Texas State Board of Plumbing Examiners (TSBPE)
929 East 41st Street, Austin, TX 78751
Board Meeting Minutes
January 9, 2017

Agenda Item 1 – Call to Order.

Mr. Julio Cerda, Board Chair, called the meeting to order at 9:01 a.m.

Agenda Item 2 – Roll Call.

Ms. Cris Bodden, Executive Assistant, called the roll. It was noted for the record that a quorum was present.

Members Present:
Julio Cerda, Board Chair
Ben R. Friedman, Member
Janet L. Gallagher, Member
David A. Garza, Member
Ricardo J. Guerra, Board Secretary
Milton R. Gutierrez, Member
Robert F. Jalnos, Member
Edward Thompson, Member

Staff Present:
Lisa G. Hill, Executive Director
Veena Mohan, Assistant Attorney General
Eleanor D'Ambrosio, Staff Attorney
Jon Lawson, Staff Attorney
Alex Rosenthal, Chief Investigator
Cori Briscoe, Director of Financial Operations
Cristabel (Cris) Bodden, Executive Assistant

Members Absent:
Enrique Castro, Member

Agenda Item 3 – Review and Approval of the October 10, 2016, Board Meeting Minutes.

Mr. Cerda directed the Board to review the October 10, 2016, meeting minutes under item 3 of the Board Agenda. Mr. Guerra moved to approve the minutes as written. Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 4 – Public Comment.

The following individuals, associations, and organizations presented public comments. Comments were limited to a maximum of 3 minutes.

Stanley J. Briers – ICE/TX PAMCA – Resource only.

Alicia Dover – APHCC Texas – Resource only.

Johnny Kurten – Continuing Professional Education Provider – Expressed his opinion to the Board regarding proposed rule changes.

Gail Lux – TSAPI – Addressed the Board in support of the Texas Association of Plumbing Inspectors.

Robert Stricker – RVS Code Consulting, LLC – Resource only.

Agenda Item 5 – Texas Workforce Commission Apprenticeship Program – Julian Alvarez, Commissioner of Labor.

Mr. Cerda directed Julian Alvarez, Commissioner of Labor, George McEntyre, Apprenticeship Coordinator, and Jeannette de la Cruz, Chief of Staff, to discuss the Texas Workforce Commission (TWC) Apprenticeship Program. TWC program material was discussed and distributed.

Agenda Item 6 – Enforcement Committee Report - Lisa G. Hill, Chair.

Mr. Cerda asked Ms. Hill to discuss item 6 of the Board Agenda.

Agenda Item 6 (a) – Enforcement Committee Activity Report.

Ms. Hill directed the Board to the report of meetings for item 6(a) of the Board Agenda. Ms. Hill reported that the Enforcement Committee met six times in the last quarter to review applicants for registration and examination who have past criminal convictions and review complaint cases. Ms. Hill confirmed the number of applications reviewed and the outcome of the reviews. Ms. Hill also stated the number of complaint cases reviewed.

Agenda Item 6 (b) – Cease and Desist Orders issued under Section 1301.5045 of the Plumbing License Law:

Mr. Cerda asked Ms. Hill to discuss Item 6(b) of the Board Agenda. Ms. Hill reported on the Cease and Desist Order presented in the Board material and when and how the Enforcement Committee determines the need for a Cease and Desist Order. Ms. Hill explained that in many cases the Orders are in addition to other actions taken by the Enforcement Committee. Ms. Hill confirmed that no action was required on this item.

(i) Nicolas Cristobal Puig; Case No. 2016-02606.

Agenda Item 6 (c) – Consideration and possible approval of Board Order of Administrative Penalties.

Ms. Hill directed the Board to the Order for Imposition of Administrative Penalties and explained the adoption of the Order for Administrative Penalties to the Board members. Ms. Hill explained that the Administrative Penalties included in the Order are the result of an agreement made under the Board's Administrative Penalty Schedule between the Respondent and the Enforcement Committee. Ms. Hill then directed the Board to the report of previous violators related to the Order for Imposition of Administrative Penalties. Mr. Guerra moved to approve the Board Order of Administrative Penalties as recommended by the Enforcement Committee. Mr. Garza seconded the motion and the motion carried unanimously.

Agenda Item 6 (d) – Consideration and possible approval of individuals whose licenses or registrations were previously revoked and are re-applying for registration or examination under Board Rule 365.10:

Mr. Cerda asked Ms. Hill to discuss Item 6(d) of the Board Agenda.

Ms. Hill explained that the individuals being considered today had previously held a license or registration that was revoked by operation of law due to incarceration for a felony conviction. Ms. Hill stated that the Enforcement Committee is recommending approval of the following applicants.

