



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES August 17, 2007

1. **CALL TO ORDER:** Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order. The time was 8:08 a.m.

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

a. Members Present:

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| Dr. Gary W. McDonald | Presiding Officer |
| Dr. George Strunk | Secretary |
| Mr. Oscar Garcia | Public Member |
| Dr. Tamela Gough | Member |
| Dr. Norman Mason | Member |
| Ms. Helen McKibben, RDH | Member |
| Ms. Georgiana Matz | Public 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:

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| Ms. Tammy Allen, RDH | Member (Excused) |
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c. TSBDE Staff Present:

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| Ms. Sherri Meek | Interim Executive Director |
| Mr. Fread Houston | General Counsel |
| Ms. Lisa Jones | Director of Enforcement |
| Ms. Brenda Kilburn | Staff Services Officer |
| Ms. Peggy DeAnda | Attorney |
| Ms. Anne Dvorak | Attorney |
| Ms. Barbara Jordan | Attorney |
| Mr. Rodney Montes | Attorney |
| Ms. Vicki Shoosmith | Executive Assistant |

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

3. REVIEW AND APPROVAL OF MINUTES FROM THE JUNE 22, 2007 BOARD MEETING.

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. VILLARREAL TO APPROVE THE MINUTES AS AMENDED. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

4. COMMITTEE REPORTS.

- a. **Licensing Committee Report.** Ms. Stine reported that the committee approved two requests for alternative continuing education.
- b. **Enforcement Committee Report.** Dr. Strunk reported that the committee met to receive reports from the Director of Enforcement and General Counsel and discussed proposed new rule 108.72 and proposed amendments to rules 100.3 and 100.4. rules. Rules 115.1, 115.4 and 108.60 will be discussed at the November meeting as the comment period is still in effect.

6. OTHER REPORTS.

- a. **Professional Recovery Network Report.** Ms. Johnston's written report was reviewed and accepted with no comments.
- b. **Dental Hygiene Advisory Committee (DHAC) Report.** Ms. Palermo reported that the DHAC discussed its research on dental hygiene standard of care, recommended the addition of yearly OSHA updates to the SBDE website to clarify OSHA office personnel training questions and the Dental Hygiene WREB Examiner application process. The committee voted to elect Lois Palermo to serve as its Chair for 2008 and forwarded names of dental hygienists to serve as Dental Hygiene examiners for the Western Regional Examining Board (WREB) for the 2007-2008 testing cycle.
- c. **WREB Reports.** Dr. Stubbs presented a verbal and written reported on the July 12, 2007 meeting of WREB.
- d. **WREB Dental Hygiene Exam Review (ERC) Committee.** Ms. McKibben presented a verbal and written report on the July 10, 2007 meeting of the WREB Dental Hygiene ERC in Santa Rosa, CA.

7. ITEMS FOR GENERAL DISCUSSION.

- a. **Consideration of service as a Dental WREB Examiner – Dr. Hans Schleicher.**
- b. **Consideration of service as a Dental Hygiene WREB Examiner – Dr. Charles Rader.**

Dr. McDonald stated that WREB has requested the SBDE forward names of individuals interested in serving as WREB examiners with WREB serving as the decision-maker regarding service as an examiner.

The Board discussed the process of considering individuals interested in serving as examiners for WREB and concluded that Staff will present the name of the interested individual accompanied by supporting documentation to include, but not limited to, a curriculum vitae, resume, letters of recommendation and conduct a verification of licensure and review of disciplinary actions.

Following Board review of submitted materials, the name and documentation will either be forwarded to WREB for further consideration or be denied based on prior disciplinary action. In the case of the latter, a Letter of Explanation will be prepared for the Presiding Officer's signature with a copy being sent to WREB.

Individuals who still remain interested after receiving the Letter of Explanation are welcome to contact WREB directly to discuss further consideration.

The names of Dr. Hans Schleicher and Dr. Charles Rader will be forwarded to WREB for consideration as a examiner.

8. RULES.

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

Mr. Houston reported that the 30-day comment period is still in effect for this rule and will be discussed at the November meeting.

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

Mr. Houston reported that the 30-day comment period is still in effect for this rule and will be discussed at the November meeting.

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

Mr. Houston reported that the 30-day comment period is still in effect for this rule and will be discussed at the November meeting.

d. Discuss and Consider proposed amendments to Rule 108.72 – Dental Custodian of Records

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. PURIFOY TO APPROVE THE FINAL ADOPTION OF AMENDMENTS TO RULE 108.72 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

e. Discuss and Consider proposed amendments to Rule 100.3 – Organization and Structure.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY DR. VILLARREAL TO APPROVE PROPOSED AMENDMENTS TO RULE 100.3 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 1) MOTION CARRIES.

f. Discuss and Consider proposed amendments to Rule 104.1 – Requirement.

