1. CALL TO ORDER – BOARD MEETING.
Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:37 a.m.

2. ROLL CALL.
Dr. Austin called the roll. It was noted for the record that a quorum was present. Board members absent from the meeting were excused by the Board.

a. Members Present:
   Dr. Rodolfo G. Ramos Jr. Presiding Officer
   Dr. Steven J. Austin Secretary
   Dr. Kirby Bunel Jr. Member
   Dr. James W. Chancellor Member
   Ms. Renée S. Cornett, RDH Member
   Dr. D. Bradley Dean Member
   Dr. Christie M. Leedy Member
   Ms. Lois M. Palermo, RDH Member
   Dr. M. David Tillman Member
   Dr. Jason A. Zimmerman Member

b. Members Absent:
   Ms. Emily W. Christy Member
   Ms. Whitney Hyde Member
   Mr. Timothy J. O’Hare Member
   Mr. Lewis M. White Member

c. Staff Present:
   Ms. Kelly Parker Executive Director
   Ms. Nycia Deal General Counsel
   Ms. Simone Salloum Assistant General Counsel
   Dr. Brooke Bell Director of Dental Division
   Ms. Irma Rodriguez Director of Finance and Administration Division
   Ms. Lisa Jones Director of Investigations Division
   Ms. Vicki Shoesmith Director of Licensing Division
   Ms. Christine Mendez Assistant Director of Licensing Division
3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE NOVEMBER 20, 2015, BOARD MEETING.
A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. PALERMO TO APPROVE THE MINUTES AS WRITTEN.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

4. DISCUSSION AND ACTION ON PROPOSED CASE RESOLUTIONS.
4.1. Agreed Settlement Orders.
A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO APPROVE THE AGREED SETTLEMENT ORDERS AS WRITTEN.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

4.2. Remedial Plans.
A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO APPROVE THE REMEDIAL PLANS AS PRESENTED.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

4.3. Consent Orders.
A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. TILLMAN TO APPROVE THE CONSENT ORDERS AS WRITTEN.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

4.4. Nunc Pro Tunc Orders.
A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CORNETT TO APPROVE THE NUNC PRO TUNC ORDERS AS WRITTEN.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

4.5. Dismissals.
A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. AUSTIN TO APPROVE THE DISMISSALS AS PRESENTED.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

5. PUBLIC COMMENTS.
There were no public comments at this board meeting.

6. MISCELLANEOUS REPORTS.
Dr. Ramos relayed that Ms. Hulbert was not in attendance but provided the PRN report. The PRN report is available for Board Members to view on the Board member website.

6.2. Western Regional Examining Board Dental Hygiene Report.
Ms. Palermo relayed that the next WREB Dental Hygiene meeting is scheduled in March and she will have a report at the June 3, 2016, Board meeting.

6.3. Western Regional Examining Board Report.
Dr. Ramos relayed that he had appointment Dr. Dean as the new representative for WREB.
Dr. Dean relayed that the WREB meeting was a good meeting. In the meeting, they discussed statistics of the exams and the testing community and discussion ensued on the “Buffalo Model” which is currently in its pilot stage. The model shifts the responsibility from the student to the patient.
Dr. Dean added that he thought the Board should request WREB come and give the Board a report or presentation.
Dr. Ramos relayed that the Board needs to evaluate the testing quality of this new exam and see if the State of Texas is willing to accept the grading results and he tasked the Licensing committee in handling this and attending a test site.
Dr. Dean encouraged more Board members become WREB Examiners as only 3 current Board members are Examiners.
7. DISCUSSION AND ACTION CONCERNING COMMITTEES AND COMMITTEE REPORTS.

7.1. Dental Hygiene Advisory Committee (DHAC).
Ms. Parker relayed that a letter from Ms. McCreary and a letter from the Governor’s Office with the new DHAC appointments were available to Board members on the Board Member website. Ms. Lorrie Jones and Mr. Christopher Covo were appointment to DHAC.

7.2. Dental Laboratory Certification Council (DLCC).
Dr. Ramos called on Ms. Shoesmith to lead the discussion on DLCC. Ms. Shoesmith relayed that the DLCC consists of three Certified Dental Technicians appointed by the Dental Board to serve two terms not to exceed four terms. Ms. Triplett is seeking reappointment for a second two-year term. Ms. Triplett provided a brief biography for consideration to the Board for a second two-year term with DLCC.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO ACCEPT MS. TRIPLETT AS THE PRESIDING OFFICER OF THE DENTAL LABORATORY CERTIFICATION COUNCIL.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Ms. Triplett relayed that Ms. Saunders submitted her resignation. DLCC met on February 8, 2016, and meeting minutes were approved and Jurisprudence Assessment requirements were reviewed. The lab renewal form was also discussed as well as new training for new DLCC members this year. Ms. Triplett was elected Presiding Officer and two new nominees were presented to the Board for consideration to DLCC; Ms. Elyese Anderson and Ms. Lee Anne Mixson-Sibila.

