



TEXAS STATE BOARD OF DENTAL EXAMINERS

333 Guadalupe, Tower 3, Suite 800, Austin, Texas 78701-3942
Phone (512) 463-6400 Fax (512) 463-7452

BOARD MEETING MINUTES November 10, 2006

1. **CALL TO ORDER:** Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order on November 10, 2006. The time was 8:00 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
Mr. Oscar Garcia	Public Member
Dr. Tamela Gough	Member
Ms. Georgiana Matz	Public Member
Ms. Helen McKibben, RDH	Member
Dr. Norman Mason	Member
Ms. Ann Pauli	Public Member
Dr. William Purifoy	Member
Dr. Russell Schlattman	Member
Ms. Phyllis Stine	Public Member
Dr. Paul E. Stubbs	Member
Dr. Juan D. Villarreal	Member
Mr. Charles Wetherbee	Public Member

b. Members Absent:

Ms. Tammy Allen, RDH	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 Meek	Director of Licensing and Examinations
Ms. Carol McPherson	Director of Administration and Finance
Ms. Peggy DeAnda	Attorney
Ms. Anne Dvorak	Attorney
Ms. Barbara Jordan	Attorney
Ms. Vicki Shoemith	Executive Assistant

A MOTION WAS MADE BY MS. MCKIBBEN AND SECONDED BY MR. WETHERBEE TO EXCUSE MS. ALLEN FROM THE MEETING. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF MINUTES FROM THE AUGUST 18, 2006 BOARD MEETING.

Page 2, Paragraph 6c. Change the word “Emergency” to “Examination”.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE THE MINUTES OF THE AUGUST 18, 2006 BOARD MEETING AS AMENDED. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

4. APPEARANCES.

- a. Michael Krynik, D.D.S. – Request approval to take a clinical examination for licensure and apply for a Texas license. This request was withdrawn.
- b. D. K. Everitt – The Compliance Division, L.L.C., to discuss Compliance Services. Mr. Everitt outlined his services that offer healthcare compliance for medical and dental offices in an effort to assist them in meeting the ever-changing requirements of state and federal rules, regulations and standards.

5. COMMITTEE REPORTS.

- a. **Licensing and Examination Committee Report.** Ms. Stine reported on the discussion of New Rule 114.4 (Monitoring the Administration of Nitrous Oxide) and amendments to Rule 115.2 (Permitted Duties) both of which were forwarded to the Rules and Policy Committee for further action.
- b. **Enforcement Committee Meeting Report.** Dr. Strunk reported that the committee met to hear reports from the Directors of Enforcement and General Counsel and discussed the proposal of a new rule that will assist the agency in obtaining dental records maintained by dental corporations.
- c. **Rules and Policy Committee Meeting Report.** Dr. Mason reported the committee met to discuss and review amendments to Rule 104.1, 114.2 and new rule 114.4.

6. OTHER REPORTS.

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

Completed Projects

1. PRN LBB Measure Audit.
2. PRN Advisory Committee.
3. PRN Fall Seminar.
4. Regional Coordinator Training.
5. National Association of Social Workers (NASW) Annual Conference.
6. Utilization of PRN Webpage.
7. LBB Hearing and Senate Finance Committee Hearing.
8. Creation of Networking for Participants.
9. Expansion of Drug Screening Services.

Active Projects

1. 2007 Projects
2. Athena Software
3. PRN Regional Network.
4. Participant Satisfaction Survey.
5. Review of Mental Health Professionals (MHP's) and Treatment Centers.
6. Student and Dental Professional Outreach.

b. American Association of Dental Examiners/Western Regional Examining Board (AADE/WREB) Report. Dr. Stubbs reported on the following:

AADE Report:

1. Executive Council Report
2. Program:
 - a. National Practitioners Data Bank
 - b. Quebec's System of Continuing Competency
 - c. Hygiene Issues:
 - Evolving Role of the Dental Hygienist
 - d. Survey on Relationships with State Dental Societies and Legislatures
3. Report of Joint Commission on National Dental Exam
4. Next Meeting: Chicago: March 25-26, 2007
San Francisco: September 25-26, 2007

WREB Report.

