

**TEXAS STATE BOARD OF DENTAL EXAMINERS  
BOARD MEETING  
333 Guadalupe  
Tower 2, Conference Room 225  
Austin, Texas 78701  
March 21, 2003  
Convenes at 8:00 a.m.**

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**MINUTES**

**I. CALL TO ORDER**

Dr. Tippit called the meeting of the State Board of Dental Examiners to order at 8:14 a.m.

**II. ROLL CALL**

Dr. Irons called the roll.

**The following members were present:**

Ms. Allen, RDH	Dr. Plunk
Dr. Henry	Ms. Stine
Dr. Irons	Dr. Starr
Ms. Juba	Dr. Stubbs
Dr. Kennedy	Dr. Tippit
Mr. Lappin	Ms. Wilks
Dr. McDonald	Ms. Cornett, DHAC
Dr. Malik	
Ms. Morgan	

**The following member(s) were absent:**

Ms. Waugh	Dr. Villarreal
Mr. Garcia	

**The following SBDE staff was present:**

Mr. Schmidt	Ms. Hudson
Ms. Sanders	Ms. McPherson
Mr. Ablon	Mr. Houston
Ms. Chambers	

**Public Participants:**

Mr. Morgan, DLAT	Ms. Garcia, TDHA
Mr. Spradley, TDA	Mr. Box, DLCC
Mr. Bond, TDA	Mr. Bolton
Mr. Robinson, TDPAP	Mrs. Tippit
Ms. Grant, TDHA	

**III. REVIEW AND APPROVAL OF PAST MINUTES**

The Board reviewed the Minutes.

**A MOTION BY DR. STARR, SECONDED BY MR. LAPPIN TO APPROVE THE MINUTES OF JANUARY 17, 2003.**

**IV. APPEARANCES BEFORE THE BOARD**

- A. Dr. Henry, whose license was retired in September of 2000, license #10918, is requesting the Board reinstate his license. Ms. Sanders stated that Dr. Henry has submitted all appropriate continuing education for reinstatement of his license.

**MOTION BY DR. PLUNK, SECONDED BY DR. STUBBS, TO APPROVE REINSTATEMENT OF DR. HENRY'S REQUEST TO REINSTATE HIS RETIRED DENTAL LICENSE #10918 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- B. Ms. Virginia Jones, whose dental hygienist license was retired in October of 1996, is requesting the Board reinstate her license. Ms. Sanders stated that Ms. Jones has completed all CPR certification and all appropriate documentation. She is currently enrolled at TWU and she meets all requirements to reinstate her license.

**MOTION BY DR. KENNEDY, SECONDED BY MS. WILKS, TO APPROVE REINSTATEMENT OF MS. JONES' RETIRED DENTAL HYGIENE LICENSE #3663 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- C. Ms. Sanders briefed the Board on Dr. James Kelley, Jr., whose dental license was retired in February 2001. Ms. Sanders stated that Dr. Kelley has submitted all appropriate papers to reinstate his license and is respectfully requesting the Board reinstate his license #9512. Dr. Kelley will not be here today.

**MOTION BY STUBBS, SECONDED BY MR. LAPPIN, TO APPROVE REINSTATEMENT OF DR. JAMES KELLEY, JR.S' RETIRED LICENSE #9512 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- D. Ms. Sanders briefed the Board on Dr. Dennis L. Lindsey. Ms. Sanders stated that Dr. Lindsey retired his license last November 2002. He has completed all necessary courses, and has paid all necessary fees for reinstatement of license #5505. Dr. Lindsey will not be here today.

**MOTION BY DR. MCDONALD, SECONDED BY MS. WILKES, TO APPROVE REINSTATEMENT OF DR. LINDSEY'S DENTAL LICENSE #5505 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- E. Ms. Sanders briefed the Board on Ms. Julia Nichols, RDH License #7587. Ms. Sanders stated that Ms. Nichols retired her license in June 2001. She has submitted appropriate continuing education, CPR and fees for reinstatement of her license. Ms. Nichols will not be here today.

**MOTION BY MS. WILKES, SECONDED BY MS. ALLEN TO APPROVE REINSTATEMENT OF MS. NICHOLS' DENTAL HYGIENE LICENSE #7587 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- F. Ms. Sanders briefed the Board on Dr. John Park, retired dental license #6293. Ms. Sanders stated that Dr. Park retired his dental license in February 2002. He has submitted appropriate continuing education, CPR and fees for reinstatement of his license. In addition, he is asking for reinstatement of his anesthesia permits, which were awarded to him in 1992. Dr. Park will not be here today.

**MOTION BY DR. STUBBS, SECONDED BY MS. WILKES, TO APPROVE REINSTATEMENT OF DR. PARKS' DENTAL LICENSE #6293 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

Dr. McDonald asked Ms. Sanders if Dr. Park's anesthesia training had met the present standards to obtain his license.

