

**Texas Forensic Science Commission – Licensing Advisory Committee  
Minutes from May 10, 2016 Meeting in Austin, Texas**

The Licensing Advisory Committee of the Texas Forensic Science Commission met at 10:00 a.m. on Tuesday, May 10, 2016, at the Stephen F. Austin Building, 1700 North Congress Ave. Room 172, Austin, Texas 78701.

Members of the Committee were present as follows:

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

Members Absent: Michael Ward

Staff Present: Lynn Garcia, General Counsel  
Leigh Tomlin, Associate General Counsel  
Nick Vilbas, Assistant General Counsel  
Kathryn Adams, Commission Coordinator

**General updates from April 11, 2016 Licensing Advisory Committee meeting.**

Hilbig gave a brief update on activities and progress since the Committee's last meeting on April 11, 2016.

Garcia provided an introduction and explanation of the tasks at hand, including an outline of questions related to the licensing program that the Advisory Committee needs to answer for the full Commission. Garcia presented a written table showing the accredited disciplines and the category requirements that need to be outlined for each.

**Administrative update (reimbursements, distribution of materials and any other outstanding orientation items, discussion of staff research related to cost of licensing program including software, web design and processing fees, Commission Legislative Appropriations Request update, review of Licensing FAQ's for Commission website).**

Members and staff briefly addressed outstanding orientation items, including reimbursements and travel requirements. Members also discussed costs related to the licensing program, including costs related to software and web design. Garcia discussed with members the outstanding Legislative Appropriations Request that will be submitted for the licensing program and the funds necessary for implementation of the program.

**Discussion of presentations and remaining questions related to certification body presentations from the Licensing Advisory Committee's April 11, 2016 meeting.**

Members discussed the different certification bodies' exams and certifications and how they might be recognized in Texas, but that certification by any particular certification body is not required under Texas law. Members discussed recommending that certification by certain organizations may be recognized, but an equivalent, knowledge-based competency test taken in the examiner's laboratory that meets certain criteria to be determined by the Commission should suffice to meet the exam requirement to obtain a forensic examiner license in Texas, until such time as the Commission decides to develop its own exam program.

**Review proposed, outlined educational and other statutory requirements for each accredited forensic discipline for which licensing will be required.**

Members discussed and outlined possible categories for each accredited forensic discipline for which licensing is required under Texas law. Categories include: 1. Educational component; 2. Specific course work/experience, including courtroom testimony and ethics; 3. Exam component; 4. Proficiency testing; and 4. License fee.

Disciplines subject to accreditation include: 1. Controlled substances; 2. Toxicology; 3. Biology; 4. Firearm/Tool mark; 5. Questioned documents; and 6. Trace evidence. Members discussed the four components for each of these six categories as outlined in chart attached here as **Exhibit A**. Members felt sub-dividing the forensic disciplines for which a license will be required was necessary to better represent the meaning of a particular discipline or sub-discipline's license. Therefore, disciplines were divided and sub-divided by members in accordance with the draft chart attached here as **Exhibit B**.

Members discussed recommending that forensic examiners should have a three-year license term for which to fulfill all requirements, including continuing education and other specific coursework requirements.

Members discussed a recommendation that all examiners should be required to complete courses in the following areas: Brady training, Michael Morton Act Training, Ethics/Cognitive Bias, Courtroom Testimony, and Statistics for forensic scientists.

Members discussed the possibility of reducing the fee for first time applications received by a certain deadline from \$100 to \$50.

**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.**

Committee members will continue to develop recommendations for fulfillment of the Forensic Science Commission's statutory mandate to develop licensing program requirements for forensic examiners in Texas.

**Discussion of potential educational and other statutory requirements for each accredited forensic discipline for which licensing will be required.**

Members discussed, with some exceptions, a Bachelor's Degree in either Natural or Applied Sciences as a baseline requirement for all accredited forensic disciplines. Some disciplines

should require specific college coursework to be determined by the Committee and as outlined in the attached table.

**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 briefly discussed legislative issues/clarifications that may need to be addressed in the statute, including the definition of “forensic analysis” as outlined in TEX. CODE CRIM. PROC. art. 38.01 § 2.

Members also discussed whether clarification on the statute’s application to defense experts was necessary.

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

Members discussed the costs of the program and how the costs could be absorbed, whether by laboratories or by the examiner and how the Commission may fund a portion of the cost for administering the program through application fees from examiners.

