



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 8, 2013

1. CALL TO ORDER – BOARD MEETING.

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:23 a.m.

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

a. Members Present:

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| Dr. Rodolfo G. Ramos Jr. | Presiding Officer |
| Dr. Steven J. Austin | Secretary |
| Dr. Kirby Bunel Jr. | Member |
| Dr. James W. Chancellor | Member |
| Ms. Renee S. Cornett, RDH | Member |
| Dr. D. Bradley Dean | Member |
| Dr. Tamela L. Gough | Member |
| Dr. Christie Leedy | Member |
| Mr. Timothy O'Hare | Member |
| Ms. Lois M. Palermo, RDH | Member |
| Mr. Lewis White | Member |

b. Members Absent:

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| Dr. William R. Birdwell | Member |
| Ms. Emily Willeford Christy | Member |
| Ms. Whitney Hyde | Member |
| Ms. Evangelia V. Mote | Member |

c. Staff Present:

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| Ms. Julie Hildebrand | Executive Director |
| Ms. Irma Rodriguez | Director of Administration and Finance |
| Dr. Brooke Bell | Director of Dental Division |
| Ms. Lisa Jones | Director of Enforcement Division |
| Ms. Simone Salloum | Attorney, Legal Division |
| Ms. Vicki Shoosmith | Director of Licensing Division |
| Dr. Lynn White | Staff Dentist |

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. CORNETT TO EXCUSE DR. BIRDWELL, MS. CHRISTY, MS. HYDE, AND MS. MOTE FROM THE PUBLIC HEARING. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE AUGUST 2, 2013 BOARD MEETING.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY DR. CHANCELLOR TO APPROVE THE MINUTES AS WRITTEN. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

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

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. AUSTIN TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

- 5. PUBLIC COMMENTS.** Monna Barin, Richard Dasheiff, Martin Denbar, David Duhon, Wendell Edgin, Dr. Robert Fayle, David McClove, Gerard Meskill, Dr. Todd Swick, and Keith Thornton signed-in to present public comments.

6. MISCELLANEOUS REPORTS.

- 6.1. Professional Recovery Network Report.** Ms. Courtney Hulbert presented the PRN Report.
6.2. Western Regional Examining Board Dental Report. Dr. Ramos presented the WREB Report.
6.3. Western Regional Examining Board Dental Hygiene Report. Ms. Palermo presented the Hygiene Exam Review Board Report.

7. APPEARANCES.

- 7.1. Ms. Kim Laudenslager, RDH and Dr. Steve Holcomb, Central Regional Dental Testing Service Presentation.** Ms. Kim Laudenslager presented contract to Ms. Shoemith. No action taken or needed.
7.2. Dr. John Roberts, Texas Health and Human Services, Presentation on TSBDE Rule 108.58 (Solicitation, Referrals and Gift Schemes). Dr. John Roberts did not attend. No action taken or modification needed.

The Presiding Officer called for a break at 10:15 a.m. The meeting reconvened at 10:30 a.m.

8. DISCUSSION OF AND POSSIBLE ACTION ON AMERICAN ACADEMY OF PEDIATRIC DENTISTRY'S GUIDELINES ON PROTECTIVE STABILIZATION FOR PEDIATRIC DENTAL PATIENTS – 2013.

Dr. Gough provided a brief description on the guidelines on protective stabilization for pediatric dental patients. Dr. Gough is working on a draft with Ms. Carnes-Lemp and will present a proposed rule at the next TSBDE Board meeting on February 28, 2014.

Dr. Ramos proposed a question to staff; have we received complaints in regards to this type of stabilization that we need a rule at this time? Ms. Hildebrand replied yes.

Dr. Gough commented on the AAPD Guidelines which are very specific on indications, counter-indications, documentation, and therefore no need to create a committee. Dr. Gough will have a rule at the February Board meeting.

9. DISCUSSION OF AND POSSIBLE ACTION ON THE USE OF LASERS BY DENTAL HYGIENISTS.

Ms. Salloum commented on the policy statement available on the TSBDE website on the use of lasers by dental hygienists that came out in 2010. Staff received questions on using lasers for the removal of dead tissues and bio-stimulation. Staff received conflicting answers and staff is seeking clarification from the Board.

