission application processing fees, continuing education requirements and renewal or re-certification costs.

Garcia briefly addressed this item to let Committee members know the Commission is still waiting on word related to supplemental funding for the forensic analyst licensing program and other Commission activities. Garcia will continue to monitor the budget situation as the legislative session progresses and will update members at the Committee's next meeting.

Consider proposed agenda items for next meeting.

Staff will circulate a proposed agenda containing items for continued discussion and any additional items members may propose.

Schedule and location of future meetings.

Committee members plan to meet again May 25, 2017 in Austin.

Hear public comment.

No public comment was given at the meeting.

Adjourn.