

Texas Forensic Science Commission – Licensing Advisory Committee Minutes from July 23, 2020 Meeting

The Licensing Advisory Committee of the Texas Forensic Science Commission met virtually via GoTo Meeting at 9:00 a.m. on July 23, 2020 as authorized under Government Code section 551.125 pursuant to Governor Greg Abbott’s March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) which was extended on July 2, 2020, as well as the Governor’s March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act.

Members of the Committee were present as follows:

Members Present: Greg Hilbig
Robert Sailors
Bill Hines
Erin Reat
Emily Esquivel
Donna Eudaley
Crystina Vachon
Alicia Watts

Members Absent: Calli Bailey

Staff Present: Lynn Garcia, General Counsel
Leigh Savage, Associate General Counsel
Rodney Soward, Licensing Program Specialist
Robert Smith, Senior Staff Attorney
Kathryn Adams, Commission Coordinator

1. Call meeting to order. Roll call for members.

Licensing Advisory Committee Chair, Greg Hilbig, called the meeting to order and called roll.

2. Instructions for public participation.

Savage gave instructions for public comment and participation during the meeting.

3. Review and adoption of minutes from January 30, 2020 meeting.

MOTION AND VOTE: *Hines moved to approve the January 30, 2020 meeting minutes draft. Vachon seconded the motion. The Committee unanimously adopted the motion.*

4. Administrative update, including update on number of licenses issued and expected to be renewed before December 31, 2020; discussion of committee member nominations.

Soward provided an update on licenses issued. There are currently 1,337 licensees, consisting of 915 regular licenses, 7 provisional, 2 temporary licensees, and 413 blanket.

5. Review any outstanding statistics course evaluation requests.

Garcia gave an update on the statistics course taught by Dr. Cliff Spiegelman in light of his passing. All of the currently enrolled students were offered the option to enroll in a summer session statistics course taught by Dr. Buzzini at Sam Houston State University for the July 1-July 31 term. One student who had already finished Dr. Spiegelman's coursework took Dr. Spiegelman's exam with the assistance of Dr. Michael Longnecker from Texas A&M University. Garcia discussed a variety of options for future licensees looking to fulfill the statistics requirement, including the possibility of collaborating with the Center for Statistics and Applications in Forensic Evidence ("CSAFE"). Garcia sent the current (Spiegelman) course material to CSAFE so they can begin developing content for the course. Once Garcia has the course content, she will circulate it to the licensing committee for review. NMS also expects to offer their statistics course virtually before the end of the year.

6. Discuss and evaluate any outstanding continuing forensic education (CFE) requests; discuss approval process for software and other instrument trainings.

There were no outstanding CFE review requests. Members discussed which types of software and other instrument trainings should count towards CFE. Members agreed that software and instrument training in the regular course of an analyst's work (*e.g., training on how to do DNA mixture interpretation using STRmix software*) should not count for CFE credit. However, software and instrument training activities that are part of a more extensive training to build expertise beyond baseline knowledge of the software or instrument operation (*e.g., training on a novel or new technique on an analytical method provided by a subject matter expert that is external to the analyst's employing laboratory*) count for CFE credit.

Members directed staff to draft and publish the revised provision in the CFE guidelines.

MOTION AND VOTE: *Eudaley moved to adopt the proposed revisions to the licensing program Continuing Forensic Education Guidelines regarding software and instrument training as discussed. Reat seconded the motion. The Committee unanimously adopted the motion.*

7. Discuss and make recommendations on any specific coursework and minimum education requirement transcript review requests.

There were no outstanding specific coursework or minimum education requirements for review.

8. Review outstanding licensing rules and proposed rule concepts for approval, including rule addressing continuing forensic education requirements for analysts adding a discipline during the current license cycle.

Savage discussed the proposed rule that creates a timeline based on an analyst's license expiration date for requiring supplemental discipline-specific CFE in the added discipline.