(i) Devin Allen, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Allen for item 6(d)(1) of the Board Agenda. Mr. Allen was present and addressed the Board. Mr. Thompson moved to approve Mr. Allen's application for registration as a Plumber's Apprentice.

Mr. Guerra seconded the motion and the motion carried unanimously.

(ii) Haywood Collins Sr., Re-applying for examination as a Journeyman Plumber.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Collins for item 6(d)(2) of the Board Agenda. Mr. Collins was present and addressed the Board. Mr. Thompson moved to approve Mr. Collins's application for examination as a Journeyman Plumber.

Mr. Guerra seconded the motion and the motion carried unanimously.

(iii) Gabriel Cruz, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Cruz for item 6(d)(3) of the Board Agenda. Mr. Cruz was not present. Mr. Jalnos moved to approve Mr. Cruz's registration as a Plumber's Apprentice.

Mr. Garza seconded the motion and the motion carried unanimously.

(iv) Jeremy Dowdy, Re-applying for examination as a Journeyman Plumber.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Dowdy for item 6(d)(4) of the Board Agenda. Mr. Dowdy was not present. Mr. Thompson moved to approve Mr. Dowdy's application for examination as a Journeyman Plumber.

Mr. Guerra seconded the motion and the motion carried unanimously.

(v) Jessie Horn, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Horn for item 6(d)(5) of the Board Agenda. Mr. Horn was present and addressed the Board. Ms. Gallagher moved to approve Mr. Horn's registration as a Plumber's Apprentice.

Mr. Thompson seconded the motion and the motion carried unanimously.

(vi) Justin Lundy, Re-applying for examination as a Journeyman Plumber.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Lundy for item

6(d)(6) of the Board Agenda. Mr. Lundy was not present. Mr. Guerra moved to approve Mr. Lundy's application for examination as a Journeyman Plumber.

Mr. Garza seconded the motion and the motion carried unanimously.

(vii) Christopher Oliver, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Oliver for item 6(d)(7) of the Board Agenda. Mr. Oliver was present and addressed the Board. Mr. Friedman moved to approve Mr. Oliver's registration as a Plumber's Apprentice.

Mr. Thompson seconded the motion and the motion carried unanimously.

(viii) Joey Rainbolt, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Rainbolt for item 6(d)(8) of the Board Agenda. Mr. Rainbolt was present and addressed the Board. Mr. Friedman moved to approve Mr. Rainbolt's registration as a Plumber's Apprentice.

Mr. Thompson seconded the motion and the motion carried unanimously.

(ix) Christopher Roberts, Re-applying for registration as a Plumber's Apprentice.

Ms. Hill directed the Board to the application and documentation submitted by Mr. Roberts' for item 6(d)(9) of the Board Agenda. Mr. Roberts was present and addressed the Board. Mr. Thompson moved to approve Mr. Roberts' registration as a Plumber's Apprentice.

Mr. Garza seconded the motion and the motion carried unanimously.

Agenda Item 6 (e) – Review and consideration of provisions on the Journeyman Plumber License of Stewart M. Townley.

Ms. Hill directed the Board to review and consider the provisions on Mr. Townley's Journeyman Plumber License for item 6(e) of the Board Agenda.

Mr. Townley was present and addressed the Board. He explained he had no new convictions since he received his Plumber's Apprentice registration and requested that he no longer be required to appear before the Board each time he renews if he was approved for a Journeyman license.

Mr. Cerda called for an Executive Session at 9:40 a.m.

Non-critical agency staff and public members exited the meeting area for the discussion of this Agenda item.

The meeting reconvened at 10:32 a.m.

Mr. Thompson moved to approve Mr. Townley's Journeyman Plumber examination. Mr. Garza seconded the motion and the motion carried unanimously.

Mr. Thompson asked Ms. Hill why Mr. Townley was required to appear before the Board each year for his renewal. Ms. Hill explained that he was not required to appear for each renewal.

Ms. Hill added that the Board had only requested that Mr. Townley's application and supporting documents be reviewed and approved by the Board each renewal period and that the choice to appear in person was his.

Agenda Item 6 (f) – Consideration and possible action on SOAH Proposals for Decision regarding Administrative Penalties:

Ms. Hill asked Chair Cerda for permission to allow Assistant Attorney General Veena Mohan along with Staff Attorneys Eleanor D'Ambrosio and Jon Lawson to present the agenda items related to the State Office of Administrative Hearings (SOAH). Chair Cerda gave permission.

(i) Debyreon Anderson; SOAH Docket No. 456-17-0151.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the Proposal for Decision ("PFD") as written.

