



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES

April 27, 2006

1. CALL TO ORDER: Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order on April 27, 2006. The time was 8:14 a.m.

2. ROLL CALL: Dr. Strunk called the roll. It was noted for the record that a quorum was present.

a. Members Present:

Dr. Gary W. McDonald	Presiding Officer
Dr. George Strunk	Secretary
Dr. Tamela Gough	Member
Dr. William Purifoy	Member
Ms. Helen McKibben, RDH	Member
Dr. Norman Mason	Member
Ms. Ann Pauli	Public Member
Dr. Russell Schlattman	Member
Ms. Phyllis Stine	Public Member
Dr. Paul Stubbs	Member
Mr. Charles Wetherbee	Public Member

b. Members Absent:

Ms. Tammy Allen, RDH	Member	(Excused)
Mr. Oscar Garcia	Public Member	(Excused)
Ms. Georgiana Matz	Public Member	(Excused)
Dr. Juan D. Villarreal	Member	(Excused)

c. TSBDE Staff Present:

Dr. Jim Zukowski, Ed.D.	Executive Director
Mr. Fread Houston	General Counsel
Ms. Lisa Jones	Director of Enforcement
Ms. Sherri Sanders	Director of Licensing and Examinations
Ms. Carol McPherson	Director of Administration and Finance
Ms. Brenda Kilburn	Staff Services Officer
Mr. Felipe Alonzo	Attorney
Mr. Eric Burns	Attorney
Ms. Peggy DeAnda	Attorney
Ms. Vicki Shoesmith	Executive Assistant

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO EXCUSE MS. ALLEN, MR. GARCIA, MS. MATZ AND DR. VILLARREAL FROM THE MEETING. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF MINUTES FROM THE JANUARY 27, 2006 BOARD MEETING.

A MOTION WAS MADE BY MS. MCKIBBEN AND SECONDED BY DR. STUBBS TO APPROVE THE MINUTES OF JANUARY 27, 2006. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

4. APPEARANCES.

- a. Paul M. Sullivan, DDS – Request approval to retake clinical examination for licensure.

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE APPLICATION OF DR. PAUL M. SULLIVAN TO TAKE THE CLINICAL EXAM FOR LICENSURE. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- b. George K. Williams, DDS – Request for modification to a Board Order.

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE BOARD ORDER MODIFICATION AND ALLOW THE RETURN OF SCHEDULES III THROUGH V. (FOR – 9 / OPPOSED 1) MOTION CARRIES.

5. COMMITTEE REPORTS.

a. **Rules and Policy Committee Report.** Dr. Mason reported on the review and approval of amendments to Rules 101.7, 110.2, 115.1, 115.3, the Repeal of Chapter 113 and approval of New Chapter 113 which are covered in the Rules section of this report.

b. **Enforcement Committee Meeting Report.** Dr. Strunk reported that the Committee met to review and discuss statistics provided by the Enforcement and Legal Divisions for the Second Quarter of the fiscal year.

c. **Executive Committee Meeting Report.** Dr. McDonald reported that the Committee met to discuss the Temporary Suspension of Texas Dental License #14604.

5. OTHER REPORTS.

a. **Professional Recovery Network Report.** Ms. Holly Johnston, Director of PRN reported on the following projects:

Completed Projects

1. PRN Advisory Committee Meeting.
2. Regional Coordinator's Meeting.
3. PRN Spring Seminar
4. PRN Handbook
5. PRN Policies and Procedures
6. PRN Grievance Committee Policy and Procedure Manual
7. PRN Sponsor Project

Active Projects

1. Athena Software
2. PRN Regional Network
3. Participant Satisfaction Survey
4. Review of Mental Health Professionals (MHP's) and Treatment Centers
5. Student and Dental Professional Outreach

b. American Association of Dental Examiners (AADE) Report. Dr. Stubbs reported on the Mid-Year Meeting of AADE held March 20-21, 2006. The theme of this year's meeting was "International Accreditation – The Time is Now – Are We Ready?". Dr. Stubbs reported on the speakers and topics held during the three-day meeting which included:

Speakers and Topics (March 19)

Calibration of Specialty Boards, Educators and Examiners

Specialty Boards:

Pediatric, Periodontology, Oral & Maxillofacial Surgery, Oral &

Speakers and Topics (March 20)

Commission on Dental Accreditation (CODA)

American Dental Education Association (ADEA)

ADA Chief Counsel

Boards of Dentistry's International Activities, Utah, California, Florida

Canadian Experience With International Dentists

Consumer Perspective on International Accreditation

ADA Addresses Dental Societies' Reaction to International Accreditation

National Dental Examiners' Advisory Forum (March 21)

Trends in Candidate Performance

Comprehensive Part I National Board Dental Examination

c. Laser Ad-Hoc Committee Report. Mr. Houston reported that this committee met to discuss the issue raised by the Dental Hygiene Advisory Committee (DHAC) regarding the use of Diagnodent or other lasers by dental hygienists. She stated the committee reviewed its charge and after lengthy discussion voted to remove the second sentence of Rule 115.1(2) in response to DHAC's request.

