



## TEXAS STATE BOARD OF DENTAL EXAMINERS

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### BOARD MEETING MINUTES

November 21, 2014

#### 1. CALL TO ORDER – BOARD MEETING.

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:38 a.m.  
Dr. Tillman and Dr. Zimmerman were introduced as new board members.

#### 2. ROLL CALL.

Dr. Dean called the roll. It was noted for the record that a quorum was present.

##### a. Members Present:

Dr. Rodolfo G. Ramos Jr.	Presiding Officer
Dr. D. Bradley Dean	Secretary
Dr. Steven J. Austin	Member
Dr. Kirby Bunel Jr.	Member
Dr. James W. Chancellor	Member
Ms. Emily W. Christy	Member
Ms. Renée S. Cornett, RDH	Member
Ms. Whitney Hyde	Member
Dr. Christine M. Leedy	Member
Ms. Evangelia V. Mote	Member
Mr. Timothy J. O'Hare	Member
Ms. Lois M. Palermo, RDH	Member
Dr. M. David Tillman	Member
Mr. Lewis M. White	Member
Dr. Jason A. Zimmerman	Member

##### b. Staff Present:

Ms. Julie Hildebrand	Executive Director
Ms. Nycia Deal	General Counsel
Ms. Simone Salloum	Assistant General Counsel
Ms. Irma Rodriguez	Director of Administration and Finance
Dr. Brooke Bell	Director of Dental Division
Ms. Lisa Jones	Director of Enforcement Division
Ms. Vicki Shoesmith	Director of Licensing Division

#### 3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE AUGUST 8, 2014 BOARD MEETING.

A MOTION WAS MADE BY MS. PALERMO AND SECONDED BY DR. CHANCELLOR TO APPROVE THE MINUTES AS AMENDED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**4. DISCUSSION OF AND ACTION ON PROPOSED AGREED SETTLEMENT ORDERS AND CONSENT ORDERS.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. MOTE TO APPROVE THE CONSENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**5. PUBLIC COMMENTS.**

Mr. Scott D. Benjamin, Ms. Jennifer J. Bone, and Ms. LeeAnn Winkler presented public comments.

**6. MISCELLANEOUS REPORTS.**

**6.1. Professional Recovery Network (PRN) Report.**

PRN report was presented to board members.

**6.2. Western Regional Examining Board (WREB) Dental Hygiene Report.**

Ms. Palermo presented the WREB Dental Hygiene report.

**6.3. Western Regional Examining Board (WREB) Report.**

Dr. Ramos presented the WREB report.

**7. DISCUSSION OF AND POSSIBLE ACTION CONCERNING COMMITTEE REPORTS.**

**7.2. Dental Hygiene Advisory Committee (DHAC).**

Ms. McCready presented recommendations to the board for review and consideration.

**7.1. Laser Ad-Hoc Advisory Committee.**

Dr. Austin presented rule recommendations to the board on the use of lasers by dental hygienists based on recommendations provided by the Dental Hygiene Advisory Committee.

**8.4.8. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 115.2, Permitted Duties.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CHRISTY TO PROPOSE AMENDMENTS TO RULE 115.2 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**Dr. Bunel stepped out at 9:18 a.m. and returned at 9:23 a.m.**

**7.3. Ownership Ad-Hoc Advisory Committee.**

Dr. Dean presented recommendations to the board on rules 108.70; Contracts, Agreements, and Arrangements with Licensed Dentist and Rule 108.74; Ownership, Maintenance, and Operation of a Dental Practice.

**Ms. Cornett and Dr. Zimmerman stepped out at 9:42 a.m. and returned at 9:48 a.m.**

**The Presiding Officer called for a break at 9:55 a.m. The meeting reconvened at 10:22 a.m.**

**8. DISCUSSION OF AND POSSIBLE ACTION ON RULES.**

**8.3. Withdrawal of rules.**

**8.3.1. Withdrawal of Proposed Repeal of Rule – 22 Tex. Admin. Code, Section 108.70, Improper Influence on Professional Judgment.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. LEEDY TO WITHDRAW PROPOSAL OF REPEAL RULE 108.70. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.3.2. Withdrawal of Proposed New Rule – 22 Tex. Admin. Code, Section 108.70, Contracts, Agreements, and Arrangements with Licensed Dentists.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. LEEDY TO WITHDRAW PROPOSAL OF NEW RULE 108.15. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**Dr. Bunel stepped out at 10:38 a.m. and returned at 10:43 a.m.**

