



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES August 19, 2005

1. **CALL TO ORDER:** Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order on August 19, 2005. The time was 8:07 a.m.

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

a. Members Present:

Dr. Gary W. McDonald	Presiding Officer
Dr. Juan D. Villarreal	Secretary
Ms. Tammy Allen, RDH	Member
Mr. Oscar Garcia	Public Member
Dr. J. Kevin Irons	Member
Ms. Helen McKibben, RDH	Member
Dr. Martha Malik	Member
Dr. Norman Mason	Member
Ms. Phyllis Stine	Public Member
Dr. George Strunk	Member
Dr. Paul Stubbs	Member
Dr. Nathaniel Tippit	Member
Mr. Charles Wetherbee	Public Member

b. Members Absent:

Ms. Marti Morgan	Public Member	(Excused)
Ms. Amy Juba	Public Member	(Excused)

c. TSBDE Staff Present:

Ms. Sherri Sanders	Interim Executive Director
Mr. Fread Houston	General Counsel
Ms. Lisa Jones	Director of Enforcement
Mr. Lorenzo Nieto	Attorney
Mr. Felipe Alonzo	Attorney
Mr. Rob Hill	Attorney
Ms. Vicki Shoosmith	Executive Assistant

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. TIPPIT TO EXCUSE MS. MORGAN AND MS. JUBA FROM THE MEETING. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

Dr. McDonald presented Dr. Irons with an award in recognition of his outstanding service as Board Presiding Officer.

3. REVIEW AND APPROVAL OF PAST MINUTES.

a. Dr. Villarreal requested he be reflected as calling the roll in paragraph 2 of the Minutes.

b. Mr. Wetherbee requested the word "case" be added to paragraph 8b(6) paragraph 5; to now read "Rabinowitz case".

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE THE MINUTES FROM THE APRIL 29, 2005 MEETING. (FOR - 12 / OPPOSED - 0) MOTION CARRIES.

4. COMMITTEE REPORTS.

a. Enforcement Committee Report.

Dr. Villarreal reported that the Enforcement Committee met on August 18, 2005 at 1:00 p.m. Business included a unanimous vote to approve amendments to rules listed below and recommend to the Board approval and submission to the Texas Register.

Rule 101.8 – Persons with Criminal Backgrounds
Rule 108.7 – Minimum Standard of Care, General
Rule 108.8 – Records of the Dentist
Rule 108.9 – Dishonorable Conduct
Rule 107.103(d) – Dismissal of Complaints

Mr. Houston reported that amendments to Rule 108.8 that include new language on the cost of incidental items that are a part of the dental record, e.g., photographs and models, and establishing a minimum standard on the diagnostic quality of radiographs.

b. Licensing and Examination Committee Report.

Dr. Strunk reported that the Licensing and Examination Committee met on August 18, 2005 at 3:00 p.m. He reported that the Committee approved two requests for alternative continuing education.

The Committee discussed the impact of SB 610 and agreed that since a new registration process will be implemented, there will be no need to invest in the rewrite of the radiology exam under current consideration. The Committee approved amendments to rules listed below and recommend to the Board approval and submission to the Texas Register.

Rule 102.1 – Fee Schedule
Rule 108.11 – Display of Registration
Rule 114.1 – Permitted Duties
Rule 114.3 – Application of Pit and Fissure Sealants

5. OTHER REPORTS.

a. Enforcement Database Report.

Dr. McDonald reported that the new database has been completed and is due to roll-out on September 1, 2005 commensurate with the beginning of the new fiscal year and come in on-budget. The new system will run in parallel with the old system.

b. Professional Recovery Network (PRN) Report.

Ms. Holly Johnston began by introducing her colleague Ms. Bethany Weinstein, LMSW who has been with PRN since May 2005.

Ms. Johnston reported on her meeting with TSBDE Legal and Enforcement Staff in July to review policies and procedures and evaluate the program and current methods of communication. She stated that the PRN website is completed and running at this time.

