

Texas Forensic Science Commission – Licensing Advisory Committee Minutes from August 15, 2019 Meeting

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 9:00 a.m. on August 15, 2019, at the Stephen F. Austin Building, 1700 North Congress Avenue, Suite 172, Austin, Texas 78701.

Members of the Committee were present as follows:

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

Members Absent: Chris Heartsill

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

1. Review and adoption of minutes from May 2, 2019 meeting.

MOTION AND VOTE: *Sailors moved to approve the May 2, 2019 meeting minutes draft. Hines seconded the motion. The Committee unanimously adopted the motion.*

2. Administrative update, including number of licenses issued, implementation of continuing forensic education reporting function in TopClass, revisions to website to provide information on statistics requirement and online course through Texas A&M.

Staff provided an update on licenses issued. Staff has issued a total of 1256 licenses, consisting of 799 regular licenses, 22 provisional, and 435 blanket licenses. Licensing Program Specialist, Rodney Soward, described progress on his work with the Commission's continuing forensic education reporting platform. Staff hopes to roll-out the CFE reporting program in early September 2019. Garcia described staffing changes, including the promotion of Licensing Specialist Rodney Soward to a Program Specialist position as the role has taken on additional tasks within the program.

3. Discuss statistics requirement, including discussion of the online course by Dr. Spiegelman and update on candidates who have taken the course. Review and update on any outstanding statistics course evaluation requests.

Staff reported registration and instructions for the online statistics course through Texas A&M

have been developed and posted on the Commission's licensing page under the statistics tab. Currently, there are four students registered for the course and one who successfully passed the course.

Members also discussed whether someone may audit, pay for or take the statistics course for continuing forensic education credit. Staff will inquire with the course provider about this possibility and ask whether the course is available to anyone for registration. Staff will publicize that the course is available for continuing forensic education credit for anyone who takes the course.

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

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

5. Discussion and recommendations regarding any outstanding criminal history results.

There were no criminal history evaluations to be completed at this meeting.

6. Discuss status of Agreed Order in the Committee's recommended denial of a candidate's license for recent criminal history.

A license candidate was originally offered an agreed upon settlement to obtain licensure on a probationary period due to the candidate's current probation status. She subsequently received an early discharge from probation. In light of the candidate's discharge from probation, the Licensing Advisory Committee recommended licensure for the candidate.

MOTION AND VOTE: *Ward moved to recommend the full Commission grant the candidate's license. Hilbig seconded the motion. The Committee unanimously adopted the motion.*

7. Discuss and evaluate outstanding technical reviewer license applications.

There were no technical reviewer license applications for review at this meeting.

8. Discuss and evaluate any outstanding blanket license applications, including discussion and update from July 17, 2019 blanket rule task group.

There were no blanket license application outstanding for this meeting.

Staff gave a brief update from the Blanket Rule Task Group's July 17 call where members of the group elevated requirements under the blanket license option for out-of-state laboratories in an effort to make the requirements more equitable in comparison to what is currently required of laboratories and analysts at in-state laboratories.

The primary recommended changes to the blanket rule include the following:

1. Change in cost:

\$50/analyst/year (\$100/analyst over two-year license cycle) versus the current \$10/analyst over a one-year license cycle

2. License Term

2-year term changed from the current 1-year term.

3. Coursework Requirements (not previously required)

Must meet same coursework requirements as in-state analysts, must submit transcripts to demonstrate fulfillment of this requirement upon application. This will only be checked once.

4. Proficiency Testing Requirements (not previously required)

Must meet same PT requirements as in-state analysts which are simply compliance with whatever the lab's current accrediting body requires of the analyst (including certification of this by the laboratory representative where the analyst is employed). Must submit the PT certification form at each renewal (every 2 years).

5. Exam Requirement (not previously required)

Applicants must pass 3 modules of the General Forensic Analyst Licensing Exam—Evidence Handling, Brady/Michael Morton Act, and Professional Responsibility modules. Number of total questions in each subject will be determined.

MOTION AND VOTE: *White moved to recommend the full Commission adopt the proposed changes to the Blanket License rule for out-of-state laboratories and analysts. Sailors seconded the motion. The Committee unanimously adopted the motion.*

Upon approval at the full Commission meeting, staff will draft a rule proposal for public comment addressing each of the changes described above.

9. Discuss and evaluate any temporary license applications.

There were no temporary license applications for review at this meeting.

10. Discuss and evaluate any fourth exam requests.

There were no fourth exam requests for review at this meeting. Staff reported one candidate who was granted special disposition for a fourth exam requested an extension for the exam date deadline, and the extension was granted by staff.

11. Discuss and evaluate any outstanding CFE course approval requests; discuss exploring different options for sponsoring CFE for disciplines that don't have as

many available options for CFE (e.g., Materials (Trace)); discuss revisions to CFE guidance document on equipment training.

Members reviewed a request for approval of Agilent's 3-day MassHunter Software and Application Training for 24 hours of general continuing forensic education credit.

MOTION AND VOTE: *Miller moved to approve the 3-day Agilent course for 24 hours of general continuing forensic education credit for any laboratory that hosts the training. White seconded the motion. The Committee unanimously adopted the motion.*

*Ward recused himself from discussion and vote on this item.

Members and staff discussed revising the CFE evaluation guidance document to provide more clarity with regard to software trainings that are either eligible or ineligible for continuing forensic education credit.

MOTION AND VOTE: *Miller moved to accept the edits to the CFE guidance document as proposed by staff with further edits incorporated as discussed at the meeting. Ward seconded the motion. The Committee unanimously adopted the motion.*

Staff will publish the revised CFE guidance document for reference on the licensing program webpage.