Dr. Stubbs reported that WREB is requesting State Boards recommend dentists and dentist educators to serve as examiners. He stated that WREB notified dental educators about its decision to include dental educators as examiners with the stipulation that they must receive a recommendation from their State Board and they will not be permitted to examine in the State they practice in.

Dr. Stubbs reported that the Board has received two letters of interest, Dr. Stephen A. Jessee with the University of Texas at Houston and Dr. Mohsen Taleghani with the Baylor College of Dentistry. Both of these educators have observed at WREB exams in the past.

The discussion concluded with Dr. Stubbs stated that he will talk with representatives at WREB and request more information regarding examiner criteria and report his findings at a future Board Meeting.

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. PURIFOY TO RECOMMEND DR. STEPHEN A. JESSEE AS A DENTIST WREB EXAMINER. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. GOUGH TO RECOMMEND DR. MOHSEN TALEGHANI AS A DENTIST WREB EXAMINER. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

d. Dental Hygiene Advisory Committee (DHAC) Report. Ms. Lois Palermo reported that the DHAC met on September 29, 2006 to review rulemaking actions from the Board and discuss possible rulemaking actions relative to dental hygiene standard of care. The DHAC voted to propose amendments to Rule 115.4 to the Board.

DR. MCDONALD REFERRED AMENDMENTS TO RULE 115.4 REQUESTED BY DHAC TO THE RULES AND POLICY COMMITTEE FOR DISCUSSION AND CONSIDERATION AT ITS NEXT MEETING.

7. RULES.

- a. Discuss and Consider the Proposal of Amendments to Rule 104.1 – Requirement.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. STUBBS TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 104.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

- b. Discuss and Consider the Proposal of Amendments to Rule 115.2 – Permitted Duties.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MS. MCKIBBEN TO APPROVE THE PROPOSAL OF AMENDMENTS TO RULE 115.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

- c. Discuss and Consider the Proposal of New Rule 114.4 – Monitoring the Administration of Nitrous Oxide.

A MOTION WAS MADE BY DR. VILLARREAL AND SECONDED BY MS. MATZ TO APPROVE THE PROPOSAL OF NEW RULE 114.4 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 13 / 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. PURIFOY AND SECONDED BY MS. WETHERBEE TO APPROVE 18 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

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

- (3) **Licensing Division Fiscal Year 2006 Fourth Quarter and Year-end Reports.** Ms. Sanders Meek reported on the Fourth Quarter and Year-End statistics for the Licensing Division.

- b. **Enforcement Division Fiscal Year 2006 Fourth Quarter and Year-End Reports.** Ms. Jones presented the Enforcement Division Fourth Quarter and Year-End Reports for the Enforcement Division.

The Presiding Officer called for a recess at 9:49 a.m.

The Presiding Officer reconvened the meeting at 10:12 a.m.

- c. **Administration Division Fiscal Year 2006 Fourth Quarter Report and Year-End Reports.** Dr. Zukowski provided a report on the FY 2007 Budget, Legislative Budget Board Performance Measures and Annual Report.

d. Legal Division Report.

- (1) **State Office of Administrative Hearings (SOAH) Settlement Orders.**

- (a) **Appearance: Russell K. Bass, D.D.S. (SBDE No. 06-0578-0321)**

Mr. Houston presented the matter regarding SBDE Case No. 05-0578-0321.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO TABLE THE MATTER FOR FURTHER DISCUSSION IN EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTIONS 551.017 AND 551.074 OF THE OPEN MEETINGS ACT. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

- (b) **SBDE 03-785-0610, 04-235-1126, 04-579-0322, 05-0577-0118; SBDE 05-0788-0303; and SBDE 06-0602-0328, 06-0596-0324**

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. STUBBS TO APPROVE THE SOAH SETTLEMENT ORDERS AS PRESENTED. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

(2) Proposals for Decision.