Ms. Johnston stated that the PRN Advisory Committee has been restructured and will now include dental professionals. The percentage of advisory committee members is based on the percentage of pharmacy participants to dental participants. Currently there are 4 dental professionals who will serve. The PRN Handbook, Second Draft Policies and Procedures Guide and Participant Satisfaction Survey and review of treatment and mental health professional selection criteria will be submitted for review and approval at their next meeting.

Ms. Johnston reported that PRN began using Urine Ethyl Glucuronide (ETG) testing on August 15, 2005 on people who are known to have an alcohol problem. These individuals will be tested 30 percent of the time while those who are not known to have a alcohol problem will be tested 10 percent of the time.

Dr. McDonald asked for an outline of what ETG testing includes. Ms. Johnston responded that ETG Testing will detect alcohol in the system up to 80 hours prior to testing, where regular testing will only 10 hours prior. It also can differentiate the type of alcohol consumed.

Dr. McDonald stated that he has spoken to Dr. Strunk who agreed to serve as the point of contact to PRN and the Board and Ms. McKibben who has also agreed to serve in this capacity.

c. American Association of Dental Examiners (AADE) Report.

Dr. Stubbs reported that AADE will conduct its next meeting in October and will present a report to the Board at the October 2005 meeting.

d. Western Regional Examining Board (WREB) Report.

Dr. Stubbs yielded to Dr. Malik for more information regarding the WREB Report.

Dr. Malik reported that the American Board of Dental Examiners (ADEX) is an exam facilitated by AADE which is very similar to the North East Regional Board (NERB). She reported that this exam will be given regionally by NERB and Central Regional Dental Testing Service (CRDTS). The Southern Regional Testing Agency, Inc., (SRTA) has voted to continue with their exam for the 2006 season and WREB will continue with theirs.

Dr. Stubbs reported that in 2003, WREB examined 1,350 candidates, in 2005 the number jumped to 1,900 and it is estimated in 2006 as many as 2,500 candidates will be examined in 30 states. Dr. Stubbs recommends the Board withdraw its application from CRDTS.

Dr. McDonald called upon Ms. Sanders to provide comment. Ms. Sanders responded that administrative action has taken to receive a membership contact to complete and submit to CRDTS; however, as a result of the changes, formal application has been postponed awaiting the Board's decision.

A MOTION WAS MADE BY DR. MALIK, SECONDED BY DR. STUBBS TO NOT MAKE APPLICATION TO CRDTS.

DR. MCDONALD MADE A MOTION, SECONDED BY DR. TIPPIT, TO POSTPONE THE DISCUSSION INDEFINATELY IN AN EFFORT TO CONDUCT A THOROUGH REVIEW OF THE TOPIC.

Dr. Stubbs thanked Dr. McDonald for the opportunity to bring this topic before the Board for discussion.

Dr. McDonald stated that if the Board votes to withdraw its interest in membership with CRDTS that this does not mean it will not accept their results.

e. WREB Dental ERC Report. Dr. Malik reported the change in cost that the Dental Hygiene exam will change from \$640 to \$700 and the cost of the dental exam goes from \$1,175 to \$1,250. All of the WREB exams in 2005 were filled to capacity except at the University of Pittsburgh.

f. WREB ERC RDH Report. Ms. McKibben presented a report on the Minutes of the WREB Dental Hygiene Examination Review Committee of July 20, 2005.

6. ITEMS FOR GENERAL DISCUSSION.

Discuss and Consider Public Complaints Regarding the Accuracy of Information being Provided in Continuing Education Courses.

Ms. Allen stated her concerned that the Board has created a carte blanche continuing education course with the development of its jurisprudence rule.

She stated that she feels the original intent of that rule was to in some way allow an avenue for the licensees to stay abreast of the rules and regulations especially as we change rules every board meeting.

Dr. McDonald stated that the genesis of this entire question and action arose because a member of the Board felt that it would be in the best interest of the practicing dentist in the State of Texas to raise the level of awareness of the Rules and Regulations.

Dr. McDonald stated that the Board will continue to communicate rulemaking actions through the website as well as fliers and newsletters published by the Board.