Members reviewed a request for approval of CFE credit of an Authoring and Publishing Forensic Papers training to be hosted the Harris County Institute of Forensic Sciences.

MOTION AND VOTE: *Sliter moved to approve the training for 2 hours of general CFE credit. White seconded the motion. The Committee unanimously adopted the motion.*

Members discussed the limited options for continuing forensic education courses for disciplines like Materials (Trace). White offered to list approved Materials (Trace) options for continuing forensic education credit for staff to distribute to analysts looking for approved programs. Materials (Trace) analysts may have a difficult time fulfilling their 16 hours of required discipline-specific training hours. Staff will continue working on developing training options for the discipline. Garcia indicated the Commission may be able to bring expert Skip Palenik to Texas to present a course or training in collaboration with Commissioner Patrick Buzzini. Staff will also work on a list of approved trainings for analysts in this discipline.

12. Update on Exam Evaluation Committee progress.

Garcia updated members on progress made by the Exam Evaluation Committee with regard to the development of new test questions for the General Forensic Analyst Licensing Exam. The Committee will pilot 10 additional questions, and the first batch of 10 questions piloted have been validated and approved for use by the psychometric company evaluating the test questions for the Commission. The Committee will continue to develop questions that can be piloted until the Commission has a bank of 100 new questions for an entire new test form.

13. Review published licensing rules, including:

- i. Continuing forensic education rule updates, including number of discipline-specific training hours required for multiple disciplines, roll-over of hours from previous license cycle and clarification for credit for “date-delivered”;**
- ii. Rule regarding authority to deny for conduct on an initial application; and**
- iii. Revisions to rules post-Jan 1 requirements.**

Staff updated the Committee on the publication of the above rules.

14. Review outstanding draft licensing rules and proposed rule concepts for approval, including:

- i. Clarifications to Professional Misconduct definition in licensing rules;**
- ii. Expansion of exemption for retired examiners and forensic discipline changes;**
- iii. Removal of document examination references from licensing rules;**
- iv. SB 284 and SB 1342 appeals process changes;**
- v. SB 1200 reciprocity for military spouses changes;**
- vi. SB 1342 changes to criminal history eligibility pre-determinations;**
- vii. SAMHSA correction;**
- viii. Discussion of provisional license and potential changes to eligibility; and**
- ix. Discussion of CFE for Technicians.**

Members approved the rule changes above pursuant to either legislation or changes voted on at the Commissions’ last meeting.

With regard to changes to the provisional license, members discussed eliminating the provision that could be read as permitting an individual who is not currently working in an accredited crime laboratory to become provisionally licensed. Applicants must be first employed by an accredited crime laboratory in order to be eligible for a provisional or regular forensic analyst license.

MOTION AND VOTE: *White moved to recommend adopting a revision to the provisional rule making non-accredited-crime laboratory employees ineligible for provisional licensure. Ward seconded the motion. The Committee unanimously adopted the motion.*

Members discussed whether CFE should be required of technicians. Members agreed technicians should only be required to complete the Commission-sponsored Mandatory Legal and Professional Responsibility update each license cycle.

MOTION AND VOTE: *White moved to recommend adopting a requirement for technicians to complete the Mandatory Legal and Professional Responsibility update each license cycle. Ward seconded the motion. The Committee unanimously adopted the motion.*

Staff will draft and publish rules with regard to the changes to provisional licensure and to CFE

for technicians.

15. Update from Mandatory Legal and Ethics Training Development group.

Garcia reported she is currently working on an outline to the course and hopes to have plans for the course at the Committee's October meeting.

16. Review licensing advisory board appointments and terms; update on applications from TACLD for vote at August 16, 2019 quarterly Commission meeting.

Garcia reported nine applicants were nominated by TACLD to fill five seats on the Licensing Advisory Committee. The Commission will consider and appoint five of the applicants at its August 16, 2019 quarterly meeting.

17. Review and update on any specific coursework and minimum education requirement transcript review requests.

Members reviewed the transcript for a Forensic Biology/DNA Analyst to determine whether the candidate met the coursework requirements for licensure, which include compliance with the FBI's QAS coursework requirements. The analyst is licensed by the Commission and the analyst's employing laboratory certified the candidate met the coursework requirements at the time she applied. However, the analyst applied for employment at a different laboratory and that laboratory felt the candidate did not meet the QAS's coursework requirements and thus the Commission's coursework requirements for licensure. Committee members and Forensic Biology experts Sailors and Sliter agreed to review the submitted transcripts and research the consideration of the courses the candidate submitted in her transcript to determine whether the candidate has the requisite coursework or whether she should be advised to obtain the coursework needed before renewal of her license next year.

18. Discuss the Crime Scene Working Group's development of a licensing program for crime scene reconstruction, including bloodstain pattern analysis and corresponding licensing requirements for the discipline.

Garcia reported on the most recent meeting of the Crime Scene Working Group which is working to establish oversight for the area of crime scene investigation and reconstruction. The group recently voted to establish a voluntary licensing program for the forensic discipline crime scene reconstruction. Garcia explained this Committee will be tasked with establishing the rules for licensure of crime scene reconstruction analysts in Texas as recommend by the Crime Scene Working Group.

19. Update from the Texas Association of Crime Laboratory Directors.

There was no update for this agenda item.

20. Schedule and location of future meetings.

The Committee will meet again October 24, 2019 in Austin.

21. Hear public comment.

No public comment was made at the meeting.

22. Adjourn.