



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 June 22, 2007

1. **CALL TO ORDER:** Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order on June 22, 2007. 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
Dr. Norman Mason	Member
Ms. Ann Pauli	Public Member
Dr. William Purifoy	Member
Dr. Juan D. Villarreal	Member
Mr. Charles Wetherbee	Public Member

b. Members Absent:

Ms. Tammy Allen, RDH	Member	(Excused)
Ms. Georgiana Matz	Public Member	(Excused)
Ms. Helen McKibben, RDH	Member	(Excused)
Dr. Russell Schlattman	Member	(Excused)
Ms. Phyllis Stine	Public Member	(Excused)
Dr. Paul E. Stubbs	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. Brenda Kilburn	Staff Services Officer
Ms. Peggy DeAnda	Attorney
Ms. Anne Dvorak	Attorney
Ms. Barbara Jordan	Attorney
Ms. Vicki Shoesmith	Executive Assistant

A MOTION WAS MADE BY DR. VILLARREAL AND SECONDED BY MR. WETHERBEE TO EXCUSE THOSE BOARD MEMBERS ABSENT FROM THE MEETING. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF MINUTES FROM THE JANUARY 26, 2007 BOARD MEETING.

Dr. McDonald requested a change to Page 2, paragraph 5. Change the word “suppose” to “support.”

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE THE MINUTES AS AMENDED. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

4. APPEARANCES.

- a. Mr. Don Green, Director of Budget & Policy, Office of the Speaker of the House to discuss Budget Execution Authority. Mr. Green appeared before the Board to discuss the Budget Execution Authority process and answer questions.
- b. Request for Permission to Apply for Drug Enforcement Agency Permits and Anesthesia Permits.

- (1) Dr. William Perry.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STRUNK TO APPROVE MODIFICATION TO BOARD ORDER 05-0974-0427 ISSUED TO DR. WILLIAM PERRY. (FOR – 6 / OPPOSED – 2) MOTION CARRIES.

- (2) Dr. John Bauer.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO APPROVE MODIFICATION TO BOARD ORDER 05-0679-0209 ISSUED TO DR. JOHN BAUER. (FOR – 7 / OPPOSED – 1) MOTION CARRIES.

- (3) Dr. Theodore Holubec.

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. MASON TO APPROVE A MODIFICATION TO BOARD ORDER 05-0649-0131; 05-0685-0209 ISSUED TO DR. THEODORE J. HOLUBEC. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

5. COMMITTEE REPORTS.

- a. **Enforcement Committee Report.** Dr. Strunk reported that the committee met to hear reports from the Director of Enforcement and General Counsel and discussed proposed rules 115.1, 115.2, 115.4, 108.60 and 108.72.
- b. **Executive Committee Report.** Dr. McDonald reported that this committee met on April 27, 2007 to discuss the emergency suspension of License Number 14940 and again on June 5, 2007 to discuss license numbers 17162 and 12948.

Mr. Houston stated that the case involving of License Number 14940 was resolved and the matters involving License Numbers 17162 and 12948 are both set for Hearing at the State Office of Administrative Hearings and are expected to take place on July 2nd and July 5th.

The Presiding Officer called for a recess at 9:25 a.m. and reconvened the meeting at 9:45 a.m.

6. OTHER REPORTS.

- a. **Professional Recovery Network Report.** Ms. Johnston reported on active and completed projects by the Professional Recovery Network during the Third Quarter.

- b. **WREB and AAE Reports.** Board Members reviewed reports prepared by Dr. Stubbs on June 1, 2007.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. MASON TO ACCEPT THE WREB AND AAE REPORTS. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

7. ITEMS FOR GENERAL DISCUSSION.

Recommendation of Replacement Dentist Member to the Dental Hygiene Advisory Committee (DHAC).

Dr. McDonald stated that the tenure of Dr. Charles E. Rader has been completed and presented the name of Dr. Jay Adkins as a replacement. A brief history of Dr. Adkins' career and service to the Board was presented and a curriculum vitae was made available for the members to review if desired.

A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. PURIFOY TO APPROVE THE APPOINTMENT OF DR. JAY ADKINS TO THE DHAC AND DIRECTS STAFF TO PREPARE A LETTER WELCOMING DR. ADKINS AND A CERTIFICATE OF APPRECIATION FOR DR. CHARLES RADER FOR HIS SERVICE TO THE DHAC AND TO THE BOARD. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

8. RULES.

- a. **Discuss and Consider proposed amendments to Rule 115.1 – Definitions.**

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. VILLARREAL TO APPROVE THE FINAL PROPOSED AMENDMENTS TO RULE 115.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

- b. **Discuss and Consider proposed amendments to Rule 115.2 – Permitted Duties.**

Dr. McDonald announced that the Enforcement Committee voted to return this rule to DHAC for further action.

- c. **Discuss and Consider proposed amendments to Rule 115.4 – Placement of Site Specific Subgingival Medicaments.**

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MR. GARCIA TO APPROVE THE PROPOSED AMENDMENTS TO RULE 115.4, AMEND THE STATUTE TO REFLECT 262.002(a)(6) AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

- d. **Discuss and Consider proposed amendments to Rule 108.60 – False, Misleading or Deceptive Referral Statements.**

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY MS. PAULI TO APPROVE THE PROPOSED AMENDMENTS TO RULE 108.60 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

- e. **Discuss and Consider proposed amendments to Rule 108.72 – False, Misleading or Deceptive Referral Statements.**

Dr. McDonald announced this rule was tabled in the Enforcement Committee.

9. AGENCY DIVISION REPORTS.

a. Licensing Division.