Dr. Dean addressed the staff on the question and recommended no modifications.

Dr. Austin provided input on the policy of laser use. Ms. Cornett agreed with Dr. Austin's comments.

Dr. Ramos let the staff know that the policy statement as presented stands. No further action required.

10. DISCUSSION OF AND POSSIBLE ACTION CONCERNING COMMITTEE REPORTS.

10.1. Dental Review Committee.

- Discussion and possible action on recommendation of Expert Review Panel.

Ms. Hildebrand introduced the new Dental Division Director, Dr. Brooke Bell. Ms. Hildebrand reported that HB 3201 provided the funding for the new Dental Division Director at full-time capacity. Ms. Hildebrand introduced the Staff Dentist, Dr. Lynn White who will assist with policy and procedures and in the search and review of Expert Review Panelists at a part-time capacity.

Dr. Austin presented the Expert review Panel Report for Dr. Birdwell. The Dental Review Committee met on October 25th and reviewed 117 Expert Review Panel applications. A broad range of applicants applied. There are 85 applicants that meet all the qualifications that are required by the rule and have been reviewed by the committee. A vote is needed to approve the list of approved applicants.

Mr. Lewis White left the Board meeting after the Expert Review Panel Report. Early departure of Board member approved.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO APPROVE THE DENTAL REVIEW COMMITTEE'S RECOMMENDATIONS FOR THE EXPERT REVIEW PANEL AS PRESENTED.
(FOR – 9 / OPPOSED – 0) MOTION CARRIES.

10.2. Strategic Planning Committee.

Dr. Dean presented the Strategic Planning Committee Report. Consistent with HB 3201 and the appointment of this committee by Dr. Ramos, The Strategic Planning Committee met for the first time on August 14, 2013. Dr. Dean, Mr. O'Hare, and Ms. Christy met via Conference call. The Committee outlined the concerns and impetus of the Dental License Renewal Questionnaire, outlined objectives which was to create a database, and create a report for informational purposes from that database. The Committee met again via Conference call on August 28, 2013. Committee discussed Versa and established some questions that would give them the ability to create the database. The first survey was launched on November 1, 2013 and 200 surveys have been received since that date.

10.3. Anesthesia Committee.

Dr. Chancellor informed the Board that the Anesthesia Committee will meet on February 27, 2014 to present to the Board the topic of Anesthesia Monitoring Assistants for dentists who administer Level 4 Deep Sedation/General Anesthesia. Dr. Dean, Mr. White, Dr. Gough, and Dr. Bunel will attend.

11. DISCUSSION OF AND POSSIBLE ACTION ON RULES.

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

11.1.1. Proposed Rule Review – 22 Tex. Admin. Code, Chapter 102, Fees.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. DEAN TO PROPOSE A RULE REVIEW OF CHAPTER 102 AND PUBLISH IN THE TEXAS REGISTER.
(FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.1.2. Proposed Rule Review – 22 Tex. Admin. Code, Chapter 116, Dental Laboratories.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MR. O'HARE TO PROPOSE A RULE REVIEW OF CHAPTER 116 AND PUBLISH IN THE TEXAS REGISTER.
(FOR – 9 / OPPOSED – 0) MOTION CARRIES.

MS. CORNETT STEPPED OUT OF THE BOARD ROOM AFTER THE VOTE ON ITEM 11.1.2.

11.2. Final adoption of rules.

11.2.1. Final adoption of amendments - 22 Tex. Admin. Code, Section 100.3, Organization and Structure.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BUNEL TO FINAL ADOPT THE AMENDMENTS TO SECTION 100.3. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

MS. CORNETT RETURNED TO THE BOARD ROOM AFTER THE VOTE ON ITEM 11.2.1.

