



TEXAS STATE BOARD OF DENTAL EXAMINERS

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

BOARD MEETING MINUTES

February 28, 2014

1. CALL TO ORDER – BOARD MEETING.

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:35 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 G. Ramos Jr.	Presiding Officer
Dr. Steven J. Austin	Secretary
Dr. William R. Birdwell	Member
Dr. Kirby Bunel Jr.	Member
Dr. James W. Chancellor	Member
Ms. Emily W. Christy	Member
Ms. Renée S. Cornett, RDH	Member
Dr. D. Bradley Dean	Member
Dr. Tamela L. Gough	Member
Ms. Whitney Hyde	Member
Dr. Christine M. Leedy	Member
Ms. Evangelia V. Mote	Member
Mr. Timothy J. O'Hare	Member
Ms. Lois M. Palermo, RDH	Member
Mr. Lewis M. White	Member

b. Staff Present:

Ms. Julie Hildebrand	Executive Director
Ms. Sarah Carnes Lemp	General Counsel
Ms. Simone Salloum	Assistant General Counsel
Ms. Irma Rodriguez	Director of Administration and Finance
Dr. Brooke Bell	Director of Dental Division
Ms. Lisa Jones	Director of Enforcement Division
Ms. Vicki Shoesmith	Director of Licensing Division

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE NOVEMBER 8, 2013 BOARD MEETING.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. MOTE TO APPROVE THE MINUTES AS WRITTEN. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

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

As requested by Dr. Gough, Ms. Carnes-Lemp provided an explanation on the difference between an Agreed Settlement Order and a Consent Order.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CORNETT TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. CHRISTY TO APPROVE THE CONSENT ORDERS AS PRESENTED. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

Dr. Chancellor stepped out of the Board meeting at 8:39 a.m. and returned at 8:42 a.m.

5. PUBLIC COMMENTS. Dr. Ric Dasheiff, Dr. William H. Gerlad, Dr. Paul D. Levine, Dr. Donna Miller, Jerald H. Simmons, Dr. Douglas Terry, and Dr. Keith Thornton signed-in to present public comments.

6. MISCELLANEOUS REPORTS.

6.1. Professional Recovery Network Report. PRN Report was available on-line for Members to view and review.

6.2. Western Regional Examining Board Dental Report. Dr. Ramos presented the WREB Report. Dr. Austin provided input and information on clinical exams.

6.3. Western Regional Examining Board Dental Hygiene Report. Dr. Ramos related that the Hygiene Exam Board will meet on March 21, 2014 and information will be available at the next Board meeting.

7. DISCUSSION OF AND POSSIBLE ACTION CONCERNING COMMITTEE REPORTS.

7.1. Dental Hygiene Advisory Committee.

- **Discussion and possible action on recommendation of Dental Hygienists to WREB as Examiners.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CORNETT TO APPROVE THE DENTAL HYGIENE ADVISORY COMMITTEE RECOMMENDATION OF THE DENTAL HYGIENIST TO THE WREB AS EXAMINERS AS PRESENTED. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

7.2. Dental Laboratory Certification Council. Ms. Brenda Triplett presented the Dental Laboratory Certification Council (DLCC) report. The DLCC met on Tuesday, January 21, 2014. Ms. Brenda Saunders was elected the Presiding Officer of the DLCC. The Council addressed some concerns with the application forms for new labs registrations and the renewal forms as well. The Council would like additional data fields and some clarification on the forms. TSBDE staff related that if they want to add data fields, then all of the HPC agencies would have to agree to these changes. The Council is currently in the process of updating these changes and realize that time is of the essence on getting renewals for labs approved. Discussion of CDTs also occurred. Jurisprudence assessment for labs was also discussed. Council training for new DLCC members was requested and is ongoing. DLCC has also requested to meet more than once this year. Resolution 52H was also discussed.