Ms. Sanders stated that Dr. Park's had completed 60 hours of didactic, and 20 clinical cases; in addition, he submitted certification necessary by a practitioner currently at ACLS in January 2001.

Dr. McDonald said he had no objections, but wanted to state for the record that this was irregular in that anesthesia permits are under the agenda item of anesthesia permits.

Ms. Sanders stated that dentists are instructed that if a they held permits in the past and those permits were awarded by the Board, and it was requested during reinstatement they wanted those permits back, we could validate those certifications, and the dentist could then be reinstated. If the Board wants to go through the anesthesia permit process, we can do that. It's a rare occasion that we have this circumstance.

Dr. Tippit asked Dr. McDonald if he had any objections to this.

Dr. McDonald stated that his remark stands.

Dr. Tippit stated that this was an issue of protocol. If this would be clarified in the next few weeks via a letter to him, this protocol would be followed in the future.

**SECOND MOTION BY MR. LAPPIN, SECONDED BY DR. STARR, TO APPROVE REINSTATEMENT OF DR. PARKS' ANESTHESIA PERMIT (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- G. Ms. Sanders briefed the Board on Ms. Martha Price, RDH, and her retired dental hygiene license #8754. Ms. Sanders stated that Ms. Price retired her dental hygiene license in November of 1999. She has completed the appropriate continuing education, has a recommendation and a job opportunity, and has submitted all fees for reinstatement of her license. Ms. Price was present.

**MOTION BY MS. WILKES, SECONDED BY MS. ALLEN, TO APPROVE REINSTATEMENT OF MS. MARTHA PRICE'S DENTAL HYGIENE LICENSE #8754 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- H. Ms. Sanders briefed the Board on Ms. Raquel Lozano Salazar, RDH, and her retired dental hygiene license #8057. Ms. Sanders stated that Ms. Salazar retired her dental hygiene license in October of 1999. She has completed the appropriate continuing education, is currently employed as a dental assistant, and has submitted all fees for reinstatement of her dental hygiene license. Ms. Salazar was not present.

**MOTION BY MS. ALLEN, SECONDED BY DR. MALIK, TO APPROVE REINSTATEMENT OF MS. RAQUEL SALAZAR'S DENTAL HYGIENE LICENSE #8057 (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- I. Ms. Sanders briefed the Board on Ms. Jennifer Sline, RDH, and her retired dental hygiene license #8673. Ms. Sanders stated that Ms. Sline retired her dental hygiene

license in March of 1999. She has completed the appropriate continuing education, CPR, and has requested reinstatement of her dental hygiene license. Ms. Sline was not present.

**MOTION BY MR. LAPPIN, SECONDED BY MS. WILKES, TO APPROVE REINSTATEMENT OF MS. JENNIFER SLINE'S DENTAL HYGIENE LICENSE #8673  
(FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- J. Ms. Sanders briefed the Board on Ms. Kimbrelly E. Griffin Watt, RDH, and her retired dental hygiene license #4270. Ms. Sanders stated that Ms. Watt retired her dental hygiene license in February 1999. She has completed the appropriate continuing education, CPR, and has requested reinstatement of her dental hygiene license. Ms. Watt was not present.

**MOTION BY MS. ALLEN, SECONDED BY MS. WILKES, TO APPROVE REINSTATEMENT OF MS. KIMBRELLY WATT'S DENTAL HYGIENE LICENSE #4270  
(FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- K. Ms. Sanders briefed the Board on Ms. Marilyn Roberts Nonaka, RDH, and her retired dental hygiene license #2792. Ms. Sanders stated that Ms. Nonaka retired her dental hygiene license in August 1992. She has completed the appropriate continuing education, CPR, and has requested reinstatement of her dental hygiene license. Ms. Nonaka was not present.

**MOTION BY MS. WILKES, SECONDED BY MS. ALLEN, TO APPROVE REINSTATEMENT OF MS. MARILYN NONAKA'S DENTAL HYGIENE LICENSE #2792  
(FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- L. Dr. Tippit introduced Dr. Al D. Lowe who has requested approval from the Board to take the clinical examination for licensure in accordance with SBDE Rule #101.1.

Dr. Tippit called on Mr. Fread Houston, SBDE General Counsel, to update the Board regarding Dr. Lowe's history with the Board.

Mr. Houston presented the Board with the following findings:

Dr. Lowe received an agreed settlement order on March 8, 1996 to address multiple findings of negligence. From these findings, Dr. Lowe's license was put on probation for five years, with six days of down time, a \$5,000.00 fine, 50 hours of continuing education and a jurisprudence exam.