**8.3.3. Withdrawal of Proposed New Rule – 22 Tex. Admin. Code, Section 108.74, Dental Practice Responsibilities.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. LEEDY TO WITHDRAW PROPOSAL OF NEW RULE 108.74. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.7. Consideration of Proposal of New Rule – 22 Tex. Admin. Code, Section 108.74, Ownership, Maintenance, and Operation of a Dental Practice.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BUNEL TO WITHDRAW PROPOSAL OF REPEAL RULE 108.70. (FOR – 11 / OPPOSED – 1) MOTION CARRIES.

**7.4. Dental Review Committee.**

Candidates and recommendations by the Expert Review Panel were presented and discussed with the board.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO APPROVE THE THE RECOMMENDATIONS FOR THE PANEL PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.1. Rule reviews in accordance with Texas Government Code, Section 2001.039.**

**8.1.1. Proposed Rule Review - 22 Tex. Admin Code, Chapter 125, Applications for Special Consideration or Exception to Board Rules.**

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. BUNEL TO PROPOSE A RULE REVIEW OF CHAPTER 125 AS REQUIRED BY TEXAS GOVERNMENT CODE 2001.039. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2. Final adoption of rules.**

**8.2.1. Final adoption of Amended Rule – 22 Tex. Admin. Code, Section 101.1, General Qualifications for Licensure.**

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY MS. CORNETT TO ADOPT AMENDED RULE 101.1 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.2. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 101.2, Licensure by Examination.**

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. LEEDY TO ADOPT AMENDED RULE 101.2 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.3. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 101.3, Licensure by Credentials.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO ADOPT AMENDED RULE 101.3 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.4. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 101.4, Temporary Licensure by Credentials.**

A MOTION WAS MADE BY DR. LEEDY AND SECONDED BY DR. CHANCELLOR TO ADOPT AMENDED RULE 101.4 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.5. Final adoption of New Rule – 22 Tex. Admin Code, Section 101.12, Provisional Licensing.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CHRISTY TO ADOPT AMENDED RULE 101.12 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.6. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 102.1, Fee Schedule.**

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY DR. CHANCELLOR TO ADOPT AMENDED RULE 102.1 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 9 / OPPOSED – 0) MOTION CARRIES.

**8.2.7. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 107.300, Registration of Non-Profit Corporations Authorized to Hire Dentists.**

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY DR. BUNEL TO ADOPT AMENDED RULE 107.300 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 11 / OPPOSED – 1) MOTION CARRIES.

**8.2.8. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 108.4, Names of Dentists.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO ADOPT AMENDED RULE 108.4 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.9. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 108.52, Names and Responsibilities.**

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. AUSTIN TO ADOPT AMENDED RULE 108.52 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.13. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 114.1, Permitted Duties.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO ADOPT AMENDED RULE 114.1 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 1) MOTION CARRIES.

**8.2.14. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 114.6, General Qualifications for Registration or Certification.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. MOTE TO ADOPT AMENDED RULE 114.6 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.2.15. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 117.2, Dental Faculty Licensure.**

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. CHANCELLOR TO ADOPT AMENDED RULE 117.2 WITHOUT CHANGES TO THE PROPOSED TEXT.  
(FOR – 12 / OPPOSED – 1) MOTION CARRIES.

**8.4. Proposal of rules.**

**8.4.1. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 102.1, Fee Schedule.**

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY MS. CORNETT TO PROPOSE AMENDMENTS TO RULE 102.1 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.2. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 107.63, Informal Disposition and Alternative Dispute Resolution.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. MOTE TO PROPOSE AMENDMENTS TO RULE 107.63 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.3. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 107.103, Disposition of an Official Complaint.**

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO PROPOSE AMENDMENTS TO RULE 107.103 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.4. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 107.110, Compliance.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CORNETT TO PROPOSE AMENDMENTS TO RULE 107.110 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.5. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.9, Dishonorable Conduct.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO PROPOSE NEW RULE 108.9 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.9. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 116.3, Registration and Renewal.**

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY MS. CORNETT TO PROPOSE AMENDMENTS TO RULE 116.3 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.10. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 116.5, Certified Dental Technician Required.**

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY MS. HYDE TO PROPOSE AMENDMENTS TO RULE 116.5 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**8.4.11. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 117.1, Exemptions.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO PROPOSE AMENDMENTS TO RULE 117.1 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 10 / OPPOSED – 2) MOTION CARRIES.