Discussion ensued on the role of technicians in dental offices. Texas and Kentucky register laboratories and not technicians. South Carolina is the only state that registers technicians. Discussion on “All-On-Four” ensued. Dr. Dean tasked the DLCC with

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO ACCEPT MS. ELYESE ANDERSON TO THE DENTAL LABORATORY CERTIFICATION COUNCIL.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. TILLMAN TO ACCEPT MS. LEE ANNE MIXSON-SIBILA TO THE DENTAL LABORATORY CERTIFICATION COUNCIL.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

7.3. Dental Review Panel Committee.
Dr. Austin led the discussion on the dental review panel committee. Dr. Austin relayed that the committee had reviewed 59 applications in the past week. The committee is bringing 31 of these applications to the Board for their review and asked that they be added to the dental review panel.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO ACCEPT THE THIRTY-ONE APPLICANTS TO THE DENTAL REVIEW PANEL.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Dr. Ramos asked what the greatest need is for the Dental Review Panel Committee. Dr. Austin replied that it was Oral Surgeons and General Dentists.

8. DISCUSSION OF PENDING LITIGATION.

8.1. AAID, et al v. TSBDE; No 1:14-cv-191; U.S. District Court, Western District of Texas, Austin Division.
Ms. Deal provided a brief update on the AAID litigation; a judgment was issued and the Attorney General has approved and moved for an appeal for this judgment. It was unfavorable to the Board and why we are appealing it. We have recommendations to resolutions to issues raised in the law suit. Staff has recommended rules for the Board’s consideration should the Board take up the controversy again. Notice of appeal has been filed.

Dr. Ramos added that the monetary issue should not affect the Board’s decision-making process.
8.2. TMA v. TSBDE; No: D-1-GN-14-004941; 98th Judicial District, Travis County, Austin, Texas.
Ms. Deal relayed that the lawsuit has been “stayed” and the staff has recommendations as far as rulemaking that they believe will make a difference in the lawsuit. Harold Miller, the Assistant Attorney General who is representing us in this case is present to discuss this case with the Board and agency staff.

Dr. Ramos announced that staff will go into Executive Session after agenda item # 9.3.8

9. DISCUSSION AND ACTION ON RULES.
9.1. Discussion and action regarding rule review.
   A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BUNEL TO PROPOSE RULE REVIEW OF CHAPTER 110.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.2. Discussion and action regarding adoption of rule proposals.
   A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. DEAN TO ADOPT THE AMENDMENT OF RULE 107.26.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.3. Discussion and action regarding proposals of rules.
   9.3.1. 22 Tex. Admin. Code, Chapter 107, Dental Board Procedures, Subchapters B and C (Repeal).
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

   A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO PROPOSE NEW RULE 107.69.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

   A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. TILLMAN TO PROPOSE THE REPEAL RULE 107.69.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Ms. Cornett stepped out at 9:40 and returned at 9:43 a.m.
Dr. Leedy stepped out at 9:45 and returned at 9:52 a.m.

9.3.4. 22 Tex. Admin. Code 108.52, Names and Responsibilities.
A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. TILLMAN TO TABLE RULE 108.52 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO TABLE RULES 108.52, 108.54, 108.55, 108.56, AND 108.61 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.
9.3.5. **22 Tex. Admin. Code 108.54, Advertising of Dental Specialties.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO TABLE RULES 108.52, 108.54, 108.55, 108.56, AND 108.61 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.


A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO TABLE RULES 108.52, 108.54, 108.55, 108.56, AND 108.61 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.3.7. **22 Tex. Admin. Code 108.56, Certifications, Degrees, Fellowships, Memberships, and**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO TABLE RULES 108.52, 108.54, 108.55, 108.56, AND 108.61 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.


A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO TABLE RULES 108.52, 108.54, 108.55, 108.56, AND 108.61 TO ENGAGE LEGAL STAFF AND VET FOR STAKEHOLDER INPUT. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Dr. Ramos announced that we would not go into Executive Session to discuss agenda item #8. Non-critical agency staff and public members were asked to step out of the room for the discussion on this agenda item and would be allowed to return once the session concluded.