However, Dr. Lowe continued to practice and did not comply with the downtime as ordered. A second order was entered into with Dr. Lowe on July 12, 1996. This order expanded Dr. Lowe's downtime to 120 days and required him to report to the Board regarding his office activities on a weekly basis. Dr. Lowe also failed to comply with the second order.

At the Board meeting held on January 15, 1999, the Board accepted the surrender of Dr. Lowe's license. The Board also found that Dr. Lowe failed to submit his weekly reports during the Board-ordered downtime; failed to pay the monetary fine; to complete the CE requirements; and to take and pass the jurisprudence exam. It was also discovered, Dr. Lowe prescribed dangerous narcotic substances 86 times during his 90 days of downtime.

On or about August 13, 1999, Dr. Lowe pleaded guilty to the charge of practicing dentistry without a license; however, those charges were dismissed.

Based on this evidence, staff does not recommend supporting Dr. Lowe's request for reinstatement of his license.

- Dr. Tippit asked Dr. Lowe if he would like to address the Board.
- Dr. Lowe stated the reason he was unable to meet the Board's requirements during that period of time was due to the fact that he was the sole caretaker for his invalid wife.
- Dr. Starr asked whether or not there was any chemical impairment.
- Dr. Lowe replied there was none.
- Dr. Starr asked what the reasoning was for the narcotics that were dispensed to his patients?
- Dr. Lowe stated he dispensed those drugs during his downtime because he had to work.
- Dr. Starr questioned the fact that he dispensed 86 prescriptions during his 90 days of downtime.
- Dr. Lowe stated that was correct.
- Dr. Tippit asked Dr. Lowe if he disputed any of the legal department's findings?
- Dr. Lowe stated the only dispute he had was for the weekly reports. He said he had the decision to take care of his family or submit the weekly reports.
- Dr. Kennedy asked Dr. Lowe why he thought the Board should comply with his wishes when he had total disregard for the authority of this Board?
- Dr. Lowe said he made the decision to take care of his family first, which meant not complying with the Board's orders. He said his situation is very different now and he is humbling himself in front of the Board to do whatever it takes to get his license reinstated.
- Dr. Malik asked Dr. Lowe what has been his means of support?
- Dr. Lowe said his parents helped for a while, and he now has a business.
- Mr. Lappin asked if there were any other Board orders or complaints of record?
- Mr. Houston said there were only the three Board orders.
- Dr. Starr stated that if the Board agreed to approve Dr. Lowe's request, the Board would, in effect, be allowing someone to get around a Board order. He said he would not be in favor of that.
- Ms. Wilkes asked Dr. Lowe if he has ever had a problem with drugs or alcohol in the past.
- Dr. Lowe stated that he has not.
- Dr. Malik questioned his dishonesty that was noted in the Settlement Conference.
- Dr. Lowe stated that at that time he did not have good enough records to be totally truthful to the Board.
- Dr. Tippit asked Mr. Ablon if he had anything to add.
- Mr. Ablon stated that in 2001 Dr. Lowe was indicted for practicing dentistry without a license and is, at this time, awaiting trial on those charges.
- Dr. Lowe stated that he had bowed to a former patient to see them at his home.
- Dr. Irons asked Dr. Lowe to define "see them".
- Dr. Lowe stated that the patient wanted to be treated in a non-invasive manner.
- Dr. Irons asked him to please clarify that.
- Dr. Tippit asked if that was for a veneer case.
- Dr. Lowe said yes, this was the only patient he saw in his home at that time.

**MOTION BY DR. STARR, SECONDED BY DR. MALIK, TO DENY DR. LOWE'S REQUEST TO TAKE THE CLINICAL EXAMINATION FOR LICENSURE IN ACCORDANCE WITH SBDE RULE 101.1**

**(FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- Dr. Lowe asked the Board what he could do to acquire a positive result from the Board?
- Mr. Houston responded by telling Dr. Lowe that he needed to return at a later time and make another request to take the clinical examination and explain to the Board how he has improved his situation.
- Dr. Tippit thanked Dr. Lowe for coming.

Dr. Tippit asked Dr. McDonald to present his enteral anesthesia permit applications.

**V. LICENSING/EXAMINATION DIVISION REPORT**

Dr. McDonald presented the following:

- A. Dr. McDonald presented the Board with nine parenteral anesthesia permits he had reviewed and found to be in compliance with the Board’s rules. Dr. McDonald submitted their names for the issuance of a permit.

**MOTION BY DR. MCDONALD, SECONDED BY DR. PLUNK TO APPROVE NINE (9) ENTERAL SEDATION PERMITS AS PRESENTED (FOR – 15 – OPPOSED- 0) – MOTION CARRIES**

- B. Dr. McDonald presented the Board with thirty-two nitrous oxide permits he had reviewed and found to be in compliance with the Board’s rules. Dr. McDonald submitted their names for the issuance of permits.

