

FSC Licensing Advisory Committee Meeting Minutes

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:30 a.m. on July 21, 2022, at the Tom C. Clark Building, 205 West 14th Street, 1st Floor Conference Room, Austin, Texas.

Members of the Committee were present as follows:

Members Present: Deborah Smith
Sandy Parent
Erin Reat
Emily Esquivel
Donna Eudaley (via Zoom)
Crystina Vachon
Kelly Wouters
Angelica Cogliano (via Zoom)
Calli Bailey (via Zoom)

Staff Present: Lynn Garcia, General Counsel (via Zoom)
Leigh Tomlin, Associate General Counsel
Robert Smith, Senior Staff Attorney
Rodney Soward, Program Specialist
Maggie Sowatzka, Program Specialist

During this meeting, the LAC considered and acted on the following items. The LAC took breaks as necessary.

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

Reat called the meeting to order at 10:30 am and took roll.

2. Review and adoption of minutes from April 21, 2022 meeting.

MOTION AND VOTE: *Esquivel moved to adopt the draft April 21, 2022 meeting minutes. Wouters seconded the motion. The Committee unanimously adopted the motion.*

3. Administrative update including number of licenses issued and renewals processed, update on database project with Office Court Administration, discuss licensing advisory committee re-appointments.

Tomlin advised committee members that four seats (Bailey, Cogliano, Parent, and Smith) were up for re-appointment at the Commission's quarterly meeting the following day. Commissioners will vote on re-appointment of each member for additional two-year terms.

Tomlin informed members that the database of Commission licensees, accredited laboratories and OSAC registry standard information is still currently in development. The licensing and accreditation sections for staff have been launched on the back end for staff testing, updates, edits and general use. Due to OCA IT and software programming staff limitations and commitments to other projects with impending legislative deadlines, the Commission's database project now has a projected finalization date that may carry into early 2023. Staff hopes to launch the laboratory licensing and accreditation functions for testing by laboratories this Fall.

Soward updated members on the current total number of licenses issued (1374) and renewals processed to date. Licensing staff is diligently working on renewals and expects to process around 694 through the end of the year. The largest portion of the Commission's licensees renew in even-numbered years since the Commission first began issuing licenses in Fall 2018 and licenses generally have a two-year term.

4. Review any outstanding coursework evaluations.

There were no outstanding coursework reviews at this meeting. Staff continues to work with the Committee chair on any coursework reviews that arise in between quarterly meetings by the Committee for efficiency in processing applications and requests for review of coursework.

5. Discuss General Forensic Analyst Licensing Exam II pilot exam data; discuss options for future exam administration (remote, lab proctored, etc.).

Staff administered an operational "pilot" exam of the updated version of the Commission's general forensic analyst exam, adopted as the "General Forensic Analyst Licensing Exam II" or "GFALE II" in five different sessions over June and July 2022 to 95 participants across the State, including one in-person session at the Texas Division of the International Association for Identification's (TDIAI) annual conference in June 2022 and the remaining sessions remotely through secure software administered through Sam Houston State University's Blackboard system.

The Commission's contracted psychometrician expert, ACS, compiled data from the pilot into a standard setting report for the licensing committee's subject matter experts who assisted in question-writing for the exam. The group will review the evaluations and recommendations by ACS to determine a cut score for the GFALE II pilot and to determine whether performance results from the operational pilot reflect expected results from the new content and framework as designed by the group for the new GFALE II. The group will also establish the final cut score and minimum number of questions per domain that a test-taker must answer correctly to achieve a passing score on the GFALE II going forward.

Staff will give an update to the Licensing Advisory Committee on the final cut score on the decisions by the subject matter expert group for future exam scoring and the finalization and launch of the GFALE II at the October 6, 2022 quarterly Licensing Advisory Committee meeting.

6. Discuss progress on the development of the Commission’s voluntary licensure program for unaccredited forensic disciplines, including the status of programs for voluntary licensure of forensic anthropologists and forensic document examiners, and which forensic disciplines to pursue next.

Tomlin, Garcia and members discussed the administrative rules for voluntary licensure of forensic anthropologists and forensic document examiners. Staff is in the process of developing application instructions for these two voluntary licenses now that the rules are published. The Committee discussed which voluntary disciplines to develop next. Members discussed forming subject matter groups to address requirements for voluntary licensure for friction ridge and digital/multimedia evidence. Staff will organize subject matter calls in between now and the October 6, 2022 quarterly LAC meeting and report back with proposals for requirements in these two areas.