Mr. Guerra moved to adopt the PFD as written. Mr. Garza seconded the motion and the motion carried unanimously.

(ii) James Blackstone; SOAH Docket No. 456-16-4256.

Mr. Lawson presented the materials and the staff recommendation to table the item allowing Mr. Blackstone time to respond to the PFD. The item was tabled by Mr. Cerda, Board Chair.

(iii) Justin Shantz; SOAH Docket No. 456-16-5378.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Garza moved to adopt the PFD as written. Mr. Guerra seconded the motion and the motion carried unanimously.

Agenda Item 6 (g) – Consideration and possible action on SOAH Proposals for Decision regarding applicants with past criminal convictions:

(I) Rudy Berlanga; SOAH Docket No. 456-17-0090.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Garza moved to adopt the PFD as written. Mr. Guerra seconded the motion and the motion carried unanimously.

(ii) Nathaniel Andrew Carter; SOAH Docket No. 456-16-3090.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the Final Order denying Mr. Carter's application due to his failure to appear at SOAH.

Mr. Garza moved to adopt the Final Order. Mr. Guerra seconded the motion and the motion carried unanimously.

(iii) Jeremiah W. Jester; SOAH Docket No. 456-16-3038.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the Final Order denying Mr. Jester's application due to his failure to appear at SOAH.

Mr. Thompson moved to adopt the Final Order. Mr. Jalnos seconded the motion and the motion carried unanimously.

(iv) Allen Hyatt; SOAH Docket No. 456-17-0478.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Garza moved to adopt the PFD as written. Ms. Gallagher seconded the motion and the motion carried unanimously.

(v) David Leon Loya; SOAH Docket No. 456-16- 4630.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Thompson moved to adopt the PFD as written. Mr. Jalnos seconded the motion and the motion carried unanimously.

(vi) Ronald K. Oakley; SOAH Docket No. 456-15-3561.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the Final Order denying Mr. Oakley's application due to his failure to appear at SOAH.

Mr. Guerra moved to adopt the Final Order. Mr. Jalnos seconded the motion and the motion carried unanimously.

(vii) Darryl Ray Pogue; SOAH Docket No. 456-16-5764.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Garza moved to adopt the PFD as written. Mr. Thompson seconded the motion and the motion carried unanimously.

(viii) Kyle Robert Pullin; SOAH Docket No. 456-16-5085.

Ms. D'Ambrosio explained the SOAH Proposal for Decision and the Enforcement Committee's recommendation not to adopt the PFD and adopt, instead, the Proposed Final Order with changes by staff. Mr. Garza moved to adopt the Final Order for Kyle Pullin; with the staff changes. Mr. Guerra seconded the motion. Mr. Pullin was present and asked the Board to consider his request for registration as a Plumber's Apprentice. Mr. Pullin explained the circumstances that led to his incarceration. The Board voted on Mr. Garza's motion and the motion carried unanimously. During discussion of Agenda Item 6(d), several members of the public made comments, which lead to a discussion about whether to reconsider the vote on Mr. Pullin's case. Mr. Cerda called for a motion to reconsider and no motion was made.

(ix) Oscar R. Rivera; SOAH Docket No. 456-16-5255.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the PFD as written.

Mr. Garza moved to adopt the PFD as written. Mr. Thompson seconded the motion and the motion carried unanimously.

(x) Nicholas Tyree; SOAH Docket No. 456-16-5883.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the Final Order denying Mr. Tyree's application due to his failure to appear at SOAH.

Mr. Garza moved to adopt the Final Order. Mr. Guerra seconded the motion and the motion carried unanimously.

(xi) James Charles Young; SOAH Docket No. 456-16-3266.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the PFD as written.

Ms. Gallagher moved to adopt the PFD as written. Mr. Jalnos seconded the motion and the motion carried unanimously.

Agenda Item 6 (h) – Consideration and possible action on Default Orders:

Mr. Cerda asked Ms. D'Ambrosio, Staff Attorney, to discuss Items 6(h) of the Board Agenda.

(I) Mark R. Domres; SOAH Docket No. 456-17-0324.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the Default Final Order imposing a penalty. Mr. Thompson moved to adopt the Default Final Order.

Mr. Guerra seconded the motion and the motion carried unanimously.

(ii) Alan Gayford; SOAH Docket No. 456-16-0323.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the Default Final Order imposing a penalty. Mr. Garza moved to adopt the Default Final Order.

Ms. Gallagher seconded the motion and the motion carried unanimously.

(iii) Gregory D. Weed; SOAH Docket No. 456-17-0175.