**Discussion of the provisional licensing issue and the forensic disciplines for which a provisional license will be necessary to fill the interim period between certification and certification eligibility.**

Members discussed that while a provisional license may be necessary for some disciplines, a laboratory’s confirmation of an examiner’s successful completion of an appropriate level knowledge-based competency exam could suffice to meet the exam requirement and the examiner could be issued his/her license upon meeting the requirement for his/her position or status at the time of application.

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

Members discussed modeling a temporary licensing program similar to the way lawyers are admitted pro hac vice in Texas. Members will work to develop a draft plan for temporary licensing for visiting examiners and retired examiners who come back to testify on a particular case.

**Discussion of grandfathering issues related to licensing including examiners who retire but come back to testify.**

Members discussed allowing waivers for examiners who have been practicing examiners for a certain period of time and who may not meet all of the new requirements but have demonstrated a particular level of competency. Members will work to develop a waiver process and guidelines for waivers where necessary.

Members also decided that educational and other requirements will not take effect until January 1, 2019 per the statute and those examiners who apply in advance will not necessarily need a waiver if they apply before the requirement takes effect.

**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 assigned tasks, including the development of criteria for knowledge-based competency exams for each forensic discipline. Criteria will be reviewed at the Committee's June 14 meeting.

**Schedule and location of future meetings.**

The Licensing Advisory Committee scheduled two additional meetings—June 14, 2016 and July 7, 2016.

**Hear public comment.**

No public comment was made at the meeting.