Garcia mentioned the Committee and staff should reach out to the Texas Rangers particularly with respect to any pursuit of voluntary licensure of crime scene-related activities as the group will have interest and valuable perspective/input.

MOTION AND VOTE: *Parent moved to direct staff to pursue the development of a proposal for voluntary licensing components for the forensic disciplines friction ridge and digital/multimedia evidence. Smith seconded the motion. The Committee unanimously adopted the motion.*

7. Discuss and make recommendations on rulemakings, including rule addressing the amount of casework or casework-like analysis a manager must perform to maintain licensure; review corresponding revisions to proficiency testing certification form.

Members discussed a rulemaking addressing the fact that an analyst should at least be performing a minimum amount of casework to continue licensure at renewal each license cycle. Tomlin presented the rule draft to the Committee. The rule also clarified that licensees are obligated to provide updated address information to the Commission in order to receive timely notice.

Members also discussed a rulemaking that clarified voluntary licensees working at accredited laboratories in unaccredited disciplines must comply with the same quality requirements as those working in unaccredited laboratories.

Members also reviewed a rule that made the same changes to regular forensic analyst licensee rules as applicable.

In all three rulemakings, staff made changes to the Commission’s requirement for a proficiency testing certification form to mirror the language in ISO 17025:2017’s requirement for performance “monitoring” (7.7.2.1) as it refers to the requirement for a laboratory to have a performance monitoring program for each position, whether it be an inter-laboratory comparison, intra-laboratory comparison, proficiency testing, or

observation-based program for monitoring performance as applicable to the employee's job title and duties.

Members suggested several changes to the three rulemakings, including clarifying what is meant by monitoring requirements in the section where the rule indicates employees must participate in the laboratory's process for *monitoring* performance requirements. This language may cause confusion as to the types of "monitoring" the section is referring to. Staff will make the changes as directed across all rules affected by the changes suggested by Committee members and publish the rules accordingly. The same changes suggested affect the language published on the Commission's Proficiency Testing Certification Form. Staff will make the changes there as well.

Tomlin explained staff made changes to the Commission's proficiency testing certification form and in the rules to mirror the language in ISO 17025:2017's requirement for performance "monitoring" (7.7.2.1) as it refers to the requirement for a laboratory to have a performance monitoring program for each position, whether it be an inter-laboratory comparison, intra-laboratory comparison, proficiency testing, or observation-based program for monitoring performance as applicable to the employee's job title and duties, because the Commission's current form only refers to *proficiency testing* which is confusing to the public or anyone using the form when other types of monitoring apply outside of proficiency testing. Staff expanded the language on the form to mirror the language in the ISO requirement (and ANAB's requirement) for monitoring performance programs.

MOTION AND VOTE: *Smith moved to adopt proficiency testing form changes with edits as discussed. Esquivel seconded the motion. The Committee unanimously adopted the motion.*

MOTION AND VOTE: *Smith moved to recommend the full Commission adopt the rulemaking regarding minimum casework with edits as discussed. Esquivel seconded the motion. The Committee unanimously adopted the motion.*

MOTION AND VOTE: *Smith moved to recommend the full Commission adopt the rulemaking addressing the same changes to the regular forensic analyst licensing rules with regard to performance monitoring and setting a minimum casework rule for renewal. Parent seconded the motion. The Committee unanimously adopted the motion.*

8. Discuss Commission consideration of removal of CAP and SAMHSA as recognized accrediting bodies and impact on licensure, and Commission upcoming vote on approval of incorporation of TFSC report recommendations in ANAB assessment checklist.

Garcia advised members that staff will recommend the Commission remove CAP and SAMHSA as recognized accrediting bodies.

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

Stout informed that the TACLD will meet after this LAC meeting.

10. Schedule and location of future meetings, including October 6, 2022 and January 2023 meetings.

The next meeting will take place on October 6th. The January meeting date has not yet been set.

11. Hear public comment.

Aliece Watts, Quality Director, NMS Labs, addressed the Committee. Watts requested the Committee consider counting NMS's Code of Ethics and Professional Responsibility Course in place of the Mandatory Legal and Professional Responsibility Course required for license renewal in Texas. Watts distributed a PowerPoint to members for review. Garcia stated that members could not vote on the issue any earlier than October as the issue is not on the meeting agenda. Members will address the issue at the October 6 quarterly meeting.

Adjourn.