The Presiding Officer called for a recess at 10:00 a.m. The meeting reconvened at 10:25a.m.

6. RULES.

- a. Discuss and Consider the Proposal of Amendments to Rule 101.7 – Retired License Status

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. MASON TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 101.7 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- b. Discuss and Consider the Proposal of Amendments to Rule 110.2 – Permit

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MS. PAULI TO APPROVE PROPOSED AMENDMENTS TO RULE 110.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- c. Discuss and Consider the Proposal of Amendments to Rule 115.1 – Definitions

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MS. MCKIBBEN TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 115.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 9 / OPPOSED – 1) MOTION CARRIES.

- d. Discuss and Consider the Proposal of Amendments to Rule 115.3 – Institutional Employment

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 115.3 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- e. Discuss and Consider the Proposal of Amendments to Rule 116.5 – Certified Dental Technician Required.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY DR. STUBBS TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 116.5 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- f. Discuss and Consider the Proposed Repeal of Chapter 113 – Requirements for Dental Offices

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. MASON TO APPROVE THE PROPOSED REPEAL OF CHAPTER 113 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- g. Discuss and Consider the Proposal of New Chapter 113 – Requirements for Dental Offices

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MS. MCKIBBEN TO APPROVE THE PROPOSAL OF AMENDMENTS TO NEW CHAPTER 113 AND DIRECT STAFF TO PUBLISH IN THE REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- h. Discuss and Consider the Proposal of Amendments to Rule 114.2 – Registration of Dental Assistants

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MR. WETHERBEE TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 114.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- i. Discuss and Consider the Proposal of Amendments to Rule 114.10 – Radiologic Procedure

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 114.10 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- j. Discuss and Consider the Proposal of Amendments to Rule 114.11 - Exemption

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. PAULI TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 114.11 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- k. Discuss and Consider the Final Adoption of Rule 114.20 – Radiologic Credential

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE FINAL ADOPTION OF RULE 114.20 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- l. Discuss and Consider the Final Adoption of Rule 114.21 – Requirements for Dental Assistant
Registration Courses and Examinations

A MOTION WAS MADE BY DR. MASON AND SECONDED BY DR. PURIFOY TO APPROVE THE FINAL ADOPTION OF RULE 114.21 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- m. Discuss and Consider the Final Adoption of Rule 114.22 – Dental Assistant Course Objectives

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STUBBS TO APPROVE THE FINAL ADOPTION OF RULE 114.22 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- n. Discuss and Consider the Final Adoption of Rule 114.23 – Dental Assistant Examination Integrity

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE THE FINAL ADOPTION OF RULE 114.23 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7. DIVISION REPORTS.

a. Licensing Division.

- (1) Discuss and Consider Approval of Parenteral Anesthesia Permit Applications.**

A MOTION WAS MADE BY DR. MCDONALD AND SECONDED BY DR. MASON TO APPROVE 13 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- (2) Report of Nitrous Oxide and Enteral Conscious Sedation Permit Applications.** Ms. Sanders reported on the Nitrous Oxide and Enteral Conscious Sedation Permit Applications.

- (3) Licensing Division Second Quarter Report.** Ms. Sanders reported on the Second Quarter statistics for the Licensing Division.

- b. Enforcement Division Second Quarter Report.** Ms. Jones presented the Enforcement Division Second Quarter Report for the Enforcement Division.

- c. Administration Division Report.** Ms. McPherson provided a report on the FY 2006 Second Quarter Budget and LBB Performance Reports.

The Presiding Officer called for a recess at 11:30 a.m. The Board resumed business at 11:40 a.m.

d. Legal Division Report.

- (1) Discuss and Consider Approval of State Office of Administrative Hearings (SOAH) Settlement Orders.**

01-343-0206DF; 02-180-1127DF; 03-268-0203; 03-723-0519; 03-765-0530; 03-952-0805; 04-035-0916; 04-566-0318; 04-637-0414; 04-841-0601; 04-932-0705; 05-0875-0328

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. STUBBS TO APPROVE THE SOAH SETTLEMENT ORDERS 01-343-0206DF; 02-180-1127DF; 03-268-0203; 03-723-0519; 03-765-0530; 03-952-0805; 04-035-0916; 04-566-0318; 04-637-0414; 04-841-0601; 04-932-0705; 05-0875-0328. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