A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY MR. WETHERBEE TO APPROVE PROPOSED AMENDMENTS TO RULE 104.1 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 11 / OPPOSED - 2) MOTION CARRIES.

The Presiding Officer called for a recess at 9:18 a.m. and reconvened the meeting at 9:40 a.m.

9. AGENCY DIVISION REPORTS.

a. Licensing Division.

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

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. MASON TO APPROVE 34 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 13 / 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 Report. Ms. Meek reported on Licensing statistics to date.

- b. **Enforcement Division.** Ms. Jones presented the Case Aging and Monthly Activity Report as well as quarterly statistics to date.
- 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.** No orders were presented.

(3) **Proposed Board Orders.**

SBDE 06-0334-1229

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE PROPOSED BOARD ORDER SBDE 06-0334-1229 AS PRESENTED. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

(4) **Modifications to Board Orders.** No orders were presented.

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

(a) **June 15, 2007 Board ISC.** (Panelists: Dr. McDonald, Dr. Purifoy and Mr. Wetherbee)

SBDE 05-0773-0228 SBDE 06-0991-0731

A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MS. PAULI TO APPROVE THE SETTLEMENT ORDERS FROM THE JUNE 15, 2007 BOARD ISC. (FOR – 11 / OPPOSED – 0 / ABSTENSIONS - 2) MOTION CARRIES

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

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

SBDE 07-0008-0905

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MS. MCKIBBEN TO APPROVE SETTLEMENT ORDER SBDE 07-0008-0905 FROM THE MAY 25, 2007 STAFF ISC. (FOR – 12 / OPPOSED – 0 / ABSTENSIONS - 1) MOTION CARRIES

(b) **July 13, 2007 Staff ISC.** (Panelist: Dr. Strunk)

SBDE 07-0099-1010 SBDE 06-1007-0807

A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. PURIFOY TO APPROVE SETTLEMENT ORDERS FROM THE JULY 13, 2007 STAFF ISC. (FOR – 12 / OPPOSED – 0 / ABSTENSIONS - 1) MOTION CARRIES

(7) **Legal Division Report.** Mr. Houston presented the Legal Case Report and case statistics for July 2007 and a report of Post-ISC Case statistics.

9. INTERIM EXECUTIVE DIRECTOR’S REPORT. Ms. Meek reported that the Legislature provided funding to the agency which provides an opportunity to add staff to help facilitate the movement and resolution of cases. The Enforcement Division will see five additional positions added and will be restructuring positions to place a level of

supervision between the Director and staff to allow the Director of Enforcement to focus on case management. The Legal Division will be adding one additional position and restructuring its processes in order to allow the General Counsel an opportunity to focus on case management as well. The Administration Division will be gaining two positions, a Accountant Technician and Receptionist.

Ms. Meek stated that in keeping with the legislative decision to increase the Executive Director salary, a Board action is required.

Dr. McDonald called for a motion to increase the salary of the Executive Director.

A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. VILLARREAL TO INCREASE THE SALARY OF THE EXECUTIVE DIRECTOR TO A NOT-TO-EXCEED LEVEL OF \$75,000 THAT IS INCLUDED IN THE APPROPRIATION BILL PATTERN OF HOUSE BILL 1, 80TH LEGISLATURE, REGULAR SESSION, 3.05(D). THIS INCREASE IS EFFECTIVE SEPTEMBER 1, 2007. STAFF ARE DIRECTED TO SUBMIT A LETTER, SIGNED BY THE PRESIDING OFFICER, TO THE GOVERNOR’S OFFICE, LEGISLATIVE BUDGET BOARD AND COMPTROLLER’S OFFICE REFLECTING THIS INCREASE IN SALARY. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

10. PRESIDING OFFICER’S REPORT. Dr. McDonald reported on his visit with Mr. Tony Gillman, liaison between the Governor’s Office and the SBDE. Mr. Gillman is currently conducting a study of healthcare boards, conducting interviews with agency directors and presiding officers. Mr. Gilman has proposed a dialogue be conducted prior to Board Meetings or once a month between him and the Executive Director and/or Presiding Officer.

11. EXECUTIVE SESSION. The Presiding Officer called the meeting into Executive Session at 11:00 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 11:25 p.m.

Dr. McDonald called for a motion regarding the selection of an Executive Director for the SBDE.

A MOTION WAS MADE BY MR. GARCIA AND VOTED BY ACCLAMATION TO EXTEND EMPLOYMENT AS EXECUTIVE DIRECTOR OF THE SBDE TO MS. SHERRI MEEK AT A SALARY OF \$75,000 PER YEAR EFFECTIVE SEPTEMBER 1, 2007. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

12. PUBLIC COMMENTS. No public comments were made.

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

- SBDE Committees - November 15, 2007
- SBDE Board Meeting - November 16, 2007

14. ADJOURN.

THE MEETING WAS ADJORNED BY ACCLAMATION AT 1:30 P.M. (FOR – 13 / 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: November 16, 2007

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