



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

August 2, 2013

1. **CALL TO ORDER - BOARD MEETING.**

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (SBDE) to order at 10:23 a.m.

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

a. Members Present:

Dr. Rodolfo Ramos	Presiding Officer
Dr. Steven Austin	Secretary
Dr. William Birdwell	Member
Dr. Kirby Bunel	Member
Dr. James Chancellor	Member
Ms. Renee Cornett, RDH	Member
Ms. Emily Christy	Member
Dr. D. Bradley Dean	Member
Ms. Whitney Hyde	Member
Ms. Evangelia Mote	Member
Mr. Timothy O'Hare	Member
Ms. Lois Palermo, RDH	Member

b. Members Absent:

Dr. Tamela Gough	Member	(Excused)
Dr. Christie Leedy	Member	(Excused)
Mr. Lewis White	Member	(Excused)

c. Staff Present:

Ms. Julie Hildebrand	Acting Executive Director
Ms. Sarah Carnes-Lemp	Acting General Counsel
Ms. Lisa Jones	Director of Enforcement
Ms. Vicki Shoosmith	Director of Licensing
Ms. Irma Rodriguez	Director of Administration and Finance

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO EXCUSE DR. GOUGH, DR. LEEDY AND MR. WHITE FROM THE PUBLIC HEARING. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE APRIL 26, 2013 BOARD MEETING.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. AUSTIN TO APPROVE AND RECORD MS. CHRISTY AS NOT PRESENT FOR THE APRIL 26, 2013 BOARD MEETING. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

4. DISCUSSION AND ACTION ON PROPOSED AGREED SETTLEMENT ORDERS AND CONSENT ORDERS.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO APPROVE THE CONSENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

5. PUBLIC COMMENTS. Dr. Douglas Terry and Dr. Michael Stuart signed-in to present public comments.

6. MISCELLANEOUS REPORTS.

- **Professional Recovery Network Report.** Ms. Emily Able presented the PRN Report.
- **Western Regional Examining Board Report.** Dr. Ramos presented his WREB Report and appointed Ms. Lois Palermo as the Texas SBDE liaison to the WREB Hygiene Exam Review Board (HERB).

7. DISCUSSION AND POSSIBLE ACTION ON DENTAL TREATMENT OF SLEEP DISORDERS.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. CORNETT TO WITHDRAW PROPOSED RULE 108.12 THAT WAS PUBLISHED IN THE IN THE MAY 24, 2013 ISSUE OF THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

Item “b” - A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS HYDE TO AMEND SECTION “B”, TO READ, “A DENTIST MAY DIAGNOSE AND TREAT ANY DENTAL COMORBIDITY RELATED TO SNORING OR UPPER AIRWAY RESTRICTED SYNDROME (UARS). A DENTIST SHALL NOT DIAGNOSE A PATIENT FOR OBSTRUCTIVE SLEEP APNEA (OSA) OR INDEPENDENTLY TREAT AN OSA PATIENT WITHOUT COLLABORATION WITH A TEXAS LICENSED PHYSICIAN. (FOR - 12 / OPPOSED - 0) MOTION CARRIES.

Item “c” - A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. BIRDWELL TO AMEND ITEM “C” TO READ, “A DENTIST MUST SCREEN A DENTAL PATIENT FOR A SLEEP DISORDER BY USING SUBJECTIVE AND OBJECTIVE SCREENING TOOLS. A DENTIST MAY ORDER A SLEEP STUDY WHICH MUST BE INTERPRETED BY A TEXAS LICENSED PHYSICIAN.” (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MR. O’HARE TO ACCEPT CURRENT RECOMMENDATIONS AS PUBLISHED IN THE TEXAS REGISTER AND RE-ADDRESS THIS ISSUE AT THE NOVEMBER 2013 MEETING. (FOR - 12 / OPPOSED - 0) MOTION CARRIES.

Dr. Ramos called for a Recess at 12:00 p.m. The Meeting reconvened at 12:50 p.m.

