



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES

May 9, 2014

1. CALL TO ORDER – BOARD MEETING.

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:13 a.m.

2. ROLL CALL.

Dr. Dean called the roll. It was noted for the record that a quorum was present.

Ms. Emily W. Christy and Ms. Whitney Hyde were excused from the Board meeting.

a. Members Present:

Dr. Rodolfo G. Ramos Jr.	Presiding Officer
Dr. D. Bradley Dean	Secretary
Dr. Steven J. Austin	Member
Dr. William R. Birdwell	Member
Dr. Kirby Bunel Jr.	Member
Dr. James W. Chancellor	Member
Ms. Renée S. Cornett, RDH	Member
Dr. Tamela L. Gough	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. Members Absent:

Ms. Emily W. Christy	Member
Ms. Whitney Hyde	Member

c. 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 Shoemsmith	Director of Licensing Division

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE FEBRUARY 28, 2014 BOARD MEETING.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. BUNEL TO APPROVE THE MINUTES AS WRITTEN. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

4. DISCUSSION OF AND ACTION ON PROPOSED AGREED SETTLEMENT ORDERS, CONSENT ORDERS, AND VOLUNTARY SURRENDER ORDERS.

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

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

5. PUBLIC COMMENTS.

Ms. Lynda R. Bean, Dr. Ric Dasheiff, Dr. Tor Gotun, Dr. Charles R. Hoopingarner, Dr. Paul D. Levine, Ms. Donna Miller, Ms. Jacqueline M. Plemons, and Dr. Jerald H. Simmons signed-in to present public comments.

6. MISCELLANEOUS REPORTS.

6.1. Professional Recovery Network Report.

Ms. Hulbert presented the Professional Recovery Network Report.

6.2. Western Regional Examining Board Dental Hygiene Report.

Ms. Palermo presented the Western Regional Examining Board Dental Hygiene Report.

The Hygiene Exam Board will meet on July 24, 2014 and information will be available to the Board at the next Board meeting.

7. APPEARANCES.

7.1. Mr. Charles Akin, Waiver of Licensing Requirements.

Mr. Robert Atterson spoke on behalf of Mr. Charles Akin and asked the Board to consider the Waiver of Licensing Requirements.

Ms. Carnes-Lemp provided details of this case to Board members.

Dr. Ramos provided information on the clinical exam, exam dates, and cities in Texas where the exam is offered.

Mr. Charles Akin humbly asked the Board to consider his financial situation and waive the licensing requirements.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. AUSTIN TO ALLOW MR. CHARLES AKIN TO APPLY FOR LICENSURE. (FOR – 11 / OPPOSED – 1) MOTION CARRIES.

The Presiding Officer called for a break at 9:18 a.m. The meeting reconvened at 9:40 a.m.

8. DISCUSSION OF AND POSSIBLE ACTION ON RULE 101.2(C), LICENSURE BY SPECIALTY EXAMINATION.

Ms. Carnes-Lemp provided information and details on Licensure by Specialty Examination.

Ms. Hildebrand provided rule specifications whereby the rule allows Dentists to be licensed with Specialty in lieu of a national or clinical exam.

Ms. Carnes-Lemp further explained that a Dentist coming from another state needs an active valid license that required a clinical exam.

Dr. Ramos related that the rule currently served no purpose.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. GOUGH TO REPEAL RULE 101.2 (C), LICENSURE BY SPECIALTY EXAMINATION. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

9. DISCUSSION OF AND POSSIBLE ACTION ON OWNERSHIP OF DENTAL PRACTICES.

Ms. Carnes-Lemp related that the Legislature is interested in getting information about dentists' ownership of dental practices. It has come to staff's attention that we need to look at authority in law and related rules and figure out what we can and cannot do with dentists and non-dentists.

Dr. Ramos called for the creation of a committee to address the Ownership of Dental Practices.

Dr. Dean will head the committee. Dr. Bunel, Dr. Gough, Mr. O'Hare, and Mr. White will also serve on this committee. Dr. Ramos tasked the committee to work collaboratively and present information to the Board at the next Board meeting.