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

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE 27 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

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

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

b. Enforcement Division. Ms. Jones presented the Enforcement Division Third Quarter Report for the Enforcement Division.

c. Administration Division. Ms. Kilburn presented the Fiscal Year Budget and Legislative Budget Board Report.

d. Legal Division Report.

- (1) **SOAH Settlement Orders.** No orders were presented.

- (2) **Proposals for Decision.**

SOAH 504-07-0681, SBDE No. 06-0108-1006)

A MOTION WAS MADE BY DR. MASON AND SECONDED BY MR. GARCIA TO APPROVE THE PROPOSAL FOR DECISION (SOAH ORDER 504-07-0681, SBDE NO. 06-0108-1006) AS PRESENTED. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

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

SBDE 06-0699-0425

SBDE 03-1021-0829

SBDE06-0411-0123

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. STUBBS TO APPROVE THE PROPOSED BOARD ORDERS AS PRESENTED. (FOR – 8 / OPPOSED – 0) MOTION CARRIES.

- (4) **Modifications to Board Orders.** No orders were presented during the Legal Division Report.

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

- (a) **October 5, 2006 Board ISC.** (Panelists: Dr. Strunk, Dr. Purifoy, Mr. Wetherbee)

SBDE 06-0306-1215

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY MS. PAULI TO APPROVE THE SETTLEMENT ORDER SBDE 06-0306-1215 FROM THE OCTOBER 5, 2006 BOARD ISC. (FOR – 5 / OPPOSED – 0) MOTION CARRIES

- (b) **March 23, 2007 Board ISC.** (Panelists: Dr. Villarreal, Dr. Gough, Ms. Pauli)

SBDE 06-0846-0608 SBDE 06-0200-1107 SBDE 06-0735-0504
 SBDE 06-0760-0516 SBDE 06-0940-0714 SBDE 06-0851-0609
 SBDE 06-0205-1128, 05-0225-1116, 05-0283-1207, 06-0362-0105, 06-0634-0407,
 06-0403-0120, 06-0703-0426, 06-0798-0530

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO APPROVE THE SETTLEMENT ORDERS FROM THE MARCH 23, 2007 BOARD ISC. (FOR – 5 / OPPOSED – 0) MOTION CARRIES

- (6) **Staff Informal Settlement Conference (ISC) Settlement Orders.**

- (a) **February 23, 2007 Staff ISC.** (Panelist: Dr. Stubbs)

SBDE 06-0525-0227 SBDE 05-1144-0623, 05-1105-0608

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE THE SETTLEMENT ORDERS FROM THE FEBRUARY 23, 2007 STAFF ISC. (FOR – 8 / OPPOSED – 0) MOTION CARRIES

- (b) **May 9, 2007 Staff ISC.** (Panelist: Dr. McDonald)

SBDE 05-0682-0209 SBDE 07-0119-0911, 07-0207-1115

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. STRUNK TO APPROVE SETTLEMENT ORDERS FROM THE MAY 9, 2007 STAFF ISC. (FOR – 8 / OPPOSED – 0) MOTION CARRIES

- (c) **May 25, 2007 Staff ISC.** (Panelist: Dr. Mason)

SBDE 06-0626-0405 SBDE 06-0977-0726, 06-1052-0818
 SBDE 07-0283-1206

A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY MS. PAULI APPROVE SETTLEMENT ORDERS FROM THE MAY 25, 2007 STAFF ISC. (FOR – 7 / OPPOSED – 0) MOTION CARRIES

- (7) **Legal Division Report.** Mr. Houston presented the Legal Division Report for the Third Quarter.

9. EXECUTIVE DIRECTOR’S REPORT.

Dr. Zukowski briefed the Board on the budget execution authority process and echoed Mr. Green’s comments made earlier in the meeting.

Approximately 7,500 students have completed the mandatory training and competency evaluation to be registered as dental assistants in Texas.

Dr. Zukowski reported that we continue to receive favorable comments regarding the Jurisprudence Assessment being administered by eStrategy Solutions. Over 1,300 licensees have completed the assessment to date.

The Legislature did not increase the travel reimbursement rates for Texas. The lodging rate continues to be \$85/night, while meal expenses are capped at \$36/day. Mileage reimbursement will remain the same.

A total of 4,140 Bills were filed in the Texas House of Representatives this past session. In the Senate, 2,058 Bills were filed. The Governor vetoed 49 Bills that reflected over \$570 million from the FY 08-09 budget.

Dr. Zukowski reported the following bills will impact the SBDE:

SB 29, by Nelson , which mandates each of the licensing boards of the Health Professions Council to collect a minimum data set of information for licensees.

SB 1879, by Nelson, which requires the SBDE and other health care licensing boards to report any actions by the board regarding violations of the Texas Substance Control Act, Chapter 481, Health and Safety Code.

10. PRESIDING OFFICER’S REPORT.

Dr. McDonald thanked everyone for attending the meeting and encouraged board members to participate in Informal Settlement Conferences. He thanked members of the Board for their support during the legislative session. Dr. McDonald asked Board Members to return records to the Enforcement Division as soon as possible so the process of reviewing cases continues to move forward.

11. EXECUTIVE SESSION.

The Presiding Officer called the meeting into Executive Session at 11:49 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 at 12:59 p.m.

The Presiding Officer called a recess at 1:25 p.m. The meeting was reconvened at 1:29 p.m. Dr. Villarreal departed the meeting at 1:30 p.m.

12. PUBLIC COMMENTS. No public comments were made.

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

- DHAC Meeting - June 29, 2007
- SBDE Committees - August 16, 2007
- SBDE Board Meeting - August 17, 2007

14. ADJOURN.

THE MEETING WAS ADJORNED BY ACCLAMATION AT 1:43 P.M. (FOR – 7 / 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 17, 2007

Date: August 17, 2007