

**Texas Forensic Science Commission – Licensing Advisory Committee Minutes from January 24, 2019 Meeting**

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:00 a.m. on January 29, 2019, at the Tom C. Clark Building, 1<sup>st</sup> Floor Conference Room, 205 West 14<sup>th</sup> Street, Austin, Texas 78701.

Members of the Committee were present as follows:

**Members Present:** Robert Sailors  
Tim Sliter  
Greg Hilbig  
James Miller  
Bill Hines  
Michael Ward  
Thomas Ashworth

**Members Absent:** Katie White  
Chris Heartsill

**Review and adoption of minutes from November 28, 2018 meeting.**

**MOTION AND VOTE:** *Ward moved to approve the November 28, 2018 meeting minutes draft. Sailors seconded the motion. The Committee unanimously adopted the motion.*

**Administrative update and report on online licenses issued. Discuss progress on changes to application platform.**

Staff reported a total of 1154 licenses have been issued, comprised of 672 analysts, 25 technicians, 23 provisional licensees (one technician), 38 screening analysts, and 396 individual blanket licensees. Staff will continue to process applications as they are received.

Staff reported \$160, 940 in licensing fee revenue for FY19; however, only \$70,000 of the revenue are funds available this fiscal year. The remaining funds will roll over to fiscal year 2020 per legislative budget caps on the use of agency revenue.

Staff reported they are working with software provider ALIS to transition the licensing program’s application process from TopClass to ALIS to harmonize with the other Judicial Branch Certification Commission’s licensing programs. Staff is waiting on a quote for services and design from ALIS to decide whether to move forward.

**Discuss proposed statistics requirement for examiners applying after January 1, 2019, including timeline for availability of the online course. Review of any outstanding statistics course evaluation requests.**

Garcia provided a summary of the plans for the statistics course offering by the Commission.

The course is a 14-week (once-a-week lecture) program with a knowledge assessment at the conclusion of the course that participants must pass. The course will cost around \$300. Once the course has run through its first semester, students can access the recorded course at any time.

Members discussed putting together a one-page document describing the required components the Committee is looking for in approval of a statistics course. Staff will draft the guidance document for review at the Committee's next meeting.

**Discussion and recommendations regarding Waiver Applications for Support Personnel.**

There were no waiver applications for review on this agenda item.

**Discussion and recommendations regarding criminal history results.**

The Committee reviewed outstanding criminal history results for eligibility for licensure. Committee members reviewed a matrix of decisions on criminal history results for which candidates have already been notified of their eligibility (or have approved applications for licensure).

With regard to the Committee's review of candidate 1, members voted to approve the candidate's eligibility for a license.

**MOTION AND VOTE:** *Ashworth moved to approve the candidate for license eligibility. Sailors seconded the motion. The Committee unanimously adopted the motion.*

With regard to the Committee's review of candidate 2, members voted to deny the applicant eligibility for a license until the applicant's probation period is successfully completed.

**MOTION AND VOTE:** *Ward moved to deny the candidate eligibility for a license until the successful completion of the candidate's probation period. Ashworth seconded the motion. The Committee unanimously adopted the motion.*

**Discussion and evaluation of any outstanding conduct reports from license applications.**

Members did not have any conduct reports for review at this meeting.

**Discussion and evaluation of outstanding technical reviewer license applications.**

The Committee did not review any technical reviewer license applications at this meeting.

**Discussion and evaluation of outstanding blanket license applications, including discussion of recommended revisions to blanket rule.**

Members did not have any outstanding blanket license applications for review at this meeting. Members discussed suggested revisions to the blanket rule, including a graduated fee structure based on the number of Texas cases a particular lab does in a year. Members addressed

competition concerns in a letter from a Texas private toxicology laboratory who is required to fully license their analysts (and have them all take the exam) as opposed to having the much less expensive option of getting a blanket license and no exam requirement for conducting the same work. Members agreed to work with the full Commission in forming a panel to determine the appropriate level of oversight and fee structure for blanket laboratories.

**MOTION AND VOTE:** *Ward moved to recommend the full Commission form a working group to address the appropriate level of oversight and fee structure for blanket licensed laboratories. Ashworth seconded the motion. The Committee unanimously adopted the motion.*

### **Discussion and evaluation on any temporary license application requests.**

Members did not have any temporary license applications for review at this meeting.