10. DISCUSSION OF AND POSSIBLE ACTION ON THE USE OF LASERS BY AUXILLARY STAFF.

Ms. Salloum provided information to the Board regarding the questions and calls that they had received since posting to the Texas Register.

Dr. Ramos called for the creation of a committee to address the use of Lasers by Auxillary Staff. They will meet and bring recommendations to the Board to revise the policy statement or create a rule.

Dr. Birdwell will head the committee. Dr. Dean, Dr. Austin, Ms. Cornett, and Dr. Leedy will serve on this committee. Dr. Ramos tasked the committee to work collaboratively and present information to the Board at the next Board meeting.

Ms. Cornett left the Board meeting after the discussion on the "Use of Lasers by Auxillary Staff".

Early departure of Board member approved.

11. DISCUSSION OF AND POSSIBLE ACTION CONCERNING COMMITTEE REPORTS.

11.1. Strategic Planning Committee.

Ms. Hildebrand related that TSBDE is undergoing the strategic planning process and provided preliminary information on points of action and tasks at hand.

TSBDE Director's and Board Members met for a full-day planning session with Mr. Merjanian that was very helpful, insightful, and informative to board and staff. The workshop will continue after the conclusion of the Board meeting.

Input and feedback was also requested from TSBDE Stakeholders and their suggestions will be considered, discussed, and incorporated as part of the strategic planning process.

Ms. Hildebrand discussed the creation and adage of the Customer Service Survey on the TSBDE website which is designed to request feedback from TSBDE customers. This input and feedback is also an important component of the Strategic Plan.

Furthermore, Ms. Hildebrand related TSBDE is in the process of receiving final results from the Survey of Employee Engagement conducted by the Institute of Organizational Excellence.

Ms. Hildebrand related that the Strategic Plan is due June 23, 2014.

12. DISCUSSION OF AND POSSIBLE ACTION ON RULES.

12.1. Final adoption of rules.

12.1.1. Final adoption of Amended Rule – 22 Tex. Admin. Code, Section 101.3, Licensure by Credentials.

A MOTION WAS MADE BY DR. LEEDY AND SECONDED BY DR. DEAN TO ADOPT AMENDED RULE 101.3 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.1.2. Final adoption of Amended Rule – 22 Tex. Admin Code, Section 108.8, Records of a Dentist.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BUNEL TO ADOPT

AMENDED RULE 108.8 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

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

Questions, rule details, and discussion occurred between Board members on Section 108.12. Dr. Ramos thanked the Board for their contributions and changes made to this rule at the last Board meeting.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. MOTE TO ADOPT NEW RULE 108.12 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.1.4. Final adoption 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 DR. BIRDWELL TO ADOPT NEW RULE 108.14 WITHOUT CHANGES TO THE PROPOSED TEXT.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2. Proposal of rules.

12.2.1. Consideration of Proposal of New Rule – 22 Tex. Admin. Code, Section 101.11, Employment by Estate of Dentist or Person Acting for Mentally Incompetent Dentist.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY MR. O'HARE TO PROPOSE NEW RULE 101.11 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.2. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.6, Report of Patient Death or Injury Requiring Hospitalization.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY MS. MOTE TO PROPOSE AMENDMENTS TO RULE 108.6 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.3. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.7, Minimum Standard of Care, General.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. BIRDWELL TO PROPOSE AMENDMENTS TO RULE 108.7 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.4. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.8, Records of the Dentist.

A MOTION WAS MADE BY MR. O'HARE AND SECONDED BY DR. BUNEL TO PROPOSE AMENDMENTS TO RULE 108.8 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENTS. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.5. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.13, Practice of Dentistry on Certain Children.