11.2.2. Final adoption of amendments - 22 Tex. Admin. Code, 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. AUSTIN AND SECONDED BY DR. BUNEL TO FINAL ADOPT THE AMENDMENTS TO SECTION 103.6 AND SECTION 114.2 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.2.3. Final adoption of amendments to 22 Tex. Admin. Code, Section 101.8, Persons with Criminal Backgrounds.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. AUSTIN TO FINAL ADOPT THE AMENDMENTS TO SECTION 101.8 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

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

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. CHANCELLOR TO FINAL ADOPT THE AMENDMENTS TO SECTION 102.1 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.2.5. Final adoption of amendments - 22 Tex. Admin. Code, Section 107.2, Effect of Child Support Payment Default on Licensure Application and Renewal.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO FINAL ADOPT THE AMENDMENTS TO SECTION 107.2 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.2.6. Final adoption of amendments - 22 Tex. Admin. Code, Section 107.63, Informal Disposition and Alternative Dispute Resolution.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO FINAL ADOPT THE AMENDMENTS TO SECTION 107.63 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.2.7. Final adoption of new rule - 22 Tex. Admin. Code, Section 101.6, Dental Licensing for Military Service Members, Military Veterans and Military Spouses.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. GOUGH TO FINAL ADOPT NEW RULE TO SECTION 101.6 WITH A NONSUBSTANTIVE CHANGE TO THE PROPOSED TEXT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.2.8. Final adoption of new rule - 22 Tex. Admin. Code, Section 107.3, Effect of Student Loan Payment Default on Licensure.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY DR. AUSTIN TO FINAL ADOPT NEW RULE TO SECTION 107.3 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.9. Final adoption of new rule - 22 Tex. Admin. Code, Section 107.204, Remedial Plan.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY MS. CORNETT TO FINAL ADOPT NEW RULE TO SECTION 107.204 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.10. Final adoption of new rule - 22 Tex. Admin. Code, Section 108.13, Practice of Dentistry On Certain Children.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. GOUGH TO FINAL ADOPT NEW RULE TO SECTION 108.13 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.11. Final adoption of 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 Licensees; Section 107.106, Use of Expert Panel; Section 107.107, Selection of Expert Reviewers; And Section 107.108, Determination of Competency by the Expert Panel.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. BUNEL TO FINAL ADOPT NEW RULES TO SECTION 107.101, SECTION 107.102, SECTION 107.103, SECTION 107.104, SECTION 107.105, SECTION 107.106, SECTION 107.107, AND SECTION 107.108 WITHOUT CHANGES TO THE PROPOSED TEXT. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.12. Final adoption of repealed 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. DEAN AND SECONDED BY DR. BUNEL TO FINAL ADOPT REPEALED SECTION 107.101, SECTION 107.102, AND SECTION 107.103. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.13. Final adoption of repealed rule - 22 Tex. Admin. Code, Section 101.6, Dental Licensing For Military Service Members, Military Veterans and Military Spouses.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. AUSTIN TO FINAL ADOPT REPEALED SECTION 101.6. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.2.14. Final adoption of repealed rule - 22 Tex. Admin. Code, Section 107.3, Effect of Student Loan Default on Licensure.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY DR. CHANCELLOR TO FINAL ADOPT REPEALED SECTION 107.3. (FOR - 9 / OPPOSED - 0) MOTION CARRIES.

11.3. Proposals of rules.

11.3.1. Proposal of new rules - 22 Tex. Admin. Code, Section 101.1, General Qualifications for Licensure; Section 101.5, Staggered Dental Registrations.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. AUSTIN TO PROPOSE AMENDMENTS TO SECTION 101.1 AND SECTION 101.5 AND PUBLISH IN THE TEXAS REGISTER FOR 30 DAY PUBLIC COMMENT. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

11.3.2. 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 DR. CHANCELLOR TO ADD SECTION 108.12 TO THE FEBRUARY 28, 2014 BOARD MEETING AGENDA FOR THE PROPOSED ADOPTION OF NEW RULE 108.12 AS IT APPEARED IN THE TEXAS REGISTER ON SEPTEMBER 13, 2013. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

12. AGENCY DIVISION ACTIVITY REPORTS.

12.1. Administration and Finance Division Report. Ms. Rodriguez presented two reports: Fiscal Year 2013 Operating Budget from September 2012 – October 31, 2013 and Fiscal Year 2014 for the month of September 2013.

Two new staff members, an Accountant and a Receptionist were added to the Administration and Finance Division.

Ms. Rodriguez is currently working on two additional reports: The 2013 Annual Financial Report for the Comptroller's Office and the 2014 Operating Budget for the Legislative Budget Board.

