



## TEXAS STATE BOARD OF DENTAL EXAMINERS

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### BOARD MEETING MINUTES November 19, 2010

1. **CALL TO ORDER:** Dr. Purifoy called the meeting of the Texas State Board of Dental Examiners (SBDE) to order. The time was 8:31 a.m. Dr. Finn read the Board's Mission Statement.

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

**a. Members Present:**

Dr. William Purifoy	Presiding Officer
Dr. Tamela Gough	Secretary
Dr. Steven Austin	Member
Ms. Mary Baty, RDH	Member
Dr. William Birdwell	Member
Dr. James W. Chancellor	Member
Dr. Maxwell Finn	Member
Ms. Alicia Grant, RDH	Member
Ms. Whitney Hyde	Public Member
Ms. Georgiana Matz	Public Member
Ms. Ann Pauli	Public Member
Mr. Jerry Romero	Public Member
Dr. Rudolfo Ramos	Member
Dr. Russell Schlattman	Member
Mr. Arthur Troilo	Public Member

**b. SBDE Staff Present:**

Ms. Sherri Meek	Executive Director
Ms. Joy Sparks	General Counsel
Ms. Lisa Jones	Director of Enforcement
Ms. Brenda Kilburn	Director of Administration
Ms. Sandy Ferris	Director of Licensing
Ms. Vicki Shoosmith	Assistant to the Executive Director

3. **REVIEW AND APPROVAL OF MINUTES FROM THE AUGUST 20, 2010 BOARD MEETING.**

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY DR. CHANCELLOR TO APPROVE THE MINUTES AS WRITTEN. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

4. **CONSENT AGENDA.** The Consent Agenda was approved with the following changes to Agenda Items 10.4.2:

**10.4.2. Agreed Settlement Orders.**

Ms. Sparks stated that the following Settlement Orders will be taken off the agenda:

Bayat, Mahboobeh, DDS # 17134  
Dolce, Charles L., DDS# 7673  
Kol, Lynda Pheng, DDS# 18351

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. AUSTIN TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

**Dr. Purifoy noted for the record that Mr. Troilo joined the meeting at 8:49 a.m.**

5. **DISCUSSION AND POSSIBLE ACTION CONCERNING APPEARANCES BEFORE THE BOARD.**

- 5.1. **Richard B. Skibell, DDS, SBDE Lic. #10489,  
Requesting Modification to SBDE Board Order #08-0516-0409**

A MOTION WAS MADE BY DR. RAMOS TO DENY THE REQUEST OF DR RICHARD B. SKIBELL. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

- 5.2. **Diana Watson-Smith, DDS, SBDE Lic., #11869  
Requesting Modification of SBDE Board Order #04-924-0701**

A MOTION WAS MADE BY DR. SCHLATTMAN AND SECONDED BY MS. BATY TO APPROVE THE REQUEST OF DR. DIANA WATSON-SMITH. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

- 5.3. **John Smith, DDS, SBDE Lic., #12441,  
Requesting Modification of SBDE Board Order #04-923-0630**

A MOTION WAS MADE BY DR. SCHLATTMAN AND SECONDED BY MS. PAULI TO APPROVE THE REQUEST OF DR. JOHN SMITH. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

6. **DISCUSSION AND POSSIBLE ACTION CONCERNING REPORTS OF BOARD COMMITTEES.**

- 6.1. **Anesthesia Rules Ad-hoc Committee Report.**

Dr. Gough reported that the Anesthesia Rules Ad-hoc Committee convened to update the agency's sedation and anesthesia rules based on sedation guidelines adopted by the American Dental Association House of Delegates in 2007. The committee met on August 27, 2009, November 19, 2009 and August 19, 2010.

The new rules developed by the committee (new Chapter 110, Sedation and Anesthesia) consolidates sedation and anesthesia rules previously found in Rules 108.30 and 108.35 and Chapter 110, Enteral Sedation. Dr. Gough reported that the most significant change in the revisions is to the level of anesthesia and sedation permitting. The permitting process emphasizes the level of sedation of the patient rather than the route of administration of the medication. The new rules establish five levels of anesthesia and sedation permits beyond the standard dental license.

Dr. Gough stated that the proposal of the new anesthesia rules requires the repeal of the existing anesthesia rules followed by a recommendation to the Board the proposal of new rules in Chapter 110, Anesthesia and Sedation.

6.1.1. Discussion and consideration of proposed repeals in 22 Tex. Admin. Code:

- §108.30 – Effective Date.
- §108.31 – Definitions.
- §108.32 – Minimum Standard of Care, Anesthesia.
- §108.33 – Sedation/Anesthesia Permit.
- §108.34 – Permit Requirements and Clinical Provisions.
- §108.35 – Authority to Demonstrate Anesthesia.
- §110.1 – Definitions.
- §110.2 – Permit.
- §110.3 – Permit Requirements and Clinical Provisions.
- §110.4 – Effective Date.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. SCHLATTMAN TO REPEAL RULES 108.30 THROUGH 108.35 AND 110.1 THROUGH 110.4 AND PUBLISH THE PROPOSED REPEALS IN THE TEXAS REGISTER FOR 30-DAY PUBLIC COMMENT PERIOD. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