A MOTION WAS MADE BY MS. LEEDY AND SECONDED BY DR. BIRDWELL TO PROPOSE AMENDMENTS TO RULE 108.13 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.6. Consideration of Proposal of Amendments to Rules – 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 DR. DEAN TO PROPOSE AMENDMENTS TO RULE 108.14 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.7. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 108.15, Notification of Discontinuance of Practice.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. GOUGH TO PROPOSE AMENDMENTS TO RULE 108.15 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.10. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 110.5, Moderate Sedation.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO PROPOSE AMENDMENTS TO RULE 110.5 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.11. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, Section 110.6, Deep Sedation or General Anesthesia.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MR. O'HARE TO PROPOSE AMENDMENTS TO RULE 110.6 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

12.2.12. Consideration of Proposal of Amendments to Rules – 22 Tex. Admin. Code, 110.9, Anesthesia Permit Renewal.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. LEEDY TO PROPOSE AMENDMENTS TO RULE 110.9 AND PUBLISH IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

13. AGENCY DIVISION ACTIVITY REPORTS.

13.1. Administration and Finance Division Report.

Ms. Rodriguez presented the Operating Budget from September 1, 2013 – March 31, 2014 and related that we are on track with the budget.

Two division employees have resigned from their positions. The positions will be filled in the coming weeks. Two new employees have been hired since the last board meeting. A full-time permanent and a part-time temporary position.

Ms. Rodriguez related that the agency is in the process of purchasing an electronic system and will most likely purchase the system in August.

Ms. Rodriguez related that construction is complete for the Licensing Division and the division has been completely moved and reinstalled into the old conference room.

Ms. Rodriguez is involved with the Strategic Planning and General Revenue Reconciliation.

13.2. 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. Shoemith discussed and related information on the Questionnaire. Eighty percent of licensed Dentists have completed the Questionnaire.

Two new licensing staff have been hired and the process of interviewing two additional positions has begun.

Ms. Shoemith will meet with the Jurisprudence Assessment Provider early next week.

13.3. Enforcement Division Report.

Ms. Jones discussed quarterly statistics for the division.

The new Enforcement review process is going very well. Ms. Jones related that there are a lot fewer open cases since the last board meeting and that there has never been such a big drop or reduction in cases before. The division hopes to be done with 2012 cases by the end of the month.

13.4. Dental Division Report.

Dr. Bell related that a new position had been filled that would be shared with the Enforcement Division.

The Dental Division is close to closing out old cases and has been very busy training the Dental Review Panel. There are now 98 fully trained and active reviewers working up to 4 cases per month. Dr. Bell has been very impressed with the quality of the work of the reviewers.

Mr. White stepped out of the Board meeting at 10:36 AM and returned at 10:41 AM.

13.5. Legal Division Report.

Ms. Carnes-Lemp reported on Legal case statistics, current case statistics, and Informal Settlement Conference dates for June and July.

Legal has 343 active cases. Each attorney has between 70-80 cases. The goal is to wrap-up 2009 and 2010 cases.

A new attorney and a new administrative assistant were hired which will help with the workload.

14. EXECUTIVE SESSION PURSUANT TO TEX. GOVT CODE § 551.071 (TEXAS OPEN MEETINGS ACT) TO RECEIVE LEGAL ADVICE ABOUT PENDING LITIGATION.

The Presiding Officer related to the board and the public that item #14 in the agenda would be skipped and addressed after agenda item #15 (SOAH).

Board and critical agency staff received legal advice about pending litigation.

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

15.1. Administrative Law Judge Proposals for Decision.

Docket No. 504-14-1284, Eva Marie Rosas, RDA Certificate No. 34207, NDA Certificate No. 48839, PDA Certificate No. 56012.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-14-1284.

- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-1284, including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.

- Consider recommendations and take action: Eva Marie Rosas, RDA Certificate No. 34207, NDA Certificate No. 48839, PDA Certificate No. 56012.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BUNEL TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND SUSPEND RDA CERTIFICATE NUMBER 34207, NDA CERTIFICATE NUMBER 48839, AND PDA CERTIFICATE NUMBER 56012 ISSUED TO EVA MARIE ROSAS UNTIL SHE COMES INTO COMPLIANCE AS REQUIRED BY ORDER OF THE BOARD.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

Docket No. 504-14-1896, Leanna Ashley Stewart, RDA Certificate No. 57767.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-14-1896.

- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-1896, including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications.

- Consider recommendations and take action: Leanna Ashley Stewart, RDA Certificate No. 57767.

A MOTION WAS MADE BY DR. LEEDY AND SECONDED BY DR. AUSTIN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE RDA CERTIFICATE NUMBER 57767 ISSUED TO LEANNA ASHLEY STEWART.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

Docket No. 504-14-2250, Ashley Lynn Vallejo, Applicant for Dental Assistant Registration.

- Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-14-2250.

- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-2250, including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with/without Modifications

- Consider recommendations and take action: Ashley Lynn Vallejo, Applicant for Dental Assistant Registration.

A MOTION WAS MADE BY DR. BUNEL 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 ASHLEY LYNN VALLEJO.
(FOR – 11 / OPPOSED – 0) MOTION CARRIES.

15.2. Default Orders from SOAH.

Docket No. 504-14-3070, Allen Atterson, DDS, Texas Dental License Number 16324.

- Consideration of the Administrative Law Judge's Order No. 2 Dismissing Case from Docket in Docket No. 504-14-3070.

- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-3070, including Adoption of the Order of the Board.

- Consider recommendations and take action: Allen Atterson, DDS, Texas Dental License Number 16324.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. WHITE TO ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NUMBER 16324 ISSUED TO ALLEN ATTERSON. (FOR – 9 / OPPOSED – 1 / ABSTAIN – 1) MOTION CARRIES.

Docket No. 504-14-3074, Carl E. Lee, DDS, Texas Dental License Number 11912.

- Consideration of the Administrative Law Judge's Order No. 2 Dismissing Case from Docket in Docket No. 504-14-3074.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-3074, including Adoption of the Order of the Board.
- Consider recommendations and take action: Carl E. Lee, DDS, Texas Dental License Number 11912.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. MOTE TO ADOPT THE ORDER OF THE BOARD AND SUSPEND TEXAS DENTAL LICENSE NUMBER 11912 ISSUED TO CARL E. LEE UNTIL HE COMES INTO FULL COMPLAINEE WITH HIS CURRENT BOARD ORDER. (FOR – 9 / OPPOSED – 1 / ABSTAIN – 1) MOTION CARRIES.

Docket No. 504-14-3071, Oralia Nesmith, RDA, Registered Dental Assistant Number 35557.

- Consideration of the Administrative Law Judge's Order No. 2 Dismissing Case from Docket in Docket No. 504-14-3071.
- Consideration of Staff's Recommendations for Disposition of Docket No. 504-14-3071, including Adoption of the Order of the Board.
- Consider recommendations and take action: Oralia Nesmith, RDA, Texas Registered Dental Assistant Number 35557.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. MOTE TO ADOPT THE ORDER OF THE BOARD AND SUSPEND TEXAS REGISTERED DENTAL ASSISTANT NUMBER 35557 ISSUED TO ORALIA NESMITH UNTIL SHE COMES INTO FULL COMPLAINEE WITH HER CURRENT BOARD ORDER. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

Mr. O'Hare left the Board meeting after agenda item #15.2. (Default Orders from SOAH).

Early departure of Board member approved.

Presiding Officer returned to item # 14 of the agenda - EXECUTIVE SESSION PURSUANT TO TEX. GOVT CODE § 551.071 (TEXAS TO RECEIVE OPEN MEETINGS ACT) LEGAL ADVICE ABOUT PENDING LITIGATION.

Non-critical agency staff and public members were asked to step out of the room for the discussion with Mr. Jim Todd and were allowed to return once the session concluded.

16. EXECUTIVE DIRECTOR'S REPORT.

Ms. Hildebrand discussed Dental Service Organizations.

Ms. Hildebrand also discussed the new Customer Service Survey on the TSBDE website which will provide feedback to TSBDE and help improve customer service.

17. PRESIDING OFFICER'S REPORT.

Dr. Ramos thanked agency staff, Mr. Merjanian, and the board for all the assistance, participation, and contributions to the Strategic Plan and Workshop.

Dr. Ramos related that he was very impressed and happy with the amount of cases closed.

Dr. Ramos thanked the board for their unified support and outstanding job.

18. ANNOUNCEMENTS.

Next Board Meeting: Friday, August 8, 2014.

19. ADJOURN.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. AUSTIN TO ADJOURN THE MEETING AT 1:18 P.M. (FOR – 10/ OPPOSED – 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

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

D. BRADLEY DEAN, DDS
Board Secretary

May 9, 2014

May 9, 2014