Mr. Houston read the Proposal for Decision on SOAH No. 504-06-1889 (SBDE Nos. 02-670-0605, 02-813-0730, 04-199-1114)

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. STUBBS TO APPROVE THE PROPOSAL FOR DECISION ON SOAH NO. 504-06-1889 (SBDE NOS. 02-670-0605, 02-813-0730, 04-199-1114) (FOR – 13 / OPPOSED – 0) MOTION CARRIES

(3) Proposed Board Orders (PBOs).

Mr. Houston read Proposed Board Order 06-0040-0919.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY MR. WETHERBEE TO APPROVE PROPOSED BOARD ORDER 06-0040-0919. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

(4) Modifications to Board Orders. No Board Orders modifications were submitted.

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

Mr. Houston read Settlement Order 05-0974-0427 from the **February 16-17, 2006** Board ISC. Panelists: Dr. Schlattman, Ms. Allen and Mr. Wetherbee

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MS. MCKIBBEN TO APPROVE SETTLEMENT ORDER 05-0974-0427 FROM THE FEBRUARY 17, 2006 BOARD ISC. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS - 3) MOTION CARRIES.

Mr. Houston read Settlement Order 06-0246-1128 from the **July 6-7, 2006** Board ISC. Panelists: Dr. Strunk, Dr. Villarreal and Ms. Stine.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MS. MCKIBBEN TO APPROVE SETTLEMENT ORDER 06-0246-1128 FROM THE JULY 6-7, 2006 BOARD ISC. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS - 3) MOTION CARRIES.

Mr. Houston read the Settlement Orders from the **October 5-6** Board ISC. Panelists: Dr. Strunk, Dr. Purifoy and Mr. Wetherbee,

05-0698-0210

06-0254-1128, 06-0859-0613

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. STUBBS TO APPROVE THE SETTLEMENT ORDERS FROM THE OCTOBER 5-6, 2006 BOARD ISC. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS – 3) MOTION CARRIES.

(6) Staff Informal Settlement Conference Settlement Orders.

Mr. Houston read Settlement Order 05-0786-0303 from the May 12, 2006 Staff ISC.
Panelist: Dr. Mason.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY MR. WETHERBEE TO APPROVE SETTLEMENT ORDER 05-0786-0303 FROM THE MAY 12, 2006 STAFF ISC. (FOR – 12 / OPPOSED – 0 / ABSTENTIONS - 1) MOTION CARRIES.

Mr. Houston read Settlement Orders from the July 21, 2006 Staff ISC. Panelist: Dr. Schlattman.

05-1013-0506

05-0830-0314; 05-1054-0516

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDER FROM THE JULY 21, 2006 STAFF ISC. (FOR – 12 / OPPOSED – 0 / ABSTENTIONS - 1) MOTION CARRIES.

(7) Legal Division Report. Mr. Houston presented the Legal Division Report and Fourth Quarter and Year-end Reports.

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

9. DECLARATION FROM BOARD MEMBERS INTERSTED IN SERVING AS SECRETARY OF THE BOARD.

Dr. McDonald covered the history of the election process and the selection of Board Secretary. The Individual who cares to seek the office of Secretary of the SBDE will declare their interest in serving. Formal nominations will be held at the next meeting of the Board on January 26, 2007.

Dr. Strunk declared his availability and interest in serving as the SBDE Secretary.

10. EXECUTIVE DIRECTOR'S REPORT.

Dr. Zukowski reported that he and Dr. McDonald presented before the Senate Finance Committee on September 13, 2006 and submitted the agency's Legislative Appropriations Requests and provided testimony on the SBDE budgetary limitations caused by the shortfall in appropriated receipts.

Dr. McDonald, Dr. Strunk and Dr. Zukowski spoke at the Texas Dental Association Legislative Summit held in September to request legislative support and cover the agency's exceptional items request.

The 80th Legislative Session date for pre-filing Bills is November 13, 2006. The first day of the Session is January 9, 2007.