7. RULES.

- a. Discuss and Consider the Proposal of Amendments to Rule 101.8 – Persons with Criminal Backgrounds.**

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE PROPOSED AMENDMENTS TO RULE 108.8 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

- b. Discuss and Consider the Proposal of Amendments to Rule 102.1 – Fee Schedule.**

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STUBBS TO APPROVE PROPOSED AMENDMENTS TO RULE 102.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

- c. Discuss and Consider the Proposal of Amendments to Rule 108.7 – Minimum Standard of Care, General.**

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. TIPPIT TO APPROVE PROPOSED AMENDMENTS TO RULE 108.7 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

d. Discuss and Consider the Proposal of Amendments to Rule 108.8 – Records of the Dentist.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. TIPPIT TO APPROVE PROPOSED AMENDMENTS TO RULE 108.8 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

e. Discuss and Consider Proposal of Amendments to Rule 108.9 – Dishonorable Conduct.

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. WETHERBEE TO APPROVE PROPOSED AMENDMENTS TO RULE 108.9 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

f. Discuss and Consider the Proposal of Amendments to Rule 108.11 – Display of Registration.

A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. MASON TO APPROVE PROPOSED AMENDMENTS TO RULE 108.11 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

g. Discuss and Consider the Proposal of Amendments to Rule 107.103 – Dismissal of Complaints.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. VILLARREAL TO APPROVE PROPOSED AMENDMENTS TO RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

h. Discuss and Consider the Proposal of Amendments to Rule 114.1 – Permitted Duties.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MR. GARCIA TO APPROVE PROPOSED AMENDMENTS TO RULE 114.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

i. Discuss and Consider the Proposal of Amendments to Rule 114.3 – Application of Pit and Fissure Sealants.

A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. STUBBS TO APPROVE PROPOSED AMENDMENTS TO RULE 114.3 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

j. Discuss and Consider the Adoption of the Repeal of Chapter 105 – Alternative Dental Hygiene Program.

A MOTION WAS MADE BY DR. MALIK AND SECONDED BY MS. ALLEN TO APPROVE PROPOSED AMENDMENTS TO RULE 114.3 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8. 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 45 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(2) Discuss and Consider Approval of Nitrous Oxide Permit Applications.

A MOTION WAS MADE BY DR. MCDONALD AND SECONDED BY DR. STRUNK TO APPROVE 180 NITROUS OXIDE PERMIT APPLICATIONS. (FOR – 12 /OPPOSED – 0) MOTION CARRIES.

(3) Discuss and Consider Approval of Enteral Conscious Sedation Permit Applications.

A MOTION WAS MADE BY DR. MCDONALD AND SECONDED BY DR. STUBBS TO APPROVE 116 ENTERAL CONSCIOUS SEDATION PERMIT APPLICATIONS. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

Dr. McDonald stated that conscious sedation and general anesthesia permits are reviewed by him on a personal, one-by-one basis. The Nitrous Oxide and Enteral Conscious Sedation permits are reviewed by Staff and the qualifications are ascertained. There is invariably a lag time for these permits to be granted until the Board votes. Dr. McDonald requested that Staff be allowed to review and issue, if qualifications are appropriate, provisional permitting until such time that the Board can ratify that at a Board Meeting. This works an undue hardship on those individuals who cannot gain these permits and begin to practice dentistry in the manner that they are trained to do.

A MOTION WAS MADE BY DR. MCDONALD AND SECONDED BY DR. STRUNK TO GRANTING PROVISIONAL APPROVAL AUTHORITY TO THE DIRECTOR OF LICENSING AND EXAMINATIONS, OR THEIR DESIGNEE, TO REVIEW AND ISSUE PERMIT FOR NITROUS OXIDE OXYGEN ANALGESIA AND/OR ENTERAL CONSCIOUS SEDATION. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(4) Licensing Division Second Quarter Report.

Ms. Sanders reported on the Third Quarter statistics for the Licensing Division.

b. Enforcement Division Report.

