

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

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:00 a.m. on October 25, 2019, at the Tom C. Clark Building, 205 West 14th Street, 1st Floor Conference Room, Austin, Texas 78701.

Members of the Committee were present as follows:

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

Staff Present: Lynn Garcia, General Counsel
Leigh Savage, Associate General Counsel
Rodney Soward, Licensing Program Specialist

1. Introduction of new committee members.

Each newly appointed Committee member gave an introduction stating their name, laboratory or office affiliation and background/profession.

New committee members include:

Erin Reat, Bexar County Criminal Investigation Laboratory, Forensic Biology
Emily Esquivel, Jefferson County Regional Crime Laboratory, Seized Drugs
Donna Eudaley, Houston Forensic Science Center, Firearms/Toolmarks
Crystina Vachon, Bexar County Criminal Investigation Laboratory, Materials (Trace)
Alicee Watts, NMS Labs, Forensic Biology, Toxicology

Savage gave a presentation on the Licensing Advisory Committee, its background and upcoming issues the Committee will address.

2. Review and adoption of minutes from August 15, 2019 meeting.

MOTION AND VOTE: *Sailors moved to approve the August 15, 2019 meeting minutes draft. Hines seconded the motion. The Committee unanimously adopted the motion.*

*Newly appointed Committee members abstained from voting on this item, since they did not attend the August 15, 2019 meeting.

3. Administrative update, including number of licenses issued, implementation of continuing forensic education reporting and renewal function in TopClass, revisions to website regarding renewals, discuss resignation of licensing board member Thomas Ashworth and nomination from TDCAA to fill the prosecutor seat on the Licensing Advisory Committee.

Soward provided an update on licenses issued. Staff has issued a total of 1281 licenses, consisting of 820 regular licenses, 19 provisional, 2 technical reviewer, and 440 blanket licenses. Staff has also administered 42 exams since the Commission August 16, 2019 meeting. Staff described the newly implemented process for renewing a forensic analyst license using the Commission's licensing software, TopClass. New instructions for applying initially and renewing for each license type are posted on the Commission's licensing webpage.

Garcia reported the resignation of Committee member Thomas Ashworth. Ashworth filled the prosecutor's seat on the Committee, and resigned from his position as a prosecutor making him no longer eligible for his seat on the Committee. The Texas District and County Attorney's Association (TDCAA) has nominated Collin County Assistant District Attorney Calli Bailey for the open seat. Bailey introduced herself to Committee members and staff. The Commission will vote on her Bailey's appointment at the full Commission meeting October 25, 2019.

4. Discuss statistics requirement and decide how many CFE hours to award for completion of the statistics course; review any outstanding statistics course evaluation requests.

Staff reported Cliff Spiegelman, Texas A&M Statistics Professor and creator of the commission-sponsored statistics course for forensic analysts, agreed to offer the course to any individual who wishes to audit the course without taking the exam. Staff will post information about auditing the course on the Commission's Statistics webpage.

Members agreed the statistics course offered by Cliff Spiegelman should count towards CFE credit for analysts at least up to 15 hours, to be self-reported by each individual when the analyst applies for license renewal. Equivalent statistics courses will be evaluated on a case-by-case basis, but generally, a three-hour statistics course from an accredited university will count for up to 15 hours of CFE credit. Any CFE credits awarded are applied during the license cycle in which the analyst took the course and may not be applied retroactively.

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

There were no waiver applications for review.

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

There were no criminal history evaluations to be completed.

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, discuss August 16, 2019 full Commission decision on blanket licensing requirements and status of rule publication; review and develop recommended responses to any public comments on the blanket rule changes; decide whether to recommend blanket licensees complete CFE requirements; discuss and recommend whether current blanket licensees transferring to a laboratory in Texas and seeking full licensure must comply with current requirements or requirements in place at the time they originally applied.

MOTION AND VOTE: *Watts moved to approve the blanket license application for DNA Solutions. Sailors seconded the motion. The Committee unanimously adopted the motion.*

Staff will send a blanket license letter to the laboratory and provide instructions for individual analyst to apply or renew in TopClass.

Staff reported no comments have been received on the Commission's blanket license rule changes. The comment deadline is November 18, 2019. The Committee will address comments and make recommendations for the full Commission at a December meeting date to be determined.

Members discussed whether current blanket licensees, licensed prior to January 1, 2019 and are now seeking full licensure, should have to comply with requirements in place at the time they were originally granted the license or requirements in place at the time they apply for full licensure. Members agreed that out of fairness, these candidates should have to comply with requirements in place at the time they were originally granted a license. Members discussed that the revisions should apply to candidates that have up to a one-year gap in employment from the date they departed from a blanket-licensed laboratory and returned to work for a Texas-accredited laboratory, making the candidate eligible for full licensure.

MOTION AND VOTE: *Esquivel moved to request staff draft a rule clarifying that formerly blanket-licensed candidates applying for full licensure are required to comply with licensing rules in place at the time the candidate was originally granted a license. The rule should also address up to a one-year gap in employment. Sailors seconded the motion. The FSC unanimously adopted the motion.*

Staff will draft and publish a rule addressing the issue and provide the Committee with a final copy at the December meeting.

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.

11. Discuss and evaluate any outstanding CFE course approval requests; discuss sponsoring CFE for disciplines that don't have as many available options for CFE (e.g., Materials (Trace)), including contracting with an expert to provide discipline-specific training to licensees.

Members discussed the limited options for continuing forensic education courses for disciplines like Materials (Trace). DPS Trace Evidence Coordinator, Sandy Parent, is working to compile a list of Materials (Trace) analysts to solicit feedback on what training topics should be covered in any course the Commission may offer. Staff will work on reaching out to experts who may be interested in teaching a CFE course for Materials (Trace) analysts in Texas and organize the list of topics suggested by analysts.

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 is working on piloting 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/outstanding licensing rules, including:

- i. Clarification to provisional license eligibility;
- ii. Specification of CFE for Technicians; and
- iii. Blanket rule revisions.

Staff updated the Committee on the publication of the above rules. The above rules are out for comment until November 18, 2019.

14. 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 next meeting.

15. Update on the Commission's recommendation to adopt OSAC Registry standards.

Garcia reported that staff expects the Commission to recommend at its October 25, 2019 meeting that all Texas-accredited laboratories work to integrate OSAC registry standards to the extent possible and as quickly as they are able.

16. 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. At the Committee's August 15, 2019 meeting, 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. Sailors researched the issue and reported to the Commission on his findings. The Committee directed staff to write the licensee and recommend she take a genetics course to ensure she meets the coursework requirements at renewal of her license. If the candidate, in the meantime, passes another assessment by the employing laboratory's accrediting body however, the issue about her coursework will be a moot point as she will have passed two assessments and her coursework will not need to be reviewed again. Staff will describe the Committee's findings on coursework in a letter to the licensee.

17. 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.

No update for this agenda item as the group has not met again. The group plans to meet again prior to the Commission's January 31, 2020 quarterly meeting.

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

There was no update for this agenda item.

19. Schedule and location of future meetings.

The Committee will meet again before the end of the year, possibly December 6, 2019.

20. Hear public comment.

No public comment was made at the meeting.

21. Adjourn.