Dr. Plunk questioned the Neeley nitrous permit, stating that this person had applied for the enteral conscious sedation permit under a different name “Steger-Neeley”, but with the same license number.

Ms. Sanders responded by saying that it is the same person.

**MOTION BY DR. MCDONALD, SECONDED BY PLUNK TO APPROVE THIRTY-TWO (35) NITROUS OXIDE PERMIT APPLICATIONS AS PRESENTED (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

Dr. McDonald requested to amend his motion by striking the name of Steger-Neeley due to the fact that Dr. Neeley has already applied under the name Neeley and already has a nitrous permit under that name. He asked that her name be stricken from the list.

**MOTION BY DR. MCDONALD, SECONDED BY PLUNK TO APPROVE THIRTY-TWO (32) NITROUS OXIDE PERMIT APPLICATIONS AS PRESENTED (FOR – 15 – OPPOSED – 0) – MOTION CARRIES**

- C. Dr. McDonald presented the Board with one hundred six names of individuals applying for enteral conscious sedation permits that he has reviewed and found to be in compliance with the Board’s rules. Dr. McDonald submitted their names for the issuance of permits.

**MOTION BY DR. MCDONALD, SECONDED BY MS. WILKES TO APPROVE ONE HUNDRED SIX (106) ENTERAL CONSCIOUS SEDATION PERMIT APPLICATIONS AS PRESENTED (FOR – 15– OPPOSED – 0) – MOTION CARRIES**

Dr. Tippit announced there was no Licensing Committee meeting.

## VI. LEGISLATIVE COMMITTEE REPORT

Ms. Juba highlighted SB263 for the Board. She said the Legislation would approve the Dental Board until the year 2015; however, there is a reduction with regard to the board members.

She went on to identify other legislative issues. The Board will elect the secretary; however, the Governor will appoint the president, and the title of president will be changed to presiding officer, and all Board members must attend training before they become official.

Section 8, Chapter 254 under 254.011, discusses the issue of coordinated efforts between SBDE and DHS related to Medicaid fraud.

Section 254.013 – student loan reimbursement. A dentist or dental hygienist who works in a rural setting after graduation may receive a monetary reimbursement from their student loan.

Notification of investigation refers to the fact that a Board employee may dismiss a complaint or expunge a record; however, in order to do so the employee must first consult a dentist Board member.

Section 13 refers to who may obtain a dental or dental hygienist license and how many years of practice they have had before they become credentialed in the state of Texas.

Section 18, Subchapter C – Authority of an Advisory Committee to recommend adoption of rules to the Board. If the dental hygiene committee recommends a change to a rule and the Board does not vote on that rule within 90 days, it is automatically adopted with the recommendation.

Informal Settlement Conference procedures: Enables a panel of Board employees to conduct a conference and to institute restitution to a patient, which may increase SBDE's caseload.

Section 265.005 states that a dental assistant who wants to take x-rays must first become certified. This is on an annual basis. There will be a \$12,000 fiscal impact to the SBDE licensing division.

Additionally, the legislature would like to institute a new category of licensing. The faculty members of a dental or dental hygiene school who have direct patient contact must obtain a license from SBDE.

Section 28 describes how the Board must accomplish a reduction of members from 18 to 15. The legislature has suggested that one of the dentists whose term expires in 2005 (Dr. Starr, Dr. Malik, Dr. Tippit and Dr. Irons); one dentist whose term expires in 2007 (Dr. Villarreal, Dr. McDonald or Dr. Stubbs), and in 2009, one public member.

SB1 is not finalized – there is a House version and a Senate version that will go to a conference committee. Dr. Tippit and Mr. Schmidt have been testifying in front of the Senate and the House. That bill will be drafted at a later time.

HB 875(b) refers to peace officers commissioned by the SBDE. It states that an employee/peace officer may not carry a firearm or make an arrest. However, Mr. Ablon stated there is a substitute bill being written that would change that and give the employee/peace officer the ability to carry a firearm and make an arrest.

The exceptional items to the Appropriation request report include a staff dentist, an enforcement database, two Investigator II's, an Attorney II, a legal assistant and Texas Online subscription fees.

Ms. Juba announced that Dr. McDonald is tracking SB263, Ms. Allen HB1, and Dr. Stubbs is tracking HB875.

Ms. Stine, Dr. McDonald and Dr. Tippit commended Ms. Juba on her presentation of the legislative issues.

## **VII. ENFORCEMENT COMMITTEE REPORT**

Dr. Irons presented the Board with the primary discussion held at the Enforcement Committee meeting on March 19, 2003.

The meeting began with a discussion on the modification of letters regarding investigations. Mr. Ablon, first getting approval from the legal division, composed a letter that states noncompliance with the SBDE request for records could incur a \$5,000.00 a day penalty. There has been very positive feedback.

