

**Texas Forensic Science Commission – Licensing Advisory Committee Minutes from November 3, 2016 Meeting in Austin, Texas**

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:30 a.m. on Thursday, November 3, 2016, at the Omni Austin Southpark, 4140 Governor’s Row, Austin, Texas 78744.

Members of the Committee were present as follows:

Members Present: Greg Hilbig, Chair  
James Miller  
Robert Sailors  
Chris Heartsill  
Robert Middleberg\*  
Mark Daniel  
Inger Chandler  
Timothy Sliter

Members Absent: Michael Ward

Staff Present: Lynn Garcia, General Counsel  
Leigh M. Savage, Associate General Counsel

\*Committee Member Robert Middleberg participated in the afternoon portion of the meeting via two-way video teleconference.

**General updates from October 4, 2016 Licensing Advisory Committee meeting including review and adoption of minutes.**

Hilbig gave a brief update on activities and progress since the Committee’s last meeting on October 4, 2016.

**MOTION AND VOTE:** *Miller moved to adopt the October 4, 2016 minutes draft. Heartsill seconded the motion. The Committee unanimously adopted the motion.*

**Administrative update (outstanding reimbursements, status of licensing program software acquisition, progress on web design and processing of fees, Commission Legislative Appropriations Request update).**

Members and Garcia discussed the status of acquiring necessary content management software for the management of licensing program data. The software has not yet been acquired, but staff is working with Sam Houston State University’s purchasing department to discuss how the software and regular maintenance will be worked into the Commission’s FY17 budget. Garcia expects the software company may have a presentation for members to demonstrate how the software works at its next meeting.

**Discussion of proposed education and training statutory requirements for each accredited forensic discipline for which licensing will be required, including potential waivers for certain requirements.**

Members discussed whether the educational requirements should be different for firearms examiners and whether firearms examiners should not be required to have a B.S. in Applied or Natural Science. Most members agree the standard should not be lowered for firearms examiners, but some agree examiners who are strictly NIBEN techs should not be subject to the requirement depending on their scope of work in a particular lab. Members will discuss at their next meeting whether to provide an exemption or exception for the educational requirement for NIBEN techs that do not perform any forensic analysis or impact the results of a forensic analysis in any way.

**Discussion of proposed general exam requirement, including potential exam developers, topics, structure and administration of the exam.**

Members discussed several potential exam developers and the scope of work for the exam development. Garcia explained she reached out to two statisticians that have expertise in forensic science to solicit their interest and expertise in developing the general forensic exam. Both were interested in assisting the Committee and the Commission in developing the exam. Members discussed the following tasks as key to the scope of work for those selected to help develop the exam:

1. Identify key literature relevant to exam topics for study and review material;
2. Develop a bank of questions for the exam that cover the relevant topics; and
3. Conduct a psychometric analysis of the exam questions.

Members also discussed adding “validation of forensic methods,” including internal, developmental and foundational validity the list of topics for the exam. Members agreed validation is a critical topic that should be reviewed by examiners and tested on the exam.

Following is a list of exam topics for the exam:

Evidence handling (Proper sealing, chain of custody issues)  
Cognitive Bias (Task relevance/irrelevance, blind verification)  
Statistics – (Expression of evidentiary weight)  
Ethics  
Root Cause Analysis  
Legal and Ethics (Criminal Law and Procedure; Brady and Michael Morton Act)  
Uncertainty of Measurement  
Traceability  
Error Rate  
Validation

Members nominated Heartsill and Sailors to work on developing evidence handling questions for the exam and associated reading material for the topic. Members nominated Chandler to work on developing questions for the exam related to the legal topics (*Brady*, Michael Morton Act, etc.).

Members discussed having each laboratory's quality manager proctor the exam on specific dates. Members all agree the exam should be electronically administered.

Garcia will work on a detailed module/outline of topics, exam times, exam format and locations, and number of questions for the exam and bring the outline to the Committee's next meeting. Garcia will also reach out again to potential exam developers for ideas on how the exam should be administered and develop a scope of work for those selected to assist the Commission with exam development.

**Discussion of proposed voluntary license for unaccredited disciplines and private practitioners not working in an accredited laboratory.**

Members tabled this discussion until the development of the licensing program for those accredited forensic disciplines required to have a license by January 1, 2019 is complete.