**12. EXECUTIVE SESSION PURSUANT TO TEX. GOVT CODE § 551.071 (TEXAS OPEN MEETINGS ACT) TO RECEIVE LEGAL ADVICE ABOUT PENDING LITIGATION.**

Dr. Ramos and Ms. Deal announced that we would now go into Executive Session.

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.

**8.4.6. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.54, Advertising of Specialties.**

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY MS. HYDE TO PROPOSE AMENDMENTS TO RULE 108.54 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 9 / OPPOSED – 2 / ABSTAIN - 1) MOTION CARRIES.

**9. DISCUSSION OF AND POSSIBLE ACTION ON AMENDMENTS TO DISCIPLINARY MATRIX.**

Ms. Salloum related that staff was not currently proposing any amendments to the disciplinary matrix but are looking at modifying its structure. Community Service was added to Disciplinary Matrix.

**The Presiding Officer called for a break at 1:05 p.m. The meeting reconvened at 1:22 p.m.**

**10. AGENCY DIVISION ACTIVITY REPORTS.**

Division directors presented progress reports, business processes, personnel updates, statistics, and work flows from the previous board meeting.

**Ms. Cornett stepped out at 1:40 p.m. and returned at 1:44 p.m.**

**11. CONSIDERATION AND POSSIBLE ACTION ON HEARINGS AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).**

**11.1. Administrative Law Judge Proposals for Decision.**

**Docket No. 504-14-2879, Clifford MacKenzie, DDS, Texas Dental License Number 13363.**

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY DR. DEAN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND SUSPEND DENTAL LICENSE NUMBER 13363.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**Docket No. 504-14-4700, Anthony C. Montagnese, Applicant for Dental Licensure.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. MOTE TO ACCEPT THE PROPOSAL FOR DECISION AS AMENDED, ADOPT THE ORDER OF THE BOARD AND DENY A DENTAL LICENSE TO ANTHONY C. MONTAGNESE.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**Docket No. 504-14-2707, Felicia Peets, Applicant for Dental Assistant Registration.**

MS. PEETS APPEARED IN PERSON AND PRESENTED INFORMATION TO THE BOARD.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY MR. WHITE TO GRANT A PROVISIONAL LICENSE TO FELICIA PEETS AND ADOPT THE ORDER OF THE BOARD.  
(FOR – 3 / OPPOSED – 9) MOTION FAILS.

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY MS. CORNETT TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND DENY A DENTAL ASSISTANT LICENSE TO FELICIA PEETS.  
(FOR – 9 / OPPOSED – 3) MOTION CARRIES.

**Docket No. 504-14-4024, Jose Rodriguez, Applicant for Dental Assistant Registration.**

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY MS. HYDE TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND DENY A DENTAL ASSISTANT LICENSE TO JOSE RODRIGUEZ.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**11.2. Default Orders from SOAH.**

**Docket No. 504-14-3960, Katie McGee, Applicant for Dental Assistant Registration.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO ADOPT THE ORDER OF THE BOARD AND DENY A DENTAL ASSISTANT LICENSE TO KATIE MCGEE.  
(FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**11.1. Administrative Law Judge Proposals for Decision.**

**Docket No. 504-14-4023, Lance E. Woodard, DDS, Texas Dental License Number 17833.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CHRISTY TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND SUSPEND DENTAL LICENSE NUMBER 17833.  
(FOR – 10 / OPPOSED – 0 / ABSTAIN - 2) MOTION CARRIES.

**13. EXECUTIVE DIRECTOR'S REPORT.**

Ms. Hildebrand related that all divisions are moving forward as planned and are gearing up for the start of the Legislative Session.

**14. PRESIDING OFFICER'S REPORT.**

Dr. Ramos thanked the board for all their hard work and dedication.

**15. ANNOUNCEMENTS.**

Next Board Meeting: Friday, February 27, 2015.

**16. ADJOURN.**

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. CHANCELLOR TO ADJOURN THE MEETING AT 2:19 P.M. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

- Signed -

- Signed -

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**RODOLFO G. RAMOS JR., DDS, PC**  
Presiding Officer

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**D. BRADLEY DEAN, DDS**  
Board Secretary

February 27, 2015

February 27, 2015