**Adjourn.**

# EXHIBIT A (DRAFT FOR DISCUSSION)

## DISCIPLINES SUBJECT TO COMMISSION ACCREDITATION AND CORRESPONDING REQUIREMENTS FOR LICENSING

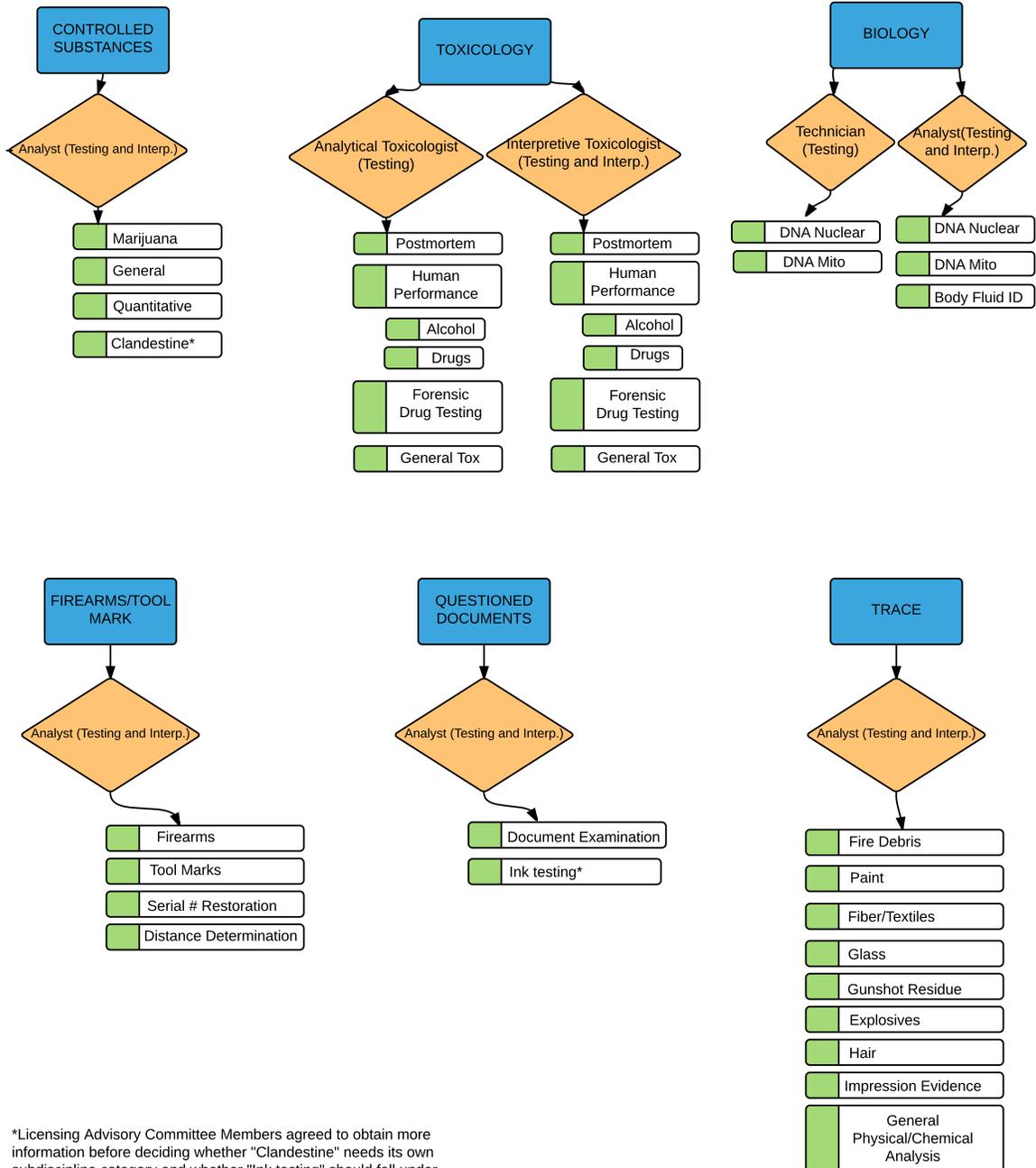
<b>DISCIPLINE</b>	<b>EDUCATIONAL REQUIREMENT</b>	<b>SPECIFIC COURSE WORK/EXPERIENCE, INCLUDING COURTROOM TESTIMONY AND ETHICS</b>	<b>EXAM COMPONENT</b>	<b>PROFICIENCY TESTING</b>	<b>LICENSE TERM</b>	<b>LICENSE FEE</b>
<b>Controlled substances, including marijuana, precursor analysis, and clandestine laboratory analysis.</b>	BS/BA in Natural Science from an accredited Univ.	Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) CS specific coursework: 30 hrs. Chemistry (including Basic, Organic, Analytical and Instrumental and college-level statistics (Effective 1/1/19) Before 1/1/19 - 20 hrs. Chemistry.	Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.	Accrediting body PT requirement	3 yrs.	\$100/\$50 renewal/early app incentives
<b>Toxicology, including forensic toxicology, urine drug testing, and blood alcohol analysis.</b>	BS/BA in Natural Science from an accredited Univ.	Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) Tox. specific coursework: TBD. After 1/1/19 need college-level statistics course.	Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.	Accrediting body PT requirement	3 yrs.	\$100/\$50 renewal/early app incentives
<b>Biology, including biology, serology, and DNA.</b>	BS/BA in Natural Science from an accredited Univ.	Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) Biology specific coursework: Before 1/1/19 follow QAS guidelines. After 1/1/19 need college-level statistics course.	Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.	Accrediting body PT requirement	3 yrs.	\$100/\$50 renewal/early app incentives
<b>Firearms/toolmark, including firearms, ballistics, and toolmarks.</b>	BS/BA in Applied or Natural Science from an accredited Univ. (after 1/1/19)	Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) Firearm specific coursework: After 1/1/19 need college-level statistics course.	Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.	Accrediting body PT requirement	3 yrs.	\$100/\$50 renewal/early app incentives
<b>Questioned documents, including questioned documents, handwriting, and ink analysis.</b>	BS/BA in Applied or Natural Science from an accredited Univ. (after 1/1/19)	Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) QD specific coursework: After 1/1/19 need college-level statistics course, group is exploring other requirements/training options.	Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.	Accrediting body PT requirement	3 yrs.	\$100/\$50 renewal/early app incentives

**DISCIPLINES SUBJECT TO COMMISSION ACCREDITATION AND CORRESPONDING REQUIREMENTS FOR LICENSING**

<p><b>Trace evidence, including fire debris, explosives, fibers, gunshot residue, glass, hairs, paint, filaments, and unknown substances.</b></p>	<p>BS/BA in Applied or Natural Science from an accredited Univ.</p>	<p>Brady training, Michael Morton Act training, Ethics/Cognitive Bias, Courtroom testimony, Statistics (Training programs as designated by the Commission.) After 1/1/19 need college-level statistics course.</p>	<p>Laboratory's own knowledge-based competency test OR exam that covers list of required components. Laboratory QM must certify candidate has satisfied the criteria. OR recognized certification body exam.</p>	<p>Accrediting body PT requirement</p>	<p>3 yrs.</p>	<p>\$100/\$50 renewal/early app incentives</p>
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# EXHIBIT B (DRAFT FOR DISCUSSION)

## FSC Licensing Program Disciplines and Subdisciplines



\*Licensing Advisory Committee Members agreed to obtain more information before deciding whether "Clandestine" needs its own subdiscipline category and whether "Ink testing" should fall under Questioned Documents or Trace.