12.2. 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. Ms. Shoesmith also discussed the new Questionnaire and is currently working on the collection of e-mail addresses and conducting an e-mail campaign inviting Dentists to complete the survey.

12.3. Enforcement Division Report. Ms. Jones presented two reports: The Enforcement Division end of the year statistics for Fiscal Year 2013 and 2 months for Fiscal Year 2014 plus a report on complaints through the end of the year.

Five new staff members, three Field Investigators and two Inspectors were added to the Enforcement Division. The Dallas Enforcement Supervisor moved to another agency and the Houston Enforcement Supervisor was promoted to Assistant Director and can act as Director of Enforcement if needed.

12.4. Legal Division Report. Ms. Hildebrand reported on Legal Case Statistics for Fiscal Year 2012 and 2013, current case statistics, Informal Settlement Conference dates, SOAH Hearing statistics and cases on appeal.

Three new staff members, all Attorneys were added to the Legal Division.

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

13.1. Administrative Law Judge Proposals for Decision.

Docket No. 504-13-3154, Cassandra Brown, RDH, Texas Dental Hygiene License Number 14006.

- Consideration of the Administrative Law Judge’s Proposal for Decision in Docket No. 504-13-3154.
- Consideration of Staff’s Recommendations for Disposition of Docket No. 504-13-3154, Including Adoption of the Proposal for Decision’s Findings of Fact and Conclusions of Law with/without Modifications.
- Consider recommendations and take action: Cassandra Brown, RDH, Texas Dental Hygiene License Number 14006.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. DEAN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL HYGIENE LICENSE NUMBER 14006 ISSUED TO CASSANDRA BROWN. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.

14. EXECUTIVE DIRECTOR’S REPORT.

Ms. Hildebrand provided information to the Board on proposition and adoption of rules required by Legislation.

TSBDE will now work on in-house policies and procedures to start implementing all the requirements of HB 3201.

Last contract has been signed to begin construction for new office space for new staff members.

Ms. Hildebrand reported on key performance targets for fourth quarter and Fiscal Year 2013.

Executive Director will move forward with the Strategic Plan for the agency in January 2014.

Governor Perry has appointment two new members to DHAC.

One new staff member, an Executive Assistant was added to the Executive Division.

Ms. Hildebrand attended the AADB meeting.

15. PRESIDING OFFICER’S REPORT.

Dr. Ramos briefly discussed the accomplishments of the past year: The implementation of a new advertising rule, implementation of a Questionnaire to track the Dental Service Organizations, implementation of an Expert Review Panel, a new Dental Director, and more Attorneys.

Our focus next year is to reduce the number of outstanding cases. TSBDE will be held accountable by our Legislator’s to make sure we produce and close these cases.

16. DECLARATIONS FROM BOARD MEMBERS INTERESTED IN SERVING AS SECRETARY OF THE BOARD.

Dr. Ramos discussed the need for Board members to serve as Secretary of the TSBDE Board and opened the floor for declarations.

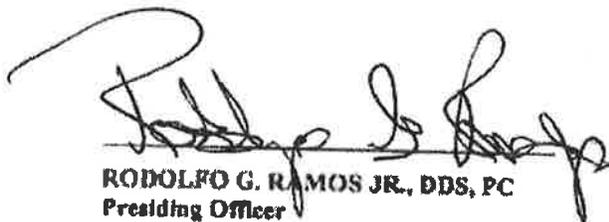
Dr. Austin and Dr. Dean expressed interest in serving as Secretary of the TSBDE Board.

17. ANNOUNCEMENTS.

Next Board Meeting: February 28, 2014.

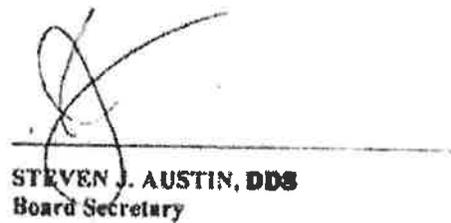
18. ADJOURN.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO ADJOURN THE MEETING AT 12:15 P.M. (FOR – 9 / OPPOSED – 0) MOTION CARRIES.



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

February 28, 2014



STEVEN J. AUSTIN, DDS
Board Secretary

February 28, 2014