6.1.2. Discussion and consideration of proposed new rules in 22 Tex. Admin. Code Chapter 110 – Anesthesia and Sedation:

- §110.1 – Definitions.
- §110.2 – Sedation/Anesthesia Permit.
- §110.3 – Nitrous Oxide/Oxygen Inhalation Sedation.
- §110.4 – Minimal Sedation.
- §110.5 – Moderate Sedation.
- §110.6 – Deep Sedation or General Anesthesia.
- §110.7 – Portability.
- §110.8 – Provisional Anesthesia and Portability Permits.
- §110.9 – Anesthesia Permit Renewal.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED MR. ROMERO TO RECOMMEND THE BOARD MOVE TO PROPOSE NEW RULES IN 22 TEXAS ADMINISTRATIVE CODE CHAPTER 110 – ANESTHESIA AND SEDATION: RULES 110.1 THROUGH 110.9 AND PUBLISH THE PROPOSED NEW RULES IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 1) MOTION CARRIES.

## 7. MISCELLANEOUS REPORTS.

- **Professional Recovery Network (PRN) Report.** Ms. Courtney Bolin, LMSW, presented the PRN report.

## 8. DISCUSSION AND CONSIDER A REQUIREMENT FOR ORAL CANCER SCREENING.

The Board directed Staff to bring back language regarding Oral Cancer Screening in the Standard of Care section of the Rules.

The Presiding Officer called for a break at 10:04 a.m. The meeting reconvened at 10:16 a.m.

## 9. DISCUSSION AND POSSIBLE ACTION REGARDING RULES.

### 9.1. For Consideration of Adoption of New and Amended Rules in 22 Tex. Admin. Code:

#### 9.1.1. Amendments to §101.1 – General Qualifications for Licensure. (Dentists) Amendments to §103.1 – General Qualifications for Licensure. (Dental Hygienists)

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY MS PAULI TO ADOPT WITHOUT CHANGES, AMENDMENTS TO RULE 101.1 AND RULE 103.1, RELATING TO GENERAL QUALIFICATIONS FOR LICENSURE AND PUBLISH THE RULES IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0 / ABSTENTION – 1) MOTION CARRIES.

#### 9.1.2. Amendments to §101.2 – Licensure by Examination. (Dentists) Amendments to §103.2 – Licensure by Examination. (Dental Hygienists)

A MOTION WAS MADE BY MS. HYDE AND SECONDED BY MS PAULI TO ADOPT WITHOUT CHANGES, AMENDMENTS TO RULES 101.2 AND RULE 103.2, RELATING TO LICENSURE BY EXAMINATION AND PUBLISH THE RULES IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0 / ABSTENTION - 1) MOTION CARRIES.

#### 9.1.3. Amendments to §101.3 – Licensure by Credentials. (Dentists) Amendments to §101.4 – Temporary Licensure by Credentials. (Dentists)

A MOTION WAS MADE BY MS. BATY AND SECONDED BY MR. ROMERO TO ADOPT WITHOUT CHANGES, THE AMENDMENTS TO RULE 101.3 AND RULE 101.4, RELATING TO LICENSURE BY CREDENTIALS AND TEMPORARY LICENSURE BY CREDENTIALS AND PUBLISH THE RULES IN THE TEXAS REGISTER. (FOR – 13 / OPPOSED – 0 / ABSTENTION - 1) MOTION CARRIES

#### 9.1.4. Amendments to §101.8 – Persons with Criminal Backgrounds.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MR. TROILO TO ADOPT WITHOUT CHANGES, AMENDMENTS TO RULE 101.8, RELATING TO PERSONS WITH CRIMINAL BACKGROUNDS AND PUBLISH THE RULE IN THE TEXAS REGISTER. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

#### 9.1.5. Amendments to §108.52 – False or Misleading Communications.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. MATZ TO ADOPT WITHOUT CHANGES, AMENDMENTS TO RULE 108.52, RELATING TO FALSE OR MISLEADING COMMUNICATIONS AND PUBLISH THE RULE IN THE TEXAS REGISTER. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

#### 9.1.6. New §114.6 – General Qualifications for Registration or Certification.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MS. GRANT TO ADOPT WITH CHANGES, AMENDMENTS TO RULE 114.6, RELATING TO GENERAL QUALIFICATIONS FOR REGISTRATION OR CERTIFICATION AND PUBLISH THE RULE IN THE TEXAS REGISTER. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

**9.1.7. Amendments to §114.21 – Requirements for Dental Assistant Registration Courses and Examinations.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. GRANT TO ADOPT WITHOUT CHANGES, AMENDMENTS TO RULE 114.21, RELATING TO REQUIREMENTS FOR DENTAL ASSISTANT REGISTRATION COURSES AND EXAMINATIONS AND PUBLISH THE RULE IN THE TEXAS REGISTER. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

**9.1.8. Amendments to §116.10 – Prosthetic Identification.**

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MR. TROILO TO ADOPT, WITHOUT CHANGES, THE AMENDMENTS TO RULE 116.10, RELATING TO PROSTHETIC IDENTIFICATION, AND TO PUBLISH THE RULE IN THE TEXAS REGISTER. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10. AGENCY DIVISION ACTIVITY REPORTS.**

**10