7.3. Dental Review Committee.

- **Discussion and possible action on recommendation of Expert Review Panel.** Dr. Bell related that the Dental Review Committee met on February 27, 2014 and there were 41 applicants up for review.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. LEEDY TO APPROVE THE DENTAL REVIEW COMMITTEE RECOMMENDATIONS OF THE EXPERT REVIEW CANDIDATES AS PRESENTED. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

7.4. Anesthesia Ad-Hoc Committee Report. Dr. Chancellor presented the Anesthesia Ad-Hoc Committee report. The committee met on February 27, 2014 and discussed several issues. One was a call to define qualified Dental Assistants to assist in monitoring Deep Sedation General Anesthesia. The American

Association of Oral and Maxillofacial Surgeons have developed a program on Dental Anesthesia Assistance CE and the committee felt that although it was a good program that addressed the needs of Maxillofacial surgery, there was no need to put it in our rules. It's a best practices issue and they are addressing that issue. There is a need for clarification and perhaps with minor changes provided by Ms. Hildebrand, this will help clarify the dedicated Dental Assistant that is helping monitor for General Anesthesia or Deep Sedation and this will be presented to the Board in May.

Another issue that came up was Capnography and we are looking at making a rule that would recommend Capnography for Moderate Sedation and Deep Sedation General Anesthesia. It was the consensus of the committee that there was no need and will not recommend any rules on Capnography at this time.

There was also a request from the San Antonio Dental School program Chair; OMS to add language to the rules regarding those Level 4 permit holders. Currently, only CODA accredited programs qualify for that Level 4. The main concern is hiring Dental School Faculty that are foreign trained but have not gone through CODA accredited programs but are well qualified to supervise in a hospital environment. After discussion, it was determined that faculty licensees do not need anesthesia permits in order to administer anesthesia. Staff also found that there is a program where Foreign trained Dentists can be brought up-to-date in a CODA accredited program and once they complete this, they are eligible for Board certification and will satisfy everything else the Chair is looking for.

Ms. Shoesmith asked for guidance and clarification on some of the rules and will present these for Board Review in May.

Dr. Ramos asked Dr. Dean to provide information on the Strategic Planning Committee while still on the subject of committee reports. Dr. Dean related that there have been over 5,000 responses and would defer to Ms. Shoesmith's Licensing Division report on the DSO Survey. Dr. Dean related that they are also looking back at the data and questions that are being asked and that they are getting the answers to the questions they are really asking. Some Dentist's do not know what DSO's are and they want to clarify this before they retrieve more data. They are also sharing this information with some Legislators to ensure that it is appropriate to their needs. Data validation is also very important.

The 5-year Strategic Plan for the Board is due in June and the Executive Director is working on the background information. Dr. Dean recommends a meeting with a moderator that will help establish a good 5-year strategy or plan for the Board.

The Presiding Officer called for a break at 9:31 a.m. The meeting reconvened at 10:04 a.m.

8. DISCUSSION OF AND POSSIBLE ACTION ON RULES.

8.1. Rule reviews in accordance with Texas Government Code, Section 2001.039.

8.1.1. Final Adoption Rule Review - 22 Tex. Admin. Code, Chapter 102, Fees.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. BUNEL TO FINAL ADOPT PROPOSED RULE REVIEW OF CHAPTER 102 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.1.2. Final Adoption Rule Review - 22 Tex. Admin. Code, Chapter 116, Dental Laboratories.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY MS. HYDE TO FINAL ADOPT PROPOSED RULE REVIEW OF CHAPTER 116 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.2. Final adoption of rules.

8.2.1. Final adoption of New Rule - 22 Tex. Admin. Code, Section 101.1, General Qualifications For Licensure.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. LEEDY TO FINAL ADOPT NEW RULE SECTION 101.1 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.2.2. Final adoption of New Rule - 22 Tex. Admin. Code, Section 101.5, Staggered Dental Registrations.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY MS. CHRISTY TO FINAL ADOPT NEW RULE SECTION 101.5 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.2.3. Final adoption of New Rule - 22 Tex. Admin. Code, Section 108.12, Dental Treatment of Sleep Disorders.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO TABLE 8.2.3. AND DISCUSS AFTER SOAH TO ALLOW MORE TIME FOR FURTHER DISCUSSION, INPUT, AND QUESTIONS. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BIRDWELL TO ACCEPT SECTION 108.12 AS MODIFIED AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.3. Proposal of rules.