The second modification refers to second opinion letters. The initial letter has been modified to be more precise.

The discussion then went to Rule #107.102. Dr. Irons recommended to the Board that Rule 107.102 be modified. This rule relates to the dismissal of cases and SB263. If we put this rule in compliance with the pending legislation, a Board member would have to consult with a dentist before a case can be dismissed.

Ms. Allen voiced her concern that this would eliminate any public or dental hygienist from reviewing dismissed cases. If SB263 passes, the way it's written now, it will supercede this rule change.

Mr. Ablon responded by saying that the rule, as it is written, is more restrictive than the law.

Dr. McDonald had concerns regarding the way the rule reads now, enforcement can send a case to SOAH without any input from legal.

Mr. Ablon commented that the procedures that are in place now, all cases must go through legal before they go to SOAH.

Dr. Kennedy voiced concern regarding compliance with Board Orders. Because of the budget cutbacks, there won't be as many settlement conferences as have been in the past. One suggestion is to have a Board order for minor infractions. This would give the respondent the opportunity to look at what the Board has found, accept the punishment, and sign a board order stating he/she complies with the Board's findings. However, if the respondent disagrees, he/she would have the opportunity to go to the full settlement conference.

Dr. McDonald suggested that the Board make some sort of public relations campaign through the Texas Dental Journal, or other avenue of exposure, for those dentists who don't quite understand the settlement conference process and to explain how it works and what it means.

Dr. Irons agreed and said the Enforcement Division is working on some of these issues and will inform the Board of their progress. With that, Dr. Irons concluded his report.

**DR. TIPPIT CALLED FOR A RECESS 10:00 A.M.**

**THE BOARD RETURNED FROM RECESS AT APPROXIMATELY 10:20 A.M.**

## **VIII. DENTAL HYGIENE ADVISORY COMMITTEE REPORT**

Dr. Tippit called upon Ms. Cornett to report her findings from the Dental Hygiene Advisory Committee meeting.

Ms. Cornett addressed the Board regarding DHAC's committee meeting from Friday, February 28, 2003.

Ms. Cornett reported on the committee's interest in proposed rule changes made to Rule 108.10, regarding the reinstatement of a dental hygiene license. The committee reviewed the rule change and unanimously supports the amendment.

Ms. Cornett went on to say that Mr. Bobby Schmidt, Executive Director of SBDE, briefed the committee regarding legislative issues pertinent to dental hygiene.

Ms. Cornett informed the Board of Dr. Tippit's request to DHAC regarding a rotation system for the purpose of refreshing the dental hygiene examiner pool for WREB. The following motion was proposed and carried. DHAC recommends that DHAC submit to SBDE one new hygiene examiner per examination cycle.

Based on requests, the DHAC discussed systems of in-office bleaching, particularly those that use lasers and high intensity lights for process acceleration. The following amendment to Chapter 115 is proposed to the Board: Under Rule 115.01 Definitions. An act that is irreversible is not capable of being reversed or corrected. DHAC recommends that the Board strike the sentence that begins with "This term includes but is not limited to the result of intraoral use of any laser." The justification for striking that sentence is the statement within this definition that creates a barrier to providing care; thus, it becomes an access-to-care issue.

Both common side effects of professionally applied bleaching agents, short-term tooth sensitivity and gingival irritation are reversible. Identifying one of the available technologies by rule is too prescriptive and does not allow for effective and appropriate use for technology.

Mr. Schmidt briefed the committee on the financial status of the Board and the decisions made to comply with the Governor's revenue reduction directive. It was determined if another meeting by the Advisory Committee was warranted, funds would be made available to support that.

Dr. Tippit charged Dr. Malik and the Licensing Committee with evaluating the request pertaining to bleaching agents and lasers used by hygienists. They are to give a full recommendation to the Board at the June 20, 2003 meeting.

Dr. Tippit briefed the Board regarding the issue of DHAC's consideration of a rotation system to refresh the dental hygiene examiners pool with WREB. He would like to see a 10% turnover.

Dr. Tippit charged DHAC with the task of selecting a new candidate per annum and removing a candidate per annum per Board approval.

Dr. Plunk stated that WREB is very sensitive to SBDE's requests for candidates, but WREB is in a better position to know who should be removed from the examiners pool.

Dr. Tippit requested DHAC provide him with a list of ten names, a new one to add to the WREB pool of examiners, and another one to go off the WREB list of examiners, for the Board's approval at the next Board meeting, June 20, 2003.

Dr. Tippit stated that by Executive Appointment he would like Tammy Allen to attend the WREB meeting in July 2003.

## **IX. RULES**

Dr. Tippit called upon Mr. Ablon to present Rule #107.102, Procedures in Conduct of Investigation.

