

Texas Forensic Science Commission – Licensing Advisory Committee Minutes from November 28, 2018 Meeting

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:00 a.m. on November 28, 2018, at the Tom C. Clark Building, 6th Floor Conference Room, 205 West 14th Street, Austin, Texas 78701.

Members of the Committee were present as follows:

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

Members Absent: Michael Ward

Review and adoption of minutes from October 17, 2018 meeting.

MOTION AND VOTE: *Miller moved to approve the October 17, 2018 meeting minutes draft. Sliter seconded the motion. The Committee unanimously adopted the motion.*

Administrative update and report on roll-out of online license applications in TopClass and administration of General Forensic Analyst Licensing Exam. Discuss progress on changes to application platform. Introduction of Licensing Specialist Rodney Soward.

Staff reported over 350 licenses were issued in the past few weeks and staff expects to issue over 1,000 before the end of the year. Staff continues to administer forensic analyst and technician licensing exams through the end of the year for those trying to meet the licensing deadline.

Staff introduced new employee and licensing specialist, Rodney Soward. Soward manages registration for forensic analyst and technician exams, answers support calls during exam administrations and conducts criminal background checks on all license applicants. Soward will also manage the Commission's list of licensees and continue to update information with regard to the status of individual licenses.

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.

Update on Exam Evaluation Committee progress.

Members did not discuss this agenda item. Staff will provide an update at the Committee's next

meeting.

Members also reviewed a request for special dispensation for a fourth attempt at the general forensic analyst licensing exam.

MOTION AND VOTE: *Hines moved to approve the request for a fourth attempt at the exam. Sliter seconded the motion. The Committee unanimously adopted the motion.*

Members discussed that a letter of support from the candidate's laboratory should be required for fourth exam requests and that the rule should be clear that the fourth attempt is a candidate's final attempt. Staff will revise the rule accordingly.

Discussion of proposed statistics requirement for examiners applying after January 1, 2019 and development of financially accessible, online statistics course for forensic examiners through Texas A&M University, including timeline for availability of the online course.

Garcia reported Spiegelman has been retained and is working on a statistics course that can be taken via Texas A&M's Continuing Education Program online. The FSC's website will have a link to the course. The course will cost about \$300 per student, much cheaper than a regular college course at a four-year University. The course should be available early next year.

Members reviewed two applications for approval of statistics coursework to satisfy the statistics requirement in Tex. Admin. Code § 651.207.

Applicant 1: Introduction to Statistics Course

MOTION AND VOTE: *Sailors moved to approve the course content as satisfactory in fulfillment of the statistics requirement described in Tex. Admin Code. § 651.207. Ashworth seconded the motion. The Committee unanimously adopted the motion.*

Applicant 2: Criminal Justice Research and Planning

MOTION AND VOTE: *Sliter moved to deny the request to approve the course because the course content is missing core statistics concepts and is geared more towards research methods—concepts not considered satisfactory in fulfilling the statistics component required for § 651.207. White seconded the motion. The Committee unanimously adopted the motion.*

Applicant 2 also provided information related to a statistics course from Saylor Academy, a program honored by ACE credit for a 3-hour college equivalent. Members discussed that this course, if completed and passed, satisfies the statistics requirement in § 651.207. Any ACE-credit approved (3-hour college equivalent) courses are considered satisfactory of the requirement.

Discussion and recommendations regarding Waiver Applications for Laboratory Support Personnel

The Commission considered one waiver application from Bexar County Criminal Investigation Laboratory for a Forensic Technician position.

MOTION AND VOTE: *White moved to deny the waiver application because the job description included selecting hairs/fibers and stubbing evidence for GSR particles—activities the Committee considers to include a degree of judgment that is beyond the scope of limited support functions intended by the waiver. Miller seconded the motion. The Committee unanimously adopted the motion.*

Discussion and recommendations regarding criminal history evaluation requests.

Members reviewed a criminal history disclosure for one license candidate.

MOTION AND VOTE: *Hines moved to recommend the applicant be eligible for a forensic analyst license. Miller seconded the motion. The Committee unanimously adopted the motion.*

Discussion and evaluation of any outstanding conduct reports from licensing applications.