The Presiding Officer called for a break at 9:54 a.m. and Executive Session to start at 10:10 a.m. The meeting reconvened at 10:48 a.m.

9.3.9. **22 Tex. Admin. Code 108.12, Dental Treatment of Sleep Disorders.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. DEAN TO PROPOSE THE AMENDMENT OF RULE 108.12 FOR PUBLICATION IN THE TEXAS REGISTER. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.3.10. **22 Tex. Admin. Code 102.1, Fee Schedule.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CORNETT TO PROPOSE THE AMENDMENT OF RULE 102.1 FOR PUBLICATION IN THE TEXAS REGISTER. (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.4. **Discussion and action regarding stakeholder meetings.**

9.4.1. **22 Tex. Admin. Code, Chapter 108.5, Patient Abandonment.**

Ms. Deal led the discussion on Patient Abandonment. A stakeholder meeting was held in January to discuss this topic. Several different scenarios were discussed in which dentists may need to issue some kind of statement on the termination of the dentist/patient relationship. Another stakeholder meeting will be held on April 1, 2016, where staff will present possible language and make recommendations.

9.4.2. **22 Tex. Admin. Code, Chapter 107, Subchapter C, Administrative Penalties; and Disciplinary Matrix.**

Ms. Deal led the discussion on Administrative Penalties and Disciplinary Matrix. The intent to involve stakeholders is to be sure that the dentists you do regulate and are subject to this, have an opportunity to discuss the possible consequences they may face and allow the public to engage with us what is truly important to them. One purpose of the disciplinary matrix is to provide staff guidance in determining what is the appropriate discipline or sanction to take when a violation of the law or rule has occurred. A stakeholder meeting scheduled for April 1, 2016 will be held to discuss this topic. The matrix is publicly available on the Texas Register and we utilize it at SOAH to point out the recommendations that you have made as far as the appropriate penalties.
9.4.3. 22 Tex. Admin. Code, Chapter 104, Continuing Education.
Ms. Deal led the discussion on Continuing Education. Staff will start looking at the continuing education chapter and it may be more appropriate for the Licensing Committee to handle.

9.4.4. Future Topics.
Ms. Deal opened the door for Board Members’ input on topics they wish to discuss. We are actively looking at our rules to update them, make them consistent throughout, and improve them for readability and usability by all.
Board members asked that the following topics be considered: Lab Technicians and self-reports were mentioned by Dr. Tillman and Dr. Dean respectively.

10. AGENCY ACTIVITY REPORTS.
10.1. Executive Director’s Report.
Ms. Parker presented information to the Board which highlights activities and information from the last Board meeting. We are currently under the Sunset review and Ms. Parker provided an updated timeline of the review process. There are two new dates on this timeline. We estimate receiving the draft Sunset report the week of March 14 – 18, 2016. We now have an exit conference with Sunset staffers on March 23, 2016. The exit conference will allow the agency an opportunity to discuss an answer to the report and any additional issues we may want considered.

The Office of the Secretary of State purposed rules in regards to the registration of DSOs in the December edition of the Texas Register. The proposed rules are consistent with the requirements that were outlined in SB 519. The Legal department is currently waiting on the draft memorandum of understanding regarding the sharing of information with this office. Dr. Dean relayed that they are working on collecting these data and incorporate SB 519 in different algorithms.

Ms. Parker discussed the 2014 Strategic Plan. Specifically, the agency noted the need for review of the Anesthesia training programs, licensing anesthesia permit requirements in emergency preparedness by licensees. The agency also noted that it is imperative to be able to track anesthesia related adverse outcomes. Beginning January 1, 2016, the Director of Licensing will track the number of application of anesthesia permits and licenses received monthly by level and report it to the Board in her quarterly licensing report.

Ms. Parker has relayed that she has tasked the Dental Division track incoming allegations of anesthesia-related incidents as well as ultimate findings of anesthesia administration being directly related to negative patient outcomes.

Ms. Parker recommended that the Licensing Committee assist agency staff in developing a more rigorous anesthesia application process and consider the minimum standards for emergency preparedness of licensees. Ms. Parker relayed that we currently do not have adequate funds or staff and do not have statutory authority to conduct pre-permit inspections of Level 3 and 4 providers. Therefore, she has included examples of those states that do have pre-permit inspections.