Mr. Ablon stated the first change to this rule was to satisfy the Sunset recommendations. And in trying to streamline the process of moving cases forward to the legal division, the enforcement committee felt it was necessary to make additional changes.

The proposed changes to Rule #107.102 are being made to sections (d), (e), (f) and (g).

In sections (d) and (e), the word “undercover” is being deleted in order to make it clear that all investigative cases will be reviewed, not just undercover cases.

The changes in sections (f) and (g) are being proposed in order to make the process more efficient and reduce the amount of staff resources required to complete an investigation.

**MOTION BY DR. STARR, SECONDED BY MR. LAPPIN TO ADOPT THE ORDER TO PUBLISH THE PROPOSED RULE #107.102  
(FOR – 15 – OPPOSED – 0) - MOTION CARRIES**

**SECOND MOTION BY DR. IRONS, SECONDED BY DR. MCDONALD, TO GIVE THE SBDE STAFF THE AUTHORITY TO MAKE NON-SUBSTANTIVE CHANGES  
(FOR – 15 – OPPOSED – 0) - MOTION CARRIES**

Discuss and consider the final adoption of the amendment to Rule 108.10, Reinstatement of Retired License.

Mr. Houston presented to the Board, consideration and final adoption of Rule 108.10. The rule sets out detailed requirements for dentists and dental hygienists who wish to reinstate their retired licenses and further addresses the issue of licensees and proposed licensees coming from other states.

The rule ensures compliance with all applicable provisions of the DEA and the rules and regulations of the Board by non-Texas applicants. It also addresses the issue of retirees.

**MOTION BY DR. STARR, SECONDED BY DR. PLUNK, TO ADOPT RULE 108.10 AND THE ORDER ADOPTING THE RULE  
(FOR – 15 – OPPOSED – 0) - MOTION CARRIES**

**SECOND MOTION BY DR. MCDONALD, SECONDED BY DR. KENNEDY, TO MAKE NON-SUBSTANTIVE CHANGES TO RULE 108.10  
(FOR – 15 – OPPOSED – 0) - MOTION CARRIES**

**THIRD MOTION BY MR. LAPPIN, SECONDED BY DR. STUBBS, TO DELEGATE AUTHORITY TO SBDE STAFF TO APPROVE AND PROCESS REQUESTS FOR REINSTATEMENT OF RETIRED LICENSES AS IN ACCORDANCE WITH RULE 108.10  
(FOR – 15 – OPPOSED – 0) - MOTION CARRIES**

## **X. LICENSING EXAMINATION DIVISION REPORT**

Dr. Tippit called on Ms. Sanders, Director of Licensing, to report her statistical findings to the Board for the Second Quarter, 2003.

Dr. Plunk asked Ms. Sanders how the on-line registration was going.

Ms. Sanders reported that the on-line registration is going quite well. There has been a steady increase in the numbers. No significant problems.

Ms. Sanders announced to the Board that the team from Prometric will be visiting her and Mr. Schmidt on a quarterly basis. They will be sharing any new developments and discussing any problems that SBDE staff might have.

She stated that Prometric has been apprised of the demographics for the state of Texas and that some clients cannot get to the on-line registration to take the examination. They will be visiting again soon to discuss potential sites to be added.

## **XI. ENFORCEMENT COMMITTEE REPORT**

Dr. Tippit then called on Mr. Ablon, Director of Enforcement, to report his findings on the Enforcement Division's Second Quarter Report.

Mr. Ablon reported the following:

Complaints Received	258
Non-Jurisdictional	43
Jurisdictional	215
Investigations Completed	307
Cases to Legal for S/C	148
Cases to Legal for PEC	19
Cases to Legal for SOAH	9
Emergency Suspension	-0-
A/G action	5
Reviewed by Task Force	65

Mr. Ablon reminded the Board of his commitment at the January 2003, Board meeting to clean up all the old cases. Due to the efforts of the enforcement division staff, as of February 28, 2003, there are no cases older than FY '02 currently under investigation.

Dr. Tippit commended Ben on his accomplishments.

**DR. TIPPIT CALLED FOR A LUNCH BREAK AT 11:40 P.M.**

**DR. TIPPIT CALLED THE BOARD MEETING TO ORDER AT 12:35 P.M.**

Dr. Irons called roll.

### **The following members were present:**

Ms. Allen, RDH	Dr. Plunk
Dr. Henry	Ms. Stine
Dr. Irons	Dr. Starr
Ms. Juba	Dr. Stubbs
Dr. Kennedy	Dr. Tippit

Mr. Lappin                      Ms. Wilks  
Dr. McDonald                Ms. Cornett, DHAC  
Dr. Malik  
Ms. Morgan

**The following member(s) were absent:**

Ms. Waugh                      Dr. Villarreal  
Mr. Garcia

**The following SBDE staff was present:**

Mr. Schmidt                      Ms. Hudson  
Ms. Sanders                      Ms. McPherson  
Mr. Ablon                         Mr. Houston  
Ms. Chambers

**XII. ADMINISTRATION DIVISION REPORT**

Ms. McPherson, Director of Administration, presented the Budget Review Report for the period ending February 28, 2003.