Ms. D'Ambrosio presented the materials and the staff recommendation that the Board adopt the Default Final Order imposing a penalty. Mr. Guerra moved to adopt the Default Final Order.

Mr. Thompson seconded the motion and the motion carried unanimously.

Agenda Item 6 (i) – Consideration and possible action on Agreed Final Orders:

Mr. Lawson, Staff Attorney explained item 6(i) of the Board Agenda.

(I) Robert D. Smith; TSBPE Case No. 2012-00651 and SOAH Docket No. 456-17-0489.

Mr. Lawson presented the materials and the staff recommendation that the Board adopt the Agreed Final Order.

Mr. Jalnos moved to adopt the Agreed Final Order as written. Mr. Garza seconded the motion and the motion carried unanimously.

Agenda Item 7 – Continuing Professional Education (CPE) Committee Report chair.

Mr. Cerda asked Mr. Jalnos, Committee Chair to discuss item 7 of the Board Agenda. Mr. Jalnos discussed the CPE Course Material Provider applications, the CPE Course Instructors, the Business or Association CPE Course Providers, and the Individual CPE Course Providers and relayed that all had met the requirements needed for approval.

(a) Consideration and possible approval of 2017-2018 CPE Course Material Provider applications submitted by the following CPE Providers:

(i) APHCCT

(ii) ICE

(iii) Winn's, Inc.

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve all the CPE Course Material Provider applications; the motion carried unanimously.

(b) Consideration and possible approval of 2016-2017 CPE Course Instructors submitted by the following CPE Providers:

(i) Makenzie Johnson M-41493; Associated Plumbing – Heating – Cooling Contractors of Texas (APHCCT).

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve the CPE Course Instructor; the motion carried unanimously.

(c) Consideration and possible approval of 2017-2018 Business or Association CPE Course Providers:

- **(i) Association for the Advancement of Codes, Education and Standards (A-ACES).**
- **(ii) Associated Plumbing – Heating – Cooling Contractors of Texas (APHCCT).**
- **(iii) Christianson Co.**
- **(iv) International Association of Plumbing and Mechanical Officials (IAPMO).**
- **(v) Pioneer Educational Services, Inc.**
- **(vi) Plumbers Continuing Education, Inc.**
- **(vii) Texas Pipe Trades Association.**
- **(viii) Texas Plumbing, Air Conditioning and Mechanical Contractors Association (PAMCA).**
- **(ix) Winn's Continuing Education, Inc.**

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve all the Business or Association CPE Course Providers; the motion carried unanimously.

(d) Consideration and possible approval of 2017-2018 Individual CPE Course Providers:

- **(i) Conger, Mary**
- **(ii) Doran, Bobby**
- **(iii) Kurten, Johnny**
- **(iv) Mendias, Jerome**
- **(v) Merriman, James**
- **(vi) Murphy, Debbie A.**
- **(vii) Pemberton, Guy**
- **(viii) Pulaski, Richard**
- **(ix) Villarreal, Dianne K.**
- **(x) Wark, Joseph E.**

(xi) **Winn, Daniel S.**

(xii) **Winn, Mark E.**

(xiii) **Wyman, Russell W.**

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve all the Individual CPE Course Providers; the motion carried unanimously.

(e) Consideration and possible approval of request from Texas State Association of Plumbing Inspectors, Inc. (TSAPI) to offer the 2017-2018 CPE course (provided by an approved provider) at its annual conference June 11-15, 2017, in Beaumont, Texas.

A motion was made by Mr. Jalnos and seconded by Mr. Friedman to approve TSAPI to offer the 2017-2018 CPE Course at its annual conference; the motion carried unanimously.

(f) Consideration and possible approval of request from Building Professional Institute (BPI) to offer and provide the 2017-2018 CPE course (provided by Plumbers Continuing Education, Inc.) at its annual training on May 22-26, 2017, in Arlington, Texas.

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve BPI to offer the 2017-2018 CPE Course; the motion carried unanimously.

(g) Consideration and possible approval of request from Plumbing-Heating-Cooling Contractors Association (PHCC) to offer and provide the 2017-2018 CPE course (provided by APHCCT) at its annual training on June 16, 2017, in Bastrop, Texas.

A motion was made by Mr. Jalnos and seconded by Mr. Thompson to approve BPI to offer the 2017-2018 CPE Course; the motion carried unanimously.

Agenda Item 8 - Rules Committee Report.

Mr. Cerda asked Mr. Guerra, Rules Committee Chair to discuss item 8 of the Board Agenda.

Mr. Guerra explained the process and reasoning for the repeal of portions of Chapters 361 and 363. Mr. Guerra explained that the repeal would eliminate duplicative text within the statute, reflect current policies and ensure the rules are not obsolete.