Ms. Jones presented the Enforcement Division Third Second Quarter Report covering the number of closed and dismissed cases and the Case Aging Report on on-going investigations.

c. Administration Division Report.

Ms. McPherson provided a report on the FY 2005 Budget and on LBB Performance Measures.

It was noted that Dr. Irons left the meeting at 11:17 a.m.

d. Legal Division Report.

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

Mr. Houston read through the Agreed Settlement Orders that came as a result of State Office of Administrative Hearings (SOAH) action.

SOAH No. 504-04-7743; SBDE No. 03-135-1016

SOAH No. 504-05-3236; SBDE No. 99-390-0430; 01-584-0529

SOAH No. 504-04-2728; SBDE No. 99-076-1016; 99-318-0329; 00-124-1112; 00-377-0410; 02-430-0304

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. STUBBS TO APPROVE THE SETTLEMENT ORDERS FROM SOAH ACTION. (FOR – 10 /OPPOSED – 0) MOTION CARRIES.

(2) Proposals for Decision.

Mr. Houston read through the Final Board Order on David DeYoung, DDS: SOAH Docket No. 504-05-3291; SBDE No. 01-595-0605ML; 02-088-1019CC: 04-986-0721.

Mr. Houston read through the Final Board Order on Jeffrey S. Houston, DDS; SOAH Docket No. 504-05-6915; SBDE No. 04-959-0713; 05-0153-1021; 05-0144-1018; 05-0245-1124.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO APPROVE THE PROPOSALS FOR DECISION REGARDING DAVID DEYOUNG, DDS, AND JEFFREY S. HOUSTON, DDS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

(3) Proposed Board Orders (PBOs).

Mr. Houston read through the Proposed Board Orders as follows:

05-0403-0112	05-0487-0113	04-216-1118
05-0555-0114	05-0466-0113	05-0456-0113
05-0393-0112	05-0537-0114	05-0461-0113
05-0527-0114	05-0563-0114	05-0543-0114
05-0542-0114	05-0559-0114	05-0437-0112
05-0492-0113	05-0402-0112	05-0448-0113
05-0447-0113	05-0391-0112	05-0557-0114
05-0544-0114	05-0546-0114	05-0079-0925
05-0274-1209	05-0100-0930	05-0172-1026
03-135-1016	05-0383-0112	04-937-0707
05-0404-0112	05-0488-0113	05-0551-0114
05-0535-0114	05-0444-0112	05-0473-0113
04-1069-0824	05-0523-0114	05-0435-0112
05-0467-0113		

02-411-0220; 03-0561-0324; 03-945-0730; 04-581-0322; 05-0147-1019

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. TIPPIT TO APPROVE THE PROPOSED BOARD ORDERS PRESENTED BEFORE THE BOARD REFLECTED ABOVE. (FOR – 7 / OPPOSED – 3 – ABSTENTIONS - 0) MOTION CARRIES.

(4) Board Informal Settlement Conference (ISC) Settlement Orders.

Mr. Hill read Settlement Order 01-184-1110 from the June 6, 2003 ISC, Panelists: Drs. Irons, Malik and Ms. Stine.

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MR. WETHERBEE TO APPROVE SETTLEMENT ORDER 01-184-1110 FROM THE JUNE 6, 2003 BOARD ISC. (FOR – 7 / OPPOSED – 0 / ABSTENTIONS - 3) MOTION CARRIES.

Mr. Hill read Settlement Order 02-688-0606 from the July 8, 2004 ISC, Panelists: Drs. Tippit, Stubbs and Ms. Juba.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. MASON TO APPROVE SETTLEMENT ORDER 02-688-0606 FROM THE JULY 8, 2004 BOARD ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 2) MOTION CARRIES.

Mr. Hill read the Settlement Orders from the **March 31-April 1, 2005** ISC. Panelists: Dr. McDonald, Ms. McKibben, and Mr. Wetherbee.