Under the current rule, forensic analysts adding a discipline are required to complete 8 hours of CFE specific to the supplemental discipline before their license expires, without regard to the date they add the extra discipline to their license. The rule amendment requires 1) no CFE

specific to the supplemental discipline for analysts adding a supplemental discipline within 6 months of their current license expiration; 2) 4 hours of CFE specific to the supplemental discipline for analysts adding a discipline between 6 and 18 months of license expiration; and 3) the full 8 hours for analysts adding a discipline 18 or more months before license expiration.

MOTION AND VOTE: *Sailors moved to recommend adoption of rule change described above. Eudaley seconded the motion. The Committee unanimously adopted the motion.*

9. Discuss exam evaluation committee and development of new test questions; discuss exam training videos.

Members and staff discussed the status of piloted exam questions and the development of a new set of questions to pilot for the General Forensic Analyst Licensing Exam. Staff will reconvene the Exam Evaluation Committee and anyone else who wants to participate in drafting exam questions. Guidelines for question drafting have been provided by the psychometricians. Garcia will circulate the guidelines to those participating in the exam evaluation committee for question development.

Members also discuss re-recording two of the exam training/study videos—Root Cause Analysis and Human Factors. Reat and Hilbig will assist in the re-recording of the study videos.

10. Discuss voluntary licensure for unaccredited forensic disciplines.

Members discussed the status of the crime scene working group's development of recommended voluntary licensing rules for the discipline. The group is expected to meet in August to develop recommendations. Developments for other forensic disciplines has not yet began but is expected in the future for disciplines like latent prints and digital evidence.

Staff reported on the development of the unaccredited forensic discipline option to take the General Forensic Analyst Licensing Exam or Modified General Forensic Analyst Licensing Exam. The rule adoption related to the exam fee is expected to be published mid-August. Once the rule takes effect, staff can offer the exam (and charge the fee) to analysts in forensic disciplines not required to be accredited under Texas law.

11. Discuss and make recommendations regarding any Waiver Applications for Laboratory Support Personnel.

There were no waiver applications for review at this meeting.

Reat discussed an inquiry from a laboratory about whether an employee taking a buccal swab, collecting ½ of one (of two) swabs for DNA testing needed a license per the licensing rules. The technician in the scenario decides which swab to sample from and selects the proper amount for DNA testing. If a technician handles evidence *and* makes decisions that can affect the downstream process of the evidence (*i.e., where to collect, how much to collect, etc.*) then the analyst would need a license.

12. Discuss and make recommendations regarding any outstanding criminal history results.

There were no criminal history reports for review at this meeting.

13. Discuss and evaluate any technical reviewer license applications.

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

14. Discuss and evaluate any temporary license application requests.

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

15. Discuss and evaluate any fourth exam requests.

There were no fourth exam requests for review at this meeting.

16. Update from Mandatory Legal and Professional Responsibility Training Development group.

Garcia reported on the development of the Mandatory Legal and Professional Responsibility Training course with SHSU. The course is being finalized by SHSU staff. The course should be available before the end of August. The course will not delay renewal of licensure for analysts.

17. Update and discussion of new OSAC Registry standards to be adopted by the Commission, including the development of collaborative work groups to discuss new standards.

Garcia described comments from the collaborative working group of toxicologists formed by the Texas Association of Crime Laboratory Directors and their President, Peter Stout to address OSAC standards published for the discipline. The group has made recommendations on two toxicology standards thus far as follows:

ANSI/ASB Best Practice Recommendation 037. This is a reasonable recommendation that many labs will be able to comply with. However, when TFSC adopts this document, it should be made clear that this document is a **RECCOMENDATION**. Also, it should be clear that the referenced SWGTOX document that details education and experience is also a recommendation. As was discussed during the establishment of the Texas state licensure program, these recommendations exceed the basis for licensure and could then present challenges for some laboratories in the state.

ANSI/ASB Standard 017. Again, a reasonable standard (and is a standard). Not all labs in the state currently adhere to this standard. We recommend at least a 1-year period for laboratories to adopt this standard statewide.

The Commission will review the comments at its October 23, 2020 meeting and address several other published OSAC standards, including the recently published DNA standards.

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

There was no update from the TACLD.

19. Schedule and location of future meetings.

The Committee will meet again October 23, 2020.

20. Hear public comment.

There was no public comment other than that noted throughout the agenda.

21. Adjourn.