Ms. McPherson stated that on February 23, 2003, the Governor's office had requested a 7% reduction in expenditures. SBDE has complied with the Governor's request.

Mr. Schmidt commended Ms. McPherson on her accomplishments in meeting the Governor's request.

Ms. McPherson presented the LBB 1<sup>st</sup> Quarter Report for FY 2003.

Complaints resolved	102
PEC Participants	54
Licenses Issued	132
Licenses Renewed	5,468

Complaint resolution time has dropped approximately 36%.

Average Cost for an individual license is \$8.35

Average Cost for Dental Labs is \$8.35; both of these fees are within our target.

Ms. McPherson told the Board that SBDE must also modify the Peer Assistance Group's (TDPAP) budget in order to meet the Governor's request. The approval to modify transferring of funds to the TDPAP in the amount of \$72,469 will be reduced to \$60,212.

Mr. Lappin, because he originated the January motion, recused himself regarding the transferring of funds from TDPAP.

**A MOTION BY DR. STARR, SECONDED BY PLUNK, TO MODIFY THE APPROVAL MADE ON JANUARY 17, 2003 OF TRANSFERRING FUNDS FROM THE PEER ASSISTANCE PROGRAM (TDPAP) FROM \$72,469 TO \$60,212 (FOR – 14 – OPPOSED- 0-RECUSED-1) - MOTION CARRIES**

Dr. Starr posed the question to the Board: If the Peer Assistance Program is not refunded, can the Board order respondents to another drug rehab and leave the cost of rehabilitation up to the respondent?

Mr. Houston responded by saying that we can enter into independent agreements with rehabilitation centers in the State of Texas. If a respondent voluntarily enters into a rehab facility,

the Board can request that that rehab facility monitor the respondent and report their findings to the Board, and the respondent is responsible for the cost of treatment.

### **XIII. LEGAL DIVISION REPORT**

Mr. Houston presented his report. The Board reviewed each Agreed Settlement Order prior to taking a vote.

A. Discuss and consider approval of Agreed Settlement Orders

1. #01-234-1208

**A MOTION BY DR. KENNEDY, SECONDED BY MR. LAPPIN, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

2. #01-403-0302RY

**A MOTION BY DR. STARR, SECONDED BY MS. ALLEN, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

3. #504-03-0519-SOAH  
#97-104-0913-SBDE  
#97-504-0321  
#97-625-0522  
#97-787-0827

**A MOTION BY DR. KENNEDY, SECONDED BY DR. STARR, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 15– OPPOSED- 0 – RECUSED – 0) - MOTION CARRIES**

4. #01-236-1208

**A MOTION BY DR. KENNEDY, SECONDED BY DR. HENRY, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

5. #01-524-0430DI  
#01-679-0720DI

**A MOTION BY DR. KENNEDY, SECONDED BY MR. LAPPIN, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 15– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

6. #01-695-0727

**A MOTION BY DR. STUBBS, SECONDED BY MR. LAPPIN TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

7. #504-03-1445 PFD

**A MOTION BY DR. KENNDEY, SECONDED BY DR. PLUNK, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

8. #01-354-0213

**A MOTION BY MS. WILKES, SECONDED BY MR. LAPPIN, TO APPROVE THE ORDER AS PRESENTED  
(FOR – 12– OPPOSED- 0 – RECUSED – 3) - MOTION CARRIES**

B. Discuss and consider approval of Dismissal Letters

1. #01-693-0727BA
2. #01-298-0119DI
3. #01-326-0131DF
4. #01-588-0530BA
5. #02-434-0304DI
6. #98-646-0824SC
7. #00-554-0526DI
8. #00-500-0628ML
9. #02-864-0820FJ
10. #01-414-0308DI
11. #00-500-0628ML
12. #02-864-0820FJ
13. #01-414-0308DI

**A MOTION BY MS. WILKES, SECONDED BY DR. STUBBS, TO APPROVE THE DISMISSALS AS PRESENTED  
(FOR – 15– OPPOSED- 0 – RECUSED – 0) - MOTION CARRIES**

Mr. Houston discussed the Informal Settlement Conference held February 13, 14 & 15, 2003. There were twenty-seven investigative files dealing with twenty-three respondents. March 20, 2003, we held a mini Settlement Conference; five investigative files were heard from five respondents; eighteen board orders were proposed; ten recommended dismissals. One file was referred to SOAH; three are currently in hearing status at SOAH. We heard a contested case on February 11, 2003, and one on March 10, 2003; we are awaiting a proposal for decision on both.