### **Update on Exam Evaluation progress.**

Members discussed reconvening the exam evaluation committee for development and implementation of new exam questions on the forensic analyst licensing and technician exams. Staff will work with the group to organize its next meeting.

Members discussed allowing continuing forensic education credit for participation in the exam evaluation committee. Members also discussed the possibility of piloting a total of 20 questions instead of the 10 that are currently piloted. The exam evaluation committee will discuss these issues.

### **Discuss requests re: CLIA and PJLA and potential impact on licensing.**

Members discussed whether the accrediting organization PJLA should be an accrediting body recognized by the Commission. PJLA primarily accredits industrial and environmental-type laboratories and does not have a history of accrediting forensic entities. Though the agency accredits to the ISO-17025 standard and is accredited itself, there are currently no supplemental forensic components to the agency's program. Members discussed that the Commission should reach out to PJLA to explain what requirements/components the Commission is looking for and to reconsider recognizing the organization once they have the forensic components.

Members also discussed whether the Commission should recognize CLIA certification. CLIA is not technically an accrediting body. Members discussed that CLIA requirements are rigorous, however. The decision for whether to recognize CLIA certification was left to the full Commission.

### **Review outstanding draft licensing rules for approval, including:**

- i. Rule expanding pre-Jan 1 exemption to include forensic disciplines later subject to accreditation requirements (e.g., bloodstain pattern analysis);**

**MOTION AND VOTE:** *Ashworth moved to recommend the full Commission adopt the draft*

rule expanding the pre-January 1 exemption to include forensic disciplines later subject to accreditation requirements. Miller seconded the motion. The Committee unanimously adopted the motion.

- ii. **Rule allowing university students to take forensic analyst and/or technician exam and revision to rule for fourth exam requests to require a letter of support from laboratory director.**

**MOTION AND VOTE:** Ward moved to recommend the full Commission adopt the rule allowing university students to take the forensic analyst and/or technician exam, but to limit the number of attempts to one and to adopt the revision to the fourth exam request rule, revising the rule to leave the number of special dispensation exam attempts to the discretion of the Committee and to not require a letter of support from the laboratory director but to make the letter optional. Miller seconded the motion. The Committee unanimously adopted the motion.

- iii. **Rule regarding Presiding Officer or Designee authority on criminal history reviews/denials;**

**MOTION AND VOTE:** Sailors moved to recommend the full Commission approve deferral to the Presiding Officer or Designee on authority for criminal history reviews where applicants are granted eligibility and reserve Committee review of any potential denials for criminal convictions that occurred within the past five years. Hines seconded the motion. The Committee unanimously adopted the motion.

- iv. **Rule revision to provide clarification with regard to the applicability of the tech reviewers license;**

**MOTION AND VOTE:** Ward moved to recommend the full Commission approve the draft tech reviewers rule clarification. Miller seconded the motion. The Committee unanimously adopted the motion.

- v. **Discuss rule regarding provisional license and exam attempts.**

Members discussed a draft rule that establishes a timeline of requirements for third exam failures. Candidates who fail the exam a third time must request special dispensation within thirty (30) days of the date they receive notice they failed. If their request for special dispensation is granted, the applicant has ninety (90) days from the date they receive notice their request is granted to take and pass the exam. If they fail the exam a fourth time and they have a provisional license, the license expires on the date the candidate fails the exam a fourth time. Staff will draft a rule that covers the timeline and requirements discussed with respect to exam attempts and the expiration of the provisional license on fourth failures.

#### **Discuss next steps for continuing education program.**

Members discussed preparing a form for laboratories to request approval of continuing education activities. Members also discussed preparing a list of approved continuing forensic education

activities. Staff will explore the use of TopClass for licensee reporting of continuing forensic education hours and publication of approved activities and credit hours. Miller mentioned that ABC has a good list of approved continuing education programs. Staff will work on development of the program and bring an update to the Committee's next meeting.

**Update from Texas Association of Crime Laboratory Directors**

There was no update on this agenda item.

**Schedule and location of future meetings.**

Staff will circulate a doodle poll for the next meeting date.

**Hear public comment.**

Leslie Parke from Signature Science provided public comment.

**Adjourn.**