04-148-1029; 04-132-1023; 04-095-1007

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. MASON TO APPROVE SETTLEMENT ORDERS 04-148-1029; 04-132-1023; 04-095-1007 FROM THE MARCH 31-APRIL 1, 2005 BOARD SETTLEMENT CONFERENCE. (FOR – 7 / OPPOSED – 0 / ABSENTIONS – 3) MOTION CARRIES.

04-683-0422
03-437-0211

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MR. GARCIA TO APPROVE SETTLEMENT ORDERS 04-683-0422 AND 03-437-0211 FROM THE MARCH 31-APRIL 1, 2005 BOARD SETTLEMENT CONFERENCE. (FOR – 7 / OPPOSED – 0 / ABSTENTIONS – 3) MOTION CARRIES.

Mr. Hill read the Settlement Orders from the **June 9-10, 2005** ISC. Panelists: Dr. Strunk and Mr. Garcia.

03-499-0227
03-109-1004; 04-351-0112
03-782-0609; 04-852-0604
03-768-0603
03-1018-0829

A MOTION WAS MADE BY DR. MASON AND SECONDED BY DR. IRONS TO APPROVE SETTLEMENT ORDERS FROM THE JUNE 9-10, 2005 BOARD ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 2) MOTION CARRIES.

Mr. Hill read Settlement Order 04-691-0426 from the **July 21-22, 2005** ISC. Panelists: Dr. Stubbs and Mr. Wetherbee.

A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. MASON TO APPROVE SETTLEMENT ORDER 04-691-0426 FROM THE JULY 21-22, 2005 BOARD ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 2) MOTION CARRIES.

(5) Staff Informal Settlement Conference Settlement Orders.

Mr. Hill read Settlement Order 03-313-1231 from the **March 24, 2005** Staff ISC. Panelist: Dr. Stubbs

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO APPROVE SETTLEMENT ORDER 03-313-1231 FROM THE MARCH 24, 2005 STAFF ISC. (FOR – 8 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.

Mr. Hill read Settlement Orders from the **April 15, 2005** Staff ISC. Panelist: Dr. Malik

03-526-0307
03-196-1107
03-621-0414; 03-756-0529
03-1025-0829
03-056-0918; 03-521-0306; 04-877-0611

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDERS FROM THE APRIL 15, 2005 STAFF ISC. (FOR - 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.

Mr. Hill read Settlement Orders from the **June 24, 2005** Staff ISC. Panelist: Dr. Villarreal

03-429-0210; 04-207-1117
03-328-1202
04-113-1014

A MOTION WAS MADE BY DR. TIPPIT AND SECONDED BY DR. STRUNK TO APPROVE SETTLEMENT ORDERS FROM THE JUNE 24, 2005 STAFF ISC. (FOR – 9 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.

(6) Legal Division Report.

Mr. Houston presented the Legal Division Case Report and 3rd Quarter Report.

(7) Report of Liaison to Legal Division for SOAH Resolution.

Mr. Garcia reported on the dramatic drop in cases from a year go and lauded the Legal Division for taking steps to resolve cases.

9. INTERIM EXECUTIVE DIRECTOR'S REPORT.

Ms. Sanders provided a report on SB 610 passed during the 79th Legislative Session. She stated SB 610 as being a compilation of SB 610, SB 196 and SB 632 which includes sections requiring clinical exams for licensure, complaint expungement, charitable dentistry authority for retired dentists, SOAH Hearing Extensions, Pit and Fissure Courses and Radiology Requirements.

Ms. Sanders provided a copy of a report prepared by Ms. McPherson for the Legislative Budget Board that covers a fiscal size-up after the legislative session. Specifically, the report outlines the provisions of the legislative session and how the Board and Agency are affected by that, the competitive Rider attached to our appropriation, specific goals and funding and a table outlining turnover statistics.

Ms. Sanders reported that the Agency did receive three of our exceptional items requests, one of which was an increase in the Executive Director's salary, increased funding for the Health Professions Council and increase in Texas Online fees.

Ms. Sanders asked Dr. McDonald to call for a motion on increasing the Executive Director's salary.