06-0026-0912

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE SOAH SETTLEMENT ORDER 06-0026-0912. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

00-233-0120JR; 02-193-1129BA; 02-392-0214BA; 02-580-0426BA; 03-799-0613, 04-326-0102

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MR. WETHERBEE TO APPROVE SOAH SETTLEMENT ORDER 00-233-0120JR; 02-193-1129BA; 02-392-0214BA; 02-580-0426BA; 03-799-0613, 04-326-0102. (FOR – 10 / OPPOSED – 0) MOTION CARRIES

00-148-1214; 02-662-0604

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE SOAH SETTLEMENT ORDER 00-148-1214; 02-662-0604. (FOR – 10 / OPPOSED – 0) MOTION CARRIES

(2) **Proposals for Decision.** Mr. Houston reported that there are no Proposals for Decision.

(3) **Proposed Board Orders (PBOs).**

05-0928-0411

05-0454-0113; 05-1052-0516

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. MASON TO APPROVE THE PROPOSED BOARD ORDERS 05-0928-0411 AND 05-0454-0113; 05-1052-0516. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

(4) **Modifications to Board Orders.** Covered in Appearances.

(5) **Board Informal Settlement Conference (ISC) Settlement Orders.**

Mr. Houston read Settlement Order 04-1041-0805 from the December 1, 2005 Board ISC. Panelists: Dr. Strunk, Dr. Villarreal, and Mr. Garcia.

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. PAULI TO APPROVE SETTLEMENT ORDER 04-1041-0805 FROM THE DECEMBER 1, 2005 BOARD ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS - 1) MOTION CARRIES.

Mr. Houston read through the following Settlement Orders from the February 16-17, 2006 Board ISC. Panelists: Dr. Schlattman, Ms. Allen and Mr. Wetherbee.

05-0498-0113

05-1215-0720

04-746-0507, 05-0396-0112

05-0878-0329

05-0126-1012

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. STUBBS TO APPROVE THE SETTLEMENT ORDER FROM THE FEBRUARY 16-17, 2006 BOARD ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS - 2) MOTION CARRIES.

(6) Staff Informal Settlement Conference Settlement Orders. Mr. Houston reported that there are no Staff Informal Settlement Conference Orders.

(7) Legal Division Report. Mr. Houston presented the Legal Division Report and Second Quarter Report.

e. Report of Liaison to Legal Division for SOAH Resolution. No report was submitted.

9. EXECUTIVE DIRECTOR’S REPORT.

Dr. Zukowski reported that the agency received a favorable review from the State Office of Risk Management and that the Division Directors, Ms. Shoesmith and Mr. Prentice began the process of overhauling the SBDE website.

Dr. Zukowski stated that he attended the mid-year meeting of the AADE in Chicago on March 20-21, 2006. He also reported on the plans to participate in the pilot project being conducted by the Texas Online Authority on the new fingerprinting services being offered by a contract vendor with the Texas Department of Public Safety.

Dr. Zukowski stated his reported stating that he attended a work connectivity group sponsored by the Texas Department of State Health Services, Disaster Coordinating Council on April 5, 2006. The purpose of this group is to “connect efficiently and effectively those professionals associations and licensing agencies with actively updated databases to those who need volunteer resources in a public health emergency that exceeds local boundaries and resources.”

Dr. Zukowski closed his report stating that agency staff from the Licensing and Legal Divisions were invited to participate in a Webinar (webcast) presentation conducted by Council on Licensure, Enforcement and Regulation (CLEAR) on Fraudulent Credentials.

10. PRESIDING OFFICER’S REPORT.

Dr. McDonald reported on his attendance at the March 2006 AADE Meeting in Chicago. He further stated that he and Dr. Zukowski addressed the House Committee on Government Reform which is looking at consolidating agencies.

Dr. McDonald concluded his report stating that the Board and Agency will be looking at its budget and working the challenges of maintaining staff and conducting meetings.

11. EXECUTIVE SESSION. No session was conducted.

12. PUBLIC COMMENTS. No public comments were made.

13. ANNOUNCEMENTS. Dr. McDonald announced the following meetings:

- Dental Hygiene Advisory Committee – June 30, 2006
- Board Meeting – August 18, 2006
- Committee Meetings – August 17, 2006

14. ADJOURN. Dr. McDonald entertained a motion to convene the meeting.

A MOTION WAS MADE BY MS. MCKIBBEN AND SECONDED BY DR. PURIFOY TO ADJOURN THE MEETING AT 12:25 P.M. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

GARY W. MCDONALD, D.D.S
Presiding Officer
Texas State Board of Dental Examiners

GEORGE STRUNK, D.D.S.
Secretary
Texas State Board of Dental Examiners

Date: August 18, 2006

Date: August 18, 2006