Dr. Zukowski reported that 10 dental assistant registration course providers have been approved and that Kingwood Community College has indicated an interest. There are no pending applications under review. Passing rates on the end of course evaluation range from 77 – 99%. No courses have been submitted from South Texas, West Texas and the Panhandle.

Dr. Zukowski reported on the installation and warranty of the carpet within the agency offices.

The SBDE website has recently been updated to reflect new information on the new Jurisprudence Assessment, dental assistant requirements. Other enhancements are forthcoming.

Dr. Zukowski stated that one position within the Legal Division remains unfilled and one senior investigator has retired and expressed a desire to return to the position once his vacation time has been exhausted.

The agency continues to live within its budget for FY 07. Through some cost-cutting measures, the agency is within its budgetary framework under each category of spending.

Dr. Zukowski reported that due to construction in the downtown area, new procedures regarding access to the building and parking under the Hobby Building and be implemented effective December 1, 2006. Parking under the Hobby Building will no longer be on a first-come, first-serve basis and must be scheduled in advance by agency tenant representatives. State agencies have been asked by the Hobby Building Manager to provide a list of individuals who require access 24 hours-a-day, 7 days a week by December 1, 2006. There are no changes in security badges or access to the building during normal business hours.

Dr. Zukowski stated that Board Members will be staying at the Radisson Hotel and Guest Suites in 2007.

11. PRESIDING OFFICER'S REPORT.

Dr. McDonald reported on the Senate Finance Committee meeting he and Dr. Zukowski attended.

Dr. McDonald expressed his appreciation to the Texas Dental Association for the opportunity to speak at the TDA Legislative Summit.

Dr. McDonald stated that there will be a review of the budget in early 2007 to determine if a meeting in will need to be cancelled or rescheduled.

The Presiding Officer called for a recess at 11:42 p.m.

The Presiding Officer reconvened the meeting at 12:10 p.m.

12. EXECUTIVE SESSION.

The Presiding Officer called the meeting into Executive Session at 12:10 p.m. pursuant to Texas Government Code, Sections 551.071 and 551.074 of the Open Meetings Act.

The Presiding Officer reconvened in open session to consider action on the matter discussed in Executive Session at 1:35 p.m. It was noted for the record that Ms. Matz had departed the meeting.

Mr. Houston re-read the Board Order for the record.

**A MOTION WAS MADE BY DR. MASON AND SECONDED BY DR. STUBBS TO
APPROVE SBDE BOARD ORDER 06-0578-0321 IN THE MATTER OF THE LICENSE
OF RUSSELL K. BASS, D.D.S. (FOR – 12 / OPPOSED – 0) MOTION CARRIES**

Mr. Houston stated that in addition to ratifying the Board Order, the issue of the letter written by Dr. Bass on September 14, 2006 is false, or misleading, and is also considered a violation of the Board's Rules. Staff will consider the matter resolved if Dr. Bass mails a letter to all recipients of the September 14, 2006 letter retracting statements made against the Board within 30 days. If not accomplished within 30 days this matter can be referred to as an additional case.

Dr. McDonald stated an additional requirement that Dr. Bass' retraction letter will be sent to all individuals who were sent the original letter, or Dr. Bass thinks he might have sent the letter, along with a return receipt requested of each recipient. The Board will look for an official record of the retraction letter being distributed to all recipients and will question recipients on receipt of the retraction letter if necessary.

Dr. Bass acknowledged that he understands the requirement. Mr. Cobos, Attorney for Dr. Bass, stated that a letter of retraction will be sent to Mr. Houston, or Board representatives, for approval and that the intent is to cooperate.

12. PUBLIC COMMENTS. No public comments were made.

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

- Dental Hygiene Advisory Committee – December 15, 2006, 1:00 p.m.
- Dental Laboratory Certification Council – January 12, 2007, 10:00 a.m.
- SBDE Committee Meetings – January 25, 2007
- SBDE Board Meeting – January 26, 2007

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

**THE MEETING WAS ADJORNED BY CONSENSUS AT 1:44 P.M. (FOR – 12 / 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: January 26, 2007

Date: January 26, 2007