



**STATE OF OKLAHOMA  
BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE**

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Dr. Kenneth E. Blick, Ph.D.  
Chairman

Joshua Smith  
State Director

The agenda for this meeting was posted in accordance with Title 25 Section 311.A.9, at the Administrative Offices of the Board of Tests for Alcohol and Drug Influence, 3600 North Martin Luther King Avenue, Building 9, Oklahoma City, OK, 73111.

**Regular Meeting AT OKLAHOMA CITY, OKLAHOMA  
Of the Board of Tests for Alcohol and Drug Influence  
Oklahoma Department of Public Safety Complex,  
W.C. Sarg Smith Classroom  
3600 North Martin Luther King Avenue, Oklahoma City, OK, 73111**

**Tuesday February 25, 2020  
10:00 A.M. CDT**

**MINUTES**

**BOARD MEMBERS PRESENT:**

Dr. Kenneth Blick, OU Health Science - Chair  
Dr. Jarrad Wagner, OSU Health Science - Vice Chair  
Kevin Kramer, State Bureau of Investigations  
Chuck Gerhart, CLEET  
Dr. S. Terence Dunn, Department of Health

**STAFF PRESENT:**

Josh Smith, Director  
Jenifer Martin, Business Manager  
David Barnett, Interlock Administrator

**1. Call Meeting to Order**

**Action Taken:** Dr. Blick called the meeting to order at 10:00 a.m. Roll was taken; five members were present representing a quorum.

**2. Statement of Compliance with the Open Meeting Act**

Dr. Blick gave statement of compliance for the record.

**3. Approval of Minutes – December 3, 2019 Special Meeting**

**Action Taken:** Dr. Wagner motioned to approve the minutes, Chuck Gerhart seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

#### 4. Interim Director's Report

Interim Director Smith gave an update to the Board on all agency programs. All programs are working and performing as expected to keep things moving along. He gave legislative updates on Senate Bill 1464, House Bill 3692, and House Bill 3960.

**Senate Bill 1464** was written to address some gaps in Senate Bill 712 roll out last year, it brought about the IDAP Program. The changes that are being introduced in Senate Bill 1464 that effect the Board of Tests are as follows

- Removing the Board of Tests authority regarding authorizing other qualified persons to withdraw blood and placing such persons authorized into statute
- Striking saliva or urine collection for purpose of independent analysis
- Striking additional breath sample collection for independent analysis
- Adding language that strictly limits evidential blood analysis to laboratories accredited with ISO/IEC 17025
- Adding language to authorize the Board of Tests to delegate procedural matters to the Director by administrative rule.

**House Bill 3692** mirrors SB1464 but has much less language amendments. It will more than likely be folded into SB1464.

**House Bill 3960** has been authored by Representative Scott Fetgatter. Mr. Fetgatter has expressed his intentions of the bill are to address the growing marijuana usage with the impaired drivers and ensure reasonable practices are exercised by law enforcement. Changes introduced/proposed do not necessarily have a direct effect on the Board of Tests, but there is a scientific issue at hand when it comes to testing impaired drivers. The interim director has been informed this Bill has hit a pause but could be revisited.

- Requirements for an officer to have articulable observation other than odor of marijuana to request a driver submit to a field sobriety test.
- No person shall be convicted of the offense of operating or being in actual physical control of a motor vehicle while such person's ability to operate such vehicle was impaired by marijuana, THC, or their metabolites in the absence of additional evidence
- Replacing language "is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions" with "...affects the person to the slightest degree so that the person is less able than the person ordinarily would have been, either mentally or physically, or both"
- Adding language to include metabolites or analogs listed in other schedules
- Defines a holder of a medical marijuana license is not exempt for the statute

**Action Taken:** Kevin Kramer motioned to approve the interim director's report, Dr. Dunn seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

5. **Proposed executive session to discuss the employment, hiring, promotion, demotion, disciplining, or resignation and terms of employment of Joshua Smith as State Director of Tests**

**Action Taken:** Kevin Kramer motioned to enter executive session, Dr. Dunn seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

**Action Taken:** Chuck Gerhart motioned to exit executive session, Kevin Kramer seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

6. **Discussion and possible action on the employment, hiring, promotion, demotion, disciplining, or resignation and terms of employment of State Director of Tests**

**Action Taken:** Chuck Gerhart motioned to employ Joshua Smith as the State Director of Tests, Kevin Kramer seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

7. **Proposed executive session to discuss the employment, hiring, promotion, demotion, disciplining, or resignation for consideration of pay schedules for the following: Office Manager, Administrative Assistant, Training Program Administrator, and Ignition Interlock Program Administrator**

**Action Taken:** Kevin Kramer motioned to enter executive session, Chuck Gerhart seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

**Action Taken:** Dr. Dunn motioned to exit executive session, Chuck Gerhart seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

8. **Discussion and possible action on the proposed executive session regarding employment, hiring, promotion, demotion, disciplining, or resignation for consideration of pay schedules for the following: Office Manager, Administrative Assistant, Training Program Administrator, and Ignition Interlock Program Administrator**

**Action Taken:** Chuck Gerhart motioned to direct the State Director of Tests to begin recruitment of a Breath Alcohol Program Administrator as well as the pay schedule increase the pay schedules as directed by the Board. Kevin Kramer seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

**9. Discussion and possible action proposed Permanent Rulemaking:**

- a. OAC Title 40 Chapter 10
- b. OAC Title 40 Chapter 15
- c. OAC Title 40 Chapter 20
- d. OAC Title 40 Chapter 25
- e. OAC Title 40 Chapter 30
- f. OAC Title 40 Chapter 35
- g. OAC Title 40 Chapter 40
- h. OAC Title 40 Chapter 50
- i. OAC Title 40 Chapter 55

**Action Taken:** Kevin Kramer motioned to approve the proposed Permanent Rulemaking items a - i. Dr. Dunn seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

**10. Chairman's Report**

Dr. Blick gave a thank you to the board members for showing up and giving a quorum. He also wanted to congratulate the work put in by the committee on the rule changes. He also thanked the staff for all the hard work they do on a daily basis to keep the integrity of the Board alive

**11. Public Comments:**

Comments given by:  
Toby Taylor  
Thomas Hosty  
Sonja Porter

**12. New Business:**

Curt Terry has resigned his seat on the Board and Major Todd Blish will be replaced by Major Ronnie Hampton.

**13. Adjournment:**

**Action Taken:** Kevin Kramer motioned to adjourn the meeting. Chuck Gerhart seconded the motion. A roll call vote was taken with the following results Dr. Blick voted yes, Dr. Wagner voted yes, Kevin Kramer voted yes, Chuck Gerhart voted yes, Dr. Dunn voted yes.

Respectfully submitted,



Chairman Kenneth Blick  
Board of Tests for Alcohol and Drug Influence