There were no conduct reports for review at this meeting.

Discussion and evaluation of outstanding technical reviewer license applications, discuss possible recommendations for revisions/clarifications to tech reviewer rule.

The Committee reviewed one application for a tech reviewer license at this meeting; however, the application was for two analysts who conduct bloodstain pattern analysis—a discipline not yet subject to accreditation and licensing requirements. The Committee directed staff to inform the applicant of the same and ask them to re-apply when there are requirements for this discipline.

Members also discussed clarifying the tech reviewer section in the licensing rules to make clear that the section only applies to tech reviewers who offer services where they would not otherwise be available and are not otherwise eligible for a forensic analyst or technician license. The exception/license *does not* apply to all persons who strictly do technical review in a laboratory.

Discussion and evaluation of outstanding blanket license applications.

The Committee reviewed applications for blanket licenses that may be granted to out-of-state laboratories pursuant to Texas Administrative Code, Chapter 651, Subchapter C, Section 651.220 to ensure the availability of uncommon forensic analyses, timeliness of forensic analyses, and/or service to counties with limited access to forensic analysis.

The Commission reviewed and granted the following blanket applications based on information provided by the laboratories, including information about the number of employees to be covered under the blanket application, position descriptions and average number of Texas cases worked in a year. Blanket licenses granted at this meeting are effective **December 31, 2018 through December 31, 2019**. Within thirty (30) days of the date the blanket license expires, a lab must apply to the Commission for renewal of the blanket license.

Bode Cellmark

MOTION AND VOTE: *White moved to approve the application for a blanket license based on the information provided by the lab. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

Cordant – Flagstaff and Cordant – Tacoma

MOTION AND VOTE: *Sailors moved to approve the application for a blanket license based on the information provided by the lab. White seconded the motion. The Committee unanimously adopted the motion.*

DNA Labs International

MOTION AND VOTE: *Miller moved to approve the application for a blanket license based on the information provided by the lab. White seconded the motion. The Committee unanimously adopted the motion.*

DNA Solutions

MOTION AND VOTE: *White moved to approve the application for a blanket license based on the information provided by the lab. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

NMS Labs

MOTION AND VOTE: *Miller moved to approve the application for a blanket license based on the information provided by the lab. Sailors seconded the motion. The Committee unanimously adopted the motion.*

Sorenson

MOTION AND VOTE: *Miller moved to approve the application for a blanket license based on the information provided by the lab. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

TASC

MOTION AND VOTE: *Sailors moved to approve the application for a blanket license based on the information provided by the lab. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

Members discussed revisions to the blanket rule as currently drafted, including clarifying that the blanket license is conditional on employment with the lab to which the blanket license is granted and requiring the test and all other requirements, but leaving the reduced fee. Members also discussed the possibility of a tiered fee schedule based on the amount of Texas casework a lab conducts annually. Members will include the item for discussion on the Committee's and the Commission's January agenda.

Discussion and evaluation on temporary license application requests.

There were no applications for a temporary license reviewed at this meeting.

Discuss Committee's recommendation on knowledge-based competency requirements.

Members briefly discussed the Commission's October 5, 2018 decision to eliminate the current knowledge-based competency requirements from its administrative licensing rules. Staff published a rule eliminating the requirement. The Committee and the Commission plan to pursue adoption of OSAC standards as requirements for Texas labs with respect to training topics recommended for specific forensic disciplines as they become available.

Discuss impending accreditation requirements for crime scene and impact on licensing requirements.

Members discussed the development of licensing requirements for crime scene personnel. Once accreditation is required for this forensic discipline sometime next year, the Committee will need to work on development of the licensing components required for these analysts and technicians to get a license. Members will address the issue again at their next meeting.

Members also discussed considering the federal oversight organization CLIA as a recognized oversight body. Members discussed that CLIA is not an accrediting body but more of a certification for labs that perform a certain type of testing as required by the federal government. Members will discuss the issue again at the Committee's next meeting.

Update from the Texas Association of Crime Laboratory Directors.

There was no update for this agenda item.

Schedule and location of future meetings.

Staff will circulate a Doodle poll to determine members' availability for the next meeting.

Hear public comment.

There was no public comment at this meeting.

Adjourn.