

**Texas Forensic Science Commission Licensing Advisory Committee
Minutes from February 11, 2016 Meeting in Austin, Texas**

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 9:30 AM on Thursday, February 11, 2016, at the Omni Austin Southpark Hotel, 4140 Governor's Row, Austin, Texas 78744.

Members of the Committee were present as follows:

Members Present: Ashraf Mozayani, Chair

Members Absent: Arthur Eisenberg
Nizam Peerwani

Staff Present: Lynn Garcia, General Counsel
Leigh Tomlin, Associate General Counsel
Nick Vilbas, Assistant General Counsel
Kathryn Adams, Commission Coordinator

Introduction of selected Licensing Advisory Committee members, Commission members and staff

All members of the Licensing Advisory Committee, Commissioner Mozayani and Commission staff introduced themselves.

Administrative update (public information and open records requirements and training, reimbursement requirements and rules, development of policy for distribution of materials, discussion of frequency of meetings (*statutory annual requirement), and other orientation items as necessary).

Garcia presented a Power Point going over establishment, purposes and duties of the LAC.

Committee members verified that they had each done the required public information and open records act training. Adams stated that she would be sending all committee members an email with certain documents that need to be executed and returned so that members may be set up for reimbursement by SHSU. A summary of reimbursement rules will also be provided.

Garcia stated that development of policies for intake and distribution of licensing materials needs to take place. Staff agreed to assist with intake, organization and dissemination of committee materials.

Garcia suggested that the committee meet on the same schedule as the full Commission and call other meetings as necessary. The constitution of a quorum was discussed;

members were encouraged not to discuss committee business with one another outside of its open meetings.

Review of Licensing Advisory Committee enabling statute and mandate, Texas Code of Criminal Procedure Article 38.01 § 4-b.

Garcia presented a PowerPoint outlining major purposes, functions and goals of this committee and a read list of accredited scientific disciplines. Highlights included establishing qualifications for obtaining a license; setting fees and testing procedures; setting up a process for receiving applications and deciding whether to accept national accrediting bodies. The FSC may also establish a voluntary licensing program for unaccredited disciplines.

Dr.'s DiMaio and Mozayani engaged in discussion with committee members concerning training for analysts. DiMaio gave an example that medical residents in forensic pathology must train for 2 years before they can sit for their specialty exam and testify in court.

Mozayani stated that lab trainees can do analyses, but their results are reviewed by a supervisor who must sign off. A person is considered an "analyst" in a lab when they are training under supervisor. Garcia reviewed the statutory definition of "analyst;" she related that the Commission is looking to this committee to advise it concerning who should be called an "analyst."

The difference between a "technician" and an "analyst" was discussed. DiMaio recommended looking to the medical profession for guidance on this issue.

The different ways labs handle analyses was discussed. In some labs, one person handles evidence all the way through; at other labs the process is segmented.

Discussion of member terms and term assignments (must be staggered two-year terms, with the terms of four or five members, as appropriate, expiring on August 31 of each year). **Members may serve no more than two consecutive terms.*

Garcia reviewed the composition of the LAC and stated that members shall have staggered 2-year terms. Members drew straws to determine whose terms would begin on what dates (there will be 4 16 -month terms, and 5 17- month terms, both up in August).

Elect Presiding Officer of Licensing Advisory Committee to serve one-year term. (*A member may serve more than one term as Presiding Officer).

MOTION AND VOTE: *Mozayani moved to nominate Hilbig as committee chair. Sliter and Middleberg seconded the motion. The motion passed unanimously and Hilbig accepted the nomination to be presiding officer for a one-year term.*

MOTION AND VOTE: *Daniel moved to nominate Chandler as committee vice chair. Ward seconded the motion. The motion passed unanimously and Chandler accepted the nomination to be vice committee chair.*

Development and discussion of next steps to fulfill statutory requirements, including questions received from community.

Hilbig volunteered to head a subcommittee to set standards and educational requirements for an entry-level analyst. Garcia reviewed Hilbig's duties as head of his subcommittee and stated that he may go outside the LAC for assistance.

The subject of "grandfathering" was discussed. Consensus was that there are very few analysts who would not meet current minimum educational requirements as most positions require a Bachelor of Science. Garcia suggests polling labs to see which would meet requirements being discussed vs. those that would not because of personnel having been there long time and hired under different standards.

Garcia reviewed the laws concerning court testimony. An analyst must be licensed to testify in court on behalf of the state. Someone unlicensed may testify for a defendant. Texas courts have not held defendant's experts to the same standard as those for state.

This LAC must update the Texas legislature. The access of experts to defendants is a major current issue. Heartsill pointed out that many defense experts come in to analyze and/or interpret evidence already admitted in a case. Garcia said it is not the intention of statute to require these people to be licensed.

The initial denial of an analyst license is not covered by the statute and needs to be addressed.

Consider proposed agenda items for next meeting.

Daniel volunteered to head a legal/legislative issues subcommittee; Chandler agreed to assist. Subcommittees must present recommendations to the entire LAC, so they are not subject to the Open Meetings Act unless a quorum of LAC members are talking.

Heartsill will research course work requirements, ethics and courtroom education. Chandler will assist. Garcia suggested enlisting Brady Mills as a resource in this endeavor.

Middleberg, Hilbig & Heartsill all volunteered to be part of a subcommittee to work on formulating tests and testing procedures for analysts.

Garcia stated that she was in favor of inviting representatives from licensing bodies to speak at the next LAC meeting.

The topic of provisional licensing is brought up and will be discussed at a future meeting.

Schedule and location of future meetings.

Garcia suggested that the LAC meet on same schedule and at the same location as the full Commission. Members agreed that this is the best approach.

Adams offered to assist with getting the LAC's meeting materials to the full commission as needed. Daniel, Ward and Chandler want hard copy binders of meeting materials; others want only electronic files.

Garcia reviewed SHSU's main travel and reimbursement rules. Adams will email members documents relative to reimbursement.

Tomlin stated that April 11-13 are available dates for the LAC's next meeting. She will send an email to everyone next week to confirm.

Adjourn

The meeting was adjourned at 12:03 pm