8. DISCUSSION AND POSSIBLE ACTION REGARDING RULES.**8.1. Rule review in accordance with Texas Government Code, Section 2001.039.****8.1.1. Final adoption of Rule Review – 22 Tex. Admin. Code, Chapter 103, Dental Hygiene Licensure.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CHRISTY TO ADOPT RULE REVIEW OF CHAPTER 103 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.1.2. Final adoption of Rule Review – 22 Tex. Admin. Code, Chapter 115, Extension of Duties of Auxiliary Personnel—Dental Hygiene.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. DEAN TO ADOPT THE PROPOSED RULE REVIEW OF CHAPTER 115 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES

8.2. Final adoption of rules.**8.2.1. Final adoption of amendments – 22 Tex. Admin. Code, Section 101.1. General Qualifications for Licensure; amendments – 22 Tex. Admin. Code, Section 101.5, Staggered Dental Registrations; and amendments of 22 Tex. Admin. Code, Section 108.73, Dental Service Organizations.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO ADOPT THE PROPOSED AMENDMENT OF RULE 101.1 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CHRISTY TO ADOPT THE PROPOSED AMENDMENT TO RULE 101.5 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MR. O'HARE TO ADOPT THE PROPOSED AMENDMENT TO RULE 108.73 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.2.2. Final adoption of new rule 22. Tex. Admin. Code, Section 101.10, Temporary License for Charitable Purpose.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY DR. BUNEL TO ADOPT THE PROPOSED NEW RULE 101.10 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.2.3. Final adoption of amendments of 22 Tex. Admin. Code, Section 102.1, Fee Schedule.

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY MS. CORNETT TO ADOPT THE PROPOSED AMENDMENT TO SECTION 102.1 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.2.4. Final adoption of amendments of 22 Tex. Admin. Code, Section 110.10, Use of General Anesthetic Agents.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO ADOPT THE PROPOSED AMENDMENT OF SECTION 110.10 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3. Proposal of rules.

8.3.1. Amendments to 22 Tex. Admin. Code, Section 100.3 Organization and Structure.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO PROPOSE AN AMENDMENT TO SECTION 100.3 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.2. Amendments to 22 Tex. Admin. Code, Section 101.6, Dental Licensing for Licensing for Military Service Members, Military Veterans and Military Spouses; Section 103.6, Dental Hygienist Licensing for Military Service Members, Military Veterans and Military Spouses; Section 114.2, Registration of Dental Assistants.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. MOTE TO PROPOSE AN AMENDMENT TO SECTIONS 101.6, 103.6 AND 114.2 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.3. Amendments to the SBDE Disciplinary Matrix and 22 Tex. Admin. Code, Section 101.8, Persons with Criminal Backgrounds.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY DR. CHANCELLOR TO PROPOSE AN AMENDMENT TO SECTION 101.8 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MR. O'HARE TO PROPOSE AN AMENDMENT TO THE SBDE DISCIPLINARY MATRIX AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.4. Amendments to 22 Tex. Admin Code, Section 102.1, Fee Schedule.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. CORNETT TO PROPOSE AN AMENDMENT TO SECTION 102.1 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.5. Amendments to 22 Tex. Admin Code, Section 107.2, Effect on Child Support Payment Default on Licensure Application and Renewal.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY DR. BUNEL TO PROPOSE AN AMENDMENT TO SECTION 107.2 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.6. Amendments to 22 Tex. Admin. Code, Section 107.3, Effect of Child Support Payment Default on Licensure Application and Renewal.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY DR. BUNEL TO PROPOSE AN AMENDMENT TO SECTION 107.3 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.7. Amendments to 22 Tex. Admin. Code, Section 107.63, Informal Disposition and Alternative Dispute Resolution. (Note: The motion and vote for this proposed amendment is located in Paragraph 8.3.9.)

8.3.8. New rules 22 Tex. Admin. Code, Section 107.101, Preliminary Inquiry of a Complaint; Section 107.102, Commencement of an Official Complaint; Section 107.103, Disposition of an Official Complaint; Section 107.104, Confidentiality of Investigations; Section 107.105, Request of Records and Information from Licenses; Section 107.106, Use of Expert Panel; Section 107.107, Selection of Expert Reviewers; Section 107.108, Determination of Competency by the Expert Panel. (Note: The motion and vote on these proposal of new rules are found in Paragraph 8.3.9.)

8.3.9. New rule 22 Tex. Admin. Code, Section 107.204, Remedial Plan.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BIRDWELL TO PROPOSE AN AMENDMENT TO SECTION 107.63; PROPOSE NEW RULES 107.101 THROUGH 107.108 AND NEW RULE 107.204 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.10. New Rule 22 Tex. Admin. Code, Section 108.13, Practice of Dentistry on Certain Children.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY MS. MOTE TO PROPOSE NEW RULE 108.13 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.3.11. Amendment to 22 Tex. Admin. Code, Section 110.6, General Anesthesia.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BIRDWELL TO PROPOSE AN AMENDMENT TO SECTION 110.6 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8.4. Proposal of repeal of rules.