A show-cause hearing to sustain a temporary suspension by the Board was scheduled for March 17, 2003. The case was cancelled due to respondent's decision not to contest the Board's Order. Therefore, the temporary suspension will remain in effect until the final hearing on the merits. Nine cases were closed by the action of the Board today; four were settled by the agreed settlement order approved by the Board, and five were settled by final board order. There are two proposals for decision that have been issued at SOAH since the last Board meeting. We will hold an informal Settlement Conference on April 10<sup>th</sup> through 12<sup>th</sup>, 2003; there will be a total of 29 cases. Attending those conferences will be Dr. Irons, Ms. Allen and Mr. Garcia. We are also planning an additional mini Settlement Conference to coincide with the June 20, 2003 Board meeting, for which we need volunteers.

We will be conducting interviews, March 26<sup>th</sup> and 27<sup>th</sup>, 2003, in order to fill the vacant staff attorney position. At the June 20, 2003, the legal division will be issuing a plan and future projections to resolve the high number of cases we have received from enforcement. We also will be releasing a list of frequently asked questions for legal and will post that on our website.

**XIV. EXECUTIVE DIRECTOR'S REPORT**

Mr. Schmidt referred to his report presented on January 17, 2003 as well as his report for the March 21, 2003 meeting. Mr. Schmidt was involved with the Health Professions Council complaint study, which came from former Representative Maxey's office. What was discussed was the possibility of a composite complaint system that would work for all agencies. It was agreed it was a difficult goal to accomplish.

The Telemedicine/Telehealth Committees efforts are being monitored across the state, especially in rural areas, as well as continuing education. Partnerships are being established.

Dr. Tippit and SBDE staff have been preparing for the legislative session. It has been a busy session. Of utmost importance is SB263/HB910, TSBDE Sunset Legislation. Dr. Tippit and Mr. Schmidt will also be appearing before the Senate Committee on Health & Human Services, the House Public Health Committee and the House Law Enforcement Committee.

## **XV. PRESIDENT'S REPORT**

Dr. Tippit gave a review of the presentations given to a few of the legislative committees such as the House Appropriations Subcommittee on Regulatory Affairs; full House Appropriations Committee and the Senate Finance Committee.

The Sunset Commission has recommended, and the State Auditor's Office concurs, that we hire an additional dental employee, two Investigator II's, an Attorney II, a legal assistant, set up an enforcement database, and request Texas Online subscription fees. SBDE can finance these contingencies if we raise our licensing fees. TDA and TDHA, sent a letter to Dr. Tippit in support of raising those fees.

Dr. Tippit announced the appointment of Dr. Elgene Mainous to the Anesthesia Consultant Committee who will be replacing Dr. Webb.

**A MOTION BY DR. KENNEDY, SECONDED BY DR. IRONS, TO APPROVE THE APPOINTMENT OF DR. ELGENE MAINOUS TO THE ANESTHESIA CONSULTANT COMMITTEE FOR A ONE-YEAR TERM.  
(FOR – 15– OPPOSED- 0) - MOTION CARRIES**

Dr. Clark Whitmire, who is on the Anesthesia Consultant Committee, would like to continue for another one-year term.

**A MOTION BY DR. MCDONALD, SECONDED BY DR. STUBBS, TO APPROVE THE APPOINTMENT OF DR. CLARK WHITMIRE TO ANOTHER ONE-YEAR TERM WITH THE ANESTHESIA CONSULTANT COMMITTEE.  
(FOR – 15– OPPOSED- 0) - MOTION CARRIES**

## **XVI. PUBLIC COMMENTS**

Dr. Spradley, Texas Dental Association, thanked the Board for working so closely with TDA.

## **XVII. ANNOUNCEMENTS**

Dr. Tippit announced the passing of Dr. Minatra, a former president of the Board. There will be an Executive Session after the next Board meeting to evaluate the performance of the Executive Director, Mr. Bobby Schmidt.

The next Settlement Conference is April 10<sup>th</sup> and 11<sup>th</sup>, 2003. (Dr. Irons, Ms. Allen and Mr. Garcia)

The Governor's Appointment Office told Dr. Tippit there would be an announcement made within thirty days as to which Board members will be retiring.

The next Board meeting is June 20, 2003.

**XVIII. ADJOURN**

**A MOTION BY MS. MORGAN, SECONDED BY MS. ALLEN TO ADJOURN  
(FOR 15 – OPPOSED- 0) - MOTION CARRIES**

The meeting adjourned at 1:45 P.M.

**- SIGNED -**

**Dr. Nathaniel Tippit, President**

Date Signed: June 20, 2003

**- SIGNED -**

**Dr. Kevin Irons, Secretary**

Date Signed: June 20, 2003