Ms. Parker also recommended an Anesthesia Workgroup. The workgroup would be open to more than just Board Members and could include dental associations and advocacy organizations. She hopes the Workgroup can advise the Board about the intricacies and considerations that need to be weighed when developing a system. Ideally, it would be a few meetings to discuss pertinent topics. The recommendations would all be used as a resource and not necessarily make decisions.

Strategic Plan is due this year with similar dates of those in 2014.

Case updates: For 2012, there are 11 cases remaining open and all in Legal. For 2013, there are 24 cases still open with 21 in Legal, one with QCC and two with DRP review.

Have received new appointments to DHAC but not to our Board.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO ESTABLISH THE ANESTHESIA WORKGROUP.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Dr. Ramos appointed Dr. Zimmerman as chairman of the Committee and added Dr. Bunel and Dr. Dean to join the committee.

Dr. Tillman stepped out at 11:19 a.m. and returned at 11:21 a.m.
10.2. Finance and Administration Division Report.
Ms. Rodriguez discussed the Operating Budget for the current physical year and presented a new Revenue Report. She plans to present this new report every November. She also presented the biannual operating budget for fiscal year 2016. This report goes to LBB every other year and was submitted on December 1, 2016. She has filled one of her vacancies in her division with Shauna Stacey.

Dr. Bunel stepped out at 11:33 a.m. and returned at 11:35 a.m.

10.3. Licensing Division Report.
Ms. Shoesmith relayed that she lost two staff members; Amanda Winfield and Dale Ludecke. Two new staff members have been hired in their place; Lacy Brown and Lorraine Konon. Unfortunately, Ms. Valerie Woods has resigned and we will need to look for her replacement. Ms. Christine Mendez has joined the Licensing team as Assistant Director. The Licensing Division has been restructured into two teams; Licensing and Renewals. As part of the career ladder process, we have added two new team leads that will mentor and coach the Licensing staff. Ms. Shoesmith provided current statistics by permit type. There are 64,655 active licensees.

Dr. Leedy stepped out at 11:36 a.m. and returned at 11:38 a.m.

Ms. Jones presented the quarterly and year-to-date statistics. She has just hired Travis Mott in January and we are now fully staffed and also hired Jered Nuss as a new temporary part-time position.

Dr. Bell has processed 124 cases since the last Board meetings. They have received 250 SOC reports. Still averaging about 60% with violations. QCC has processed 57 cases this quarter.

Ms. Cornett stepped out at 11:41 a.m. and returned at 11:46 a.m.

10.5. Legal Division Report.
Ms. Deal relayed that all 11 cases for 2012 are filed with SOAH of which 3 were closed today. Six of these cases have already had their hearing at SOAH and that leave 2 cases which are going to hearing on Monday. Hopefully, we can close all these cases by the next Board meeting. For 2013, there are 17 cases that remain open. Seven remain under review and the other ten are under SOAH. We are working away with new cases. In the last quarter, they have received 244 cases from Investigations. The Board has done 3 temporary suspensions each quarter. There 260 cases in Legal with 45 set for future ISCs and 35 are set are SOAH and the remaining at the hands of the attorneys.

11. DISCUSSION AND ACTION ON CASES HEARD AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).

11.1. Docket No. 504-16-0086; Crystal Cortes, RDA, Registered Dental Assistant Certificate No. 69419.
A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. LEEDY TO ACCEPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD RECOMMENDED BY STAFF, AND REVOKE MS. CORTES’ DENTAL ASSISTANT REGISTRATION NO. 69419.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

11.2. Docket No. 504-15-5537; Denise Ann Hughes, RDH, Texas Dental Hygiene License No. 10341.
A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. LEEDY TO ACCEPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD RECOMMENDED BY STAFF, AND REVOKE MS. HUGHES’ TEXAS DENTAL HYGIENE LICENSE NO. 10341.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 2) MOTION CARRIES.

12. PRESIDING OFFICER’S REPORT.
There was no Presiding Officer report.
13. **ELECTION OF BOARD SECRETARY.**
   A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO ACCEPT DR. AUSTIN AS BOARD SECRETARY.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

14. **ANNOUNCEMENTS.**
   The next Board meeting was moved from Friday, May 27, 2016, to Friday, June 3, 2016.

17. **ADJOURN.**
   A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. ZIMMERMAN TO ADJOURN THE MEETING AT 11:50 a.m.
   (FOR – 9 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

- SIGNED -

______________________________
Steven J. Austin, DDS
Presiding Officer
June 3, 2016

- SIGNED -

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David Tillman, DDS
Board Secretary
June 3, 2016