8.3.1. Proposal of Amendments - 22 Tex. Admin. Code, Section 101.3, Licensure by Credentials.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO PROPOSE AMENDMENTS TO SECTION 101.3 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.3.2. Proposal of Amendments - 22 Tex. Admin. Code, Section 108.8, Records of a Dentist.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CHRISTY TO PROPOSE AMENDMENTS TO SECTION 108.8 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.3.3. Proposal of New Rule - 22 Tex. Admin. Code, Section 108.14, Pediatric and Special Needs Case Management, Protective Stabilization.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY MS. CORNETT TO PROPOSE NEW RULE TO SECTION 108.14 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

8.3.4. Proposal of New Rule - 22 Tex. Admin. Code, Section 108.12, Dental Treatment of Sleep Disorders.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. HYDE TO TABLE 8.3.4. TO ALLOW MORE TIME FOR FURTHER DISCUSSION, INPUT, AND QUESTIONS.
(FOR – 14 / OPPOSED – 0) MOTION CARRIES.

HOWEVER, BECAUSE IT WAS THE LAST DISCUSSION ITEM UNDER THE PROPOSAL OF RULES, THE BOARD CONTINUED DISCUSSION AND A MOTION WAS MADE AND VOTED ON.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BIRDWELL TO PROPOSE NEW RULE TO SECTION 108.12 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

Austin Community College Second Year Dental Hygiene students were recognized by Dr. Ramos and the Board and were thanked for attending the Board meeting.

9. AGENCY DIVISION ACTIVITY REPORTS.

- 9.1. Administration and Finance Division Report.** Ms. Rodriguez presented the Operating Budget from September 1, 2013 – January 31, 2014 and related that we are on track with the budget.

Two new staff members, a Systems Analyst and an Accounting Technician were added to the Administration and Finance Division.

Ms. Rodriguez provided information on updates to construction done for the Licensing Division and additional remodeling and restructuring in the office.

- 9.2. Dental Division Report.** Dr. Bell related that a new assistant has been hired for the Dental Division.

There are 75 trained Reviewers and 41 were approved earlier in this meeting. Training included a 74 page PowerPoint presentation which needed a grade of 80 or better plus Reviewers took an Ethics training and quiz.

Dental Division has sent out 38 cases to the Expert Reviewers and 26 are still with the Reviewers.

Dr. Bell and Ms. Carnes-Lemp led a remote presentation on legal ethical issues scheduled in Victoria, TX on February 7th since they were unable to attend due to inclement weather.

- 9.3. Enforcement Division Report.** Ms. Jones discussed quarterly statistics for the division and discussed the new columns in the Case Aging Statistics report which means that new complaints received after January 1st will be under the new Enforcement review process.

Division is now fully staffed and all have completed their training; all three Field Investigator positions have been filled and a new Compliance Officer has been hired.

- 9.4. Licensing Division Report.** Ms. Shoesmith presented licensing statistics, a progress report on business processes as well as a review of ongoing and completed projects in the division.

Licensing is ramping up for the Graduation season and staff is gearing up for this with a higher call volume. Licensing staff are also putting together packets.

Currently, there are four open positions and two positions will be filled in the next two weeks. Interviews are currently being conducted.

Ms. Shoesmith also discussed the Dentist License Renewal Questionnaire. They have submitted a draft to Representative Kolkhorst's office and are awaiting a response. Changes were made to the Questionnaire that include clarifying questions and definitions, added back and next buttons, and respondents can now view and download a PDF of the questions and answers they provided.

E-mail campaign will launch by the end of March and will focus on those Dentists who have not completed the questionnaire as well as those that only partially completed the questionnaire.

9.5. Legal Division Report. Ms. Carnes-Lemp reported on Legal case statistics, current case statistics, and Informal Settlement Conference dates in June were discussed.

A new Assistant General Counsel was hired. The newly vacant attorney position will be filled in the coming days.

Legal has closed out many cases and their numbers will improve greatly in the next few months and this will help wrap-up 2012 cases.