(a) Consideration and possible action on approval of committee recommended rule amendments and repeal of portions of Texas Administrative Code, Title 22, Part 17, Chapters 361 and 363.

(i) Rule review and recommendations for possible proposal of amendments to Texas Administrative Code, Title 22, Part 17, Chapter 361, Administration, in accordance with Texas Government Code Sec. 2001.039.

(ii) Rule review and recommendations for possible proposal of amendments to Texas Administrative Code, Title 22, Part 17, Chapter 363, Examination and

Registration, in accordance with Texas Government Code Sec. 2001.039.

(iii) Rule review and recommendation for possible proposal of repeal of portions of Texas Administrative Code, Title 22, Part 17, Chapters 363.

A motion was made by Mr. Guerra to approve the recommendations and post in the Texas Register for a 30 day comment period. The motion was seconded by Mr. Garza and the motion carried unanimously.

Agenda Item 9 – Legislative Resource Committee Report.

Mr. Cerda commented that he looked forward to the legislative session and the possibility to provide useful information to both the House and the Senate. Mr. Cerda added that he expected to receive notice soon on the first of several Budget hearings. He encouraged anyone wishing to attend to watch for the posting. Mr. Cerda explained that Mr. Jalnos will also attend any budget hearings.

Agenda Item 10 – Personnel Committee Report.

(a) Consider and discuss the evaluation of the Executive Director, Lisa G. Hill.

Mr. Garza made a motion to table this item. The motion was seconded by Mr. Thompson.

Mr. Cerda, Board Chair tabled the item until a later date.

Agenda Item 11 – Assistant Attorney General's Report.

Mr. Cerda asked Ms. Mohan, Assistant Attorney General to discuss item 11 of the Board Agenda and present the report.

(a) Status report on *Texas State Board of Plumbing Examiners v. Jason Martin*, Travis County District Court Case No. D-1-GV-001204.

Ms. Mohan explained that she will have the final outcome of the Martin case at the next meeting as the hearing had been delayed pending an agreement made with the respondent.

Agenda Item 12 – Examination Department Report.

Mr. Cerda asked Ms. Hill to discuss item 12 of the Board Agenda.

Ms. Hill explained that 655 exams were administrated with a passing rate of 70.7% in the 1st quarter of FY2017.

Agenda Item 13 – Enforcement Department Report.

Mr. Cerda explained that Staff Attorney Jon Lawson would provide the Enforcement report for item #13 in Director of Enforcement Steve Davis' absence.

Mr. Lawson addressed the Board regarding enforcement matters handled by both the Board's field

Investigators and staff members.

Mr. Lawson directed the Board to the Field Activity Report in the Board materials and provided updates and statistics from the previous Board meeting.

Mr. Lawson reviewed the Enforcement Department statistics for the 1st quarter of fiscal year 2017 as well as the compassion to the previous year.

Agenda Item 14 – Financial Department Reports.

Mr. Cerda asked Ms. Briscoe, Director of Financial Operations and Human Resources to discuss item 13 of the Board Agenda.

(a) Financial Department Report.

Ms. Briscoe discussed agency expenditures for the 1st quarter of fiscal year 2017. Ms. Briscoe explained that staff has spent conservatively throughout the year. Ms. Briscoe offered to answer any questions about the report. There were none.

(b) Report of Non-Financial Data.

Ms. Briscoe explained that a copy of the report of the agency's Annual Report of Nonfinancial Data was provided in the Board's materials. Ms. Briscoe stated that the report was submitted timely and offered to answer any questions. There were none.

Agenda Item 15 – Executive Director's Report.

(a) Staff additions and job postings.

(b) Staff activities and communications.

(c) Legislative updates.

(d) Current statistics on licenses and registrations.

Ms. Hill explained the pending staff additions and the remaining postings on the agency website. Ms. Hill also described staff's current activities, along with the items they are preparing for the coming legislative session. In addition, Ms. Hill supplied the Board members with the current and renewable number of licensees and registrants.

Agenda Item 16 - Future Board Meetings Dates.

Mr. Cerda announced that the next Board Meeting would be Monday, April 10, 2017.

Mr. Cerda asked that the Rules Committee meet before the next Board meeting.

Agenda Item 17 – Adjourn.

Mr. Thompson moved to adjourn the meeting at 12:42 p.m. Mr. Garza seconded the motion and the motion carried unanimously.

Minutes adopted by the Board on this 10th day of April, 2017.

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Julio Cerda, Board Chair

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Ricardo J. Guerra, P.E., Board Secretary