8.4.1. Repeal rule 22 Tex. Admin. Code, Section 107.101, Guidelines for the Conduct of Investigations; Section 107.102, Procedures in Conduct of Investigation; Section 107.103, Dismissal of Complaints.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MR. O'HARE TO PROPOSE REPEAL OF SECTION 107.101, SECTION 107.102 AND SECTION 107.103 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY COMMENT. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

9. AGENCY DIVISION ACTIVITY REPORTS.

- 9.1. Administration and Finance Division Report.** Ms. Rodriguez presented the AY 2013 and AY 2014 Operating Budgets.
- 9.2. Licensing Division Report.** Ms. Shoemith presented licensing statistics, an update on application and business processes, a list of division ongoing and completed projects as well as a report on the number of anesthesia permits issued since the last Board Meeting.
- 9.3. Enforcement Division Report.** Ms. Jones presented Division Quarterly Statistics for FY 2013 and a report on complaints dismissed through June 30, 2013.
- 9.4. Legal Division Report.** Ms. Hildebrand presented Legal Case Statistics through the 3rd Quarter and a list of Informal Settlement Conferences for the remainder of 2013 and 2014. Ms. Hildebrand presented statistics of cases before the State Office of Administrative Hearings and cases on appeal at the 200th and 201st District Courts and at the Texas Court of Appeals.

10. CONSIDERATION AND POSSIBLE ACTION ON HEARINGS AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).

10.1. Administrative Law Judge Proposals for Decision.

Docket No. 504-13-3732, Michael D. Goodwin, DDS, Texas Dental License Number 23642.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-13-3732.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-13-3732, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Michael D. Goodwin, DDS, Texas Dental License Number 23642.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY MS. HYDE TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NO. 23642 ISSUED TO MICHAEL D. GOODWIN. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

Docket No. 504-13-2364, Gary M. Rassner, DDS, Texas Dental License Number 9538.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-13-2364.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-13-2364, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Gary M. Rassner, DDS, Texas Dental License Number 9538.

A MOTION WAS MADE BY DR BIRDWELL AND SECONDED BY DR. AUSTIN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND ISSUE A WARNING ON TEXAS DENTAL LICENSE NO. 9538 ISSUED TO GARY M. RASSNER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

Docket No. 504-13-3351, Mark Alfred Schriefer, DDS, Texas Dental License Number 22800.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-13-3351.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-13-3351, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Mark Alfred Schriefer, DDS, Texas Dental License Number 22800.

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY DR. DEAN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NO. 22800 ISSUED TO MARK ALFRED SCHRIEFER. (FOR – 0 / OPPOSED – 12) MOTION FAILS.

Dr. Ramos called for a Recess at 2:01 p.m. The meeting reconvened at 2:16 p.m.

Dr. Ramos announced that Dr. Mark Alfred Schriefer has made the decision to voluntarily surrender his license.

11. ACTING EXECUTIVE DIRECTOR’S REPORT.

Ms. Hildebrand reported on relevant bills from the recent legislative session, FY14 Budget, New Hires, Office Space, Key Performance Targets and the appointment of new Board Members.

12. PRESIDING OFFICER’S REPORT.

- Dr. Ramos announced that the following Ad-hoc Committees have been created:
 - Dental Review Committee – Chair: Dr. William Birdwell
-- Committee Members to be announced at a later date.
 - Strategic Planning Committee – Chair: Dr. D. Bradley Dean
-- Committee Members to be announced at a later date.
- Dr. Ramos announced the following appointments to current Board Committees:
 - Anesthesia Rules Committee – Chair: Dr. James Chancellor
-- Committee Members: Dr. Gough, Dr. Bunel, Mr. White, Dr. Birdwell, Dr. Dean
 - Executive Committee – Chair: Dr. Rodolfo Ramos
-- Committee Members: Dr. Austin, Ms. Cornett, Dr. Chancellor, Ms. Mote

13. EXECUTIVE SESSION.

Dr. Ramos announced his decision to offer Ms. Julie Hildebrand the position of Executive Director of the Board effective September 1, 2013.

14. ANNOUNCEMENTS.

- Next Board Meeting: November 8, 2013
- 2014 Board Meeting Dates:
 - February 28, 2014
 - May 9, 2014
 - August 8, 2014
 - November 21, 2014

15. ADJOURN.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. MOTE TO ADJOURN THE MEETING AT 2:50 P.M. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

RODOLFO G. RAMOS JR., DDS, PC
Presiding Officer

STEVEN AUSTIN, DDS
Board Secretary

November 8, 2013

November 8, 2013