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. 504-13-5562, Nelia Garcia-Morales, DDS, Texas Dental License Number 20718.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-13-5562.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-13-5562, including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Nelia Garcia-Morales, DDS, Texas Dental License Number 20718.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NUMBER 20718 ISSUED TO NELIA GARCIA-MORALES. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

Docket No. 504-14-0471, Mychal S. Reilly, Applicant for Registered Dental Assistant.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-14-0471.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-0471, including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Mychal S. Reilly, Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MR. O'HARE TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND GRANT A CONDITIONAL REGISTRATION TO MYCHAL S. REILLY.
(FOR – 13 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

10.2. Default Orders from SOAH.

Docket No. 504-14-0264, Tuan Huynh-Tranh Pham, DDS, Texas Dental License Number 21910.

- Consideration of the Administrative Law Judge's order No.2 Dismissing Case from Docket in Docket No. 504-14-0264.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-0264, including Adoption of Order of the Board.
- Consider recommendations and take action: Tuan Huynh-Tranh Pham, DDS, Texas Dental License Number 21910.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. DEAN TO ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NUMBER 21910 ISSUED TO TUAN HUYNH-TRANH PHAM. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

Board returned to discuss and vote on item number 8.2.3. on the Dental Treatment of Sleep Disorders at 10:38 a.m. Input, questions, and discussion transpired by various Board Members and TSBDE staff. Input from Dr. Thornton was requested on the topic. Executive Assistant updated and modified language on rules during discussion. A motion was made on item number 8.2.3. Motion results provided under item number 8.2.3.

11. EXECUTIVE DIRECTOR'S REPORT.

Ms. Hildebrand discussed Legislative requirements provided to Board Members for review.

Information on current employee status and the need to hire additional staff was discussed.

TSBDE will continue to work on an electronic version to transfer cases to Expert Reviewers and make it a more efficient and easier process.

The Governor's Center for Management and Development will provide management training to the agency Director's and this will help move the agency forward.

Ms. Hildebrand will also move forward with the Strategic Plan for the agency with the assistance of the Strategic Planning Committee and will attend training for strategic planning provided by the Governor's Center for Management and Development in April. A moderator will be contracted to facilitate and assist with the Strategic Plan in May.

Work on the TSBDE and Board Member web sites will follow now that HPC has hired a new staff member to assist TSBDE with this endeavor and help us develop better web sites. Executive Assistant will facilitate with updates and modifications needed and Ms. Hildebrand will request input and feedback from Board Members via a survey on the changes and updates made to the Board Member site.

New projects are moving forward and performance measures are improving. An audit was received from the State Auditor's Office and there were concerns on our policies and procedures. Ms. Hildebrand will work on a draft of TSBDE policies and procedures on how we report, collect the information, and how we relate the information through performance measures.

12. PRESIDING OFFICER'S REPORT.

Dr. Ramos thanked the committees and committee members for all their hard work and related that they were all doing an outstanding job with the tasks ahead of them.

Dr. Ramos related his concern from the November Board meeting on case closures and eliminating the back-log of cases and discussed the implementation of the Dental Exam Reviewers to assist in this endeavor. His goal is to put a big dent on these cases and requested an additional report in six weeks for there will be a significant number of cases that will close in the next few weeks. Most of these cases are just a matter of documentation. Dr. Ramos warned that we are being judged by LBB on our performance measures.

13. ELECTION OF BOARD SECRETARY.

Two candidates are up for election: Dr. Austin and Dr. Dean.

Dr. Ramos provided the parameters and logistics for the Board Secretary position.

Ms. Carnes-Lemp reviewed the list of Board Secretary duties.

A secret ballot was held to elect the next Board Secretary.

Ms. Hildebrand and Ms. Carnes-Lemp counted the votes.

Dr. Dean was declared the winner effective March 1, 2014.

14. ANNOUNCEMENTS.

Next Board Meeting: Friday, May 9, 2014.

15. ADJOURN.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO ADJOURN THE MEETING AT 12:31 P.M. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

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

February 28, 2014

STEVEN J. AUSTIN, DDS
Board Secretary

February 28, 2014