**Discussion of proposed knowledge-based competency criteria recommended for each accredited discipline, including process for laboratories to confirm examiners have satisfied the criteria on their knowledge-based competency exams.**

Members discussed revisions and comments to several of the knowledge-based competency requirement lists for each accredited forensic discipline. Members will finalize the lists between now and the next Committee meeting and distribute the information as part of a packet for comments from the Texas Association of Crime Lab Directors.

**Review and discussion of revisions to proposed license discipline categories and subcategories chart.**

Members made no revisions to the license discipline categories and subcategories chart.

**Review and discussion of revisions to component requirements matrix for each forensic discipline.**

Members made no revisions to the component requirements matrix. Members will include the matrix for distribution as part of the packet to the Texas Association of Crime Lab Directors for review and comment.

**Update from the Texas Association of Crime Laboratory Directors ("TACL D") and comments related to the proposed license discipline categories and subcategories, the proposed requirements matrix, and the proposed general forensic licensing exam.**

Roger Kahn, President of the TACL D attended the meeting and spoke on behalf of the organization throughout the meeting. The TACL D plans to meet again in January, prior to the Committee's meeting and will have comments ready for the program proposal as developed thus far.

Garcia plans to develop a one-page summary of the licensing program along with a timeline for the program and will include those documents with the finalized, proposed materials from the program for distribution to the TACL D for comment by mid-November. Garcia and Kahn will work together to distribute the information to the TACL D membership.

**Discussion of legislative recommendations, revisions and/or clarifications to the statutory licensing requirement and report to legislature for 85<sup>th</sup> Legislative Session.**

Members did not discuss this item in any detail, but agreed to continue to address potential legislative issues for the 85<sup>th</sup> Legislative Session at its next few meetings.

**Discussion of funding necessary to fulfill the licensing mandate including the cost of examinations, Forensic Science Commission application processing fees, continuing education requirements and renewal or re-certification costs.**

Members did not discuss this item in any detail.

**Discussion of the provisional licensing issue and the forensic disciplines for which a provisional license may be necessary.**

Members did not discuss this item in any detail, but will revisit the issue if they find a provisional license is necessary.

**Discussion of temporary licensing issue for examiners who primarily practice out of state, but occasionally testify in Texas and legislative recommendations regarding the same.**

Members did not discuss this item in detail, but will continue to discuss the necessity of temporary licenses for visiting examiners at future meetings.

**Discussion of the “technician” licensing sub-category for each accredited forensic discipline and definition of “technician.”**

Members discussed recommending a definition of “technician” through its rule-making authority to distinguish the technician role from the “forensic analyst” who actually performs forensic analysis or has any input to the conclusion of a forensic analysis. Members reviewed a suggested definition and agreed to continue working on developing a definition to be adopted for recommendation at a future meeting. Members discussed the difficulty in defining technician as it varies by forensic discipline and sub-discipline *and* from laboratory to laboratory. Members discussed potentially providing a list of activities that, when performed under the direct supervision of a supervisor or a licensed analyst, do not have to apply for a forensic analyst license. Members will come back to the next meeting with a better definition and/or list.

**Discussion of issues related to licensing exemptions and/or grandfathering for examiners who retire or leave the forensic science profession but are called back to testify.**

Members did not discuss this item in detail, but will continue to discuss the necessity of exemptions and/or grandfathering for examiners who retire or leave the forensic science profession at future meetings.

**Development and discussion of next steps to fulfill statutory requirements contained in Tex. Code Crim. Proc. art. 38.01 § 4-a (b)-(f), including questions received from community.**

Members discussed this agenda item throughout the meeting as noted in the agenda items above.

**Consider proposed agenda items for next meeting.**

Staff will circulate a proposed agenda containing items for continued discussion and any additional items members may propose.

**Schedule and location of future meetings.**

The Committee will meet again on dates to be determined in December and January and on February 9, 2017 at the Omni Austin Southpark, 4140 Governor's Row, Austin, Texas 78744, the day prior to the Commission's next quarterly meeting.

**Hear public comment.**

No public comment was given other than that noted throughout the agenda items above.

**Adjourn.**