Dr. McDonald stated that the 79th Legislature increased the salary of the Executive Director position by \$7,000, from \$63,000 to \$70,000. In order for the Executive Director to get this increase, the Board must comply with the provisions in Article IX, Section 3.05c, as follows:

- Must be approved by the governing Board in a public meeting;
- Submit a letter signed by the Presiding Officer to the Governor's Office, Legislative Budget Board and Comptroller's Office.

Dr. McDonald called for a motion.

A MOTION WAS MADE BY DR TIPPIT AND SECONDED BY MS. MCKIBBEN TO INCREASE THE SALARY OF THE EXECUTIVE DIRECTOR TO A NOT-TO-EXCEED LEVEL OF \$70,000 THAT IS INCLUDED IN THE APPROPRIATION BILL PATTERN OF SENATE BILL 1, 79TH LEGISLATIVE SESSION, REGULAR SESSION. THIS INCREASE IS EFFECTIVE BEGINNING SEPTEMBER 1, 2005. (FOR – 0 / OPPOSED – 0) MOTION CARRIES.

Ms. Sanders reported on the request for a formal legal opinion of the Attorney General regarding the effect of an Appropriations Rider on a State Agency's ability to make delegated purchases as authorized under general law. The Office of the Attorney General has responded in writing acknowledging receipt of our request and set a due date for an opinion of December 17, 2005.

Ms. Sanders stated that the State Auditor's Report has been finalized and will be released in the near future.

Ms. Sanders reported on the continuing effort to communicate information to licensees. A one-time, one-page newsletter directing licensees to the website for information will be sent out in late September, early October in conjunction with minor changes to the website.

Ms. Sanders reported that the Agency is interested in migrating to a paperless method of communicating Board Meeting mailings, with the support of the Board.

Ms. Sanders closed her report by stating that Ms. Shoesmith is working with General Services Commission staff to update the agency phone system in an effort to better serve consumers.

Dr. McDonald asked if there are any identifiable, recurring themes found in the exit interviews conducted with Staff?

Ms. Sanders responded that an online process has been established for State employees giving them the opportunity to address issues and/or complaints. Employees can remain anonymous if they wish. At this time only one response has been submitted and salary was cited as the reason for the departure.

10. PRESIDING OFFICER'S REPORT.

Dr. McDonald thanked the Staff for their outstanding job in keeping the agency running through this period of transition.

11. PUBLIC COMMENTS. No comments were made.

12. ANNOUNCEMENTS. Dr. McDonald announced that the next Board Meeting will be held on October 28, 2005 with Committee Meetings being held on October 27, 2005.

The Presiding Officer called for a recess at 12:18 p.m.

The Presiding Officer reconvened the meeting at 1:45 p.m.

Dr. Villarreal called the Roll. It was noted for the record that a quorum was present and Dr. Irons has left the meeting.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. TIPPIT TO EXCUSE DR. IRONS, MS. JUBA AND MS. MORGAN FROM THE MEETING. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

The Presiding Officer announced the meeting would be conducted in closed session, the time was 2:00 p.m.

13. EXECUTIVE SESSION.

The Board conducted a closed meeting to receive legal advice, discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific board employees pursuant to Sections 555.071 and 551.074, the Texas Open Meetings Act, codified as Chapter 551 of the Government Code.

The Presiding Officer reconvened the Open Meeting at 4:44 p.m.

Dr. McDonald announced that the position of Executive Director has been offered to James Zukowski, Ed.D., at an annual salary of \$65,000 beginning September 26, 2005.

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. TIPPIT TO EXTEND AN OFFER OF EMPLOYMENT AS EXECUTIVE DIRECTOR OF THE TSBDE TO JAMES ZUKOWSKI, ED.D., AT A SALARY OF \$65,000 PER YEAR BEGINNING SEPTEMBER 26, 2005. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

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

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MS. MCKIBBEN TO ADJOURN THE MEETING AT 4:47 P.M. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

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

Date: October 28, 2005

- SIGNED -

JUAN D. VILLARREAL, D.D.S.
Secretary
Texas State Board of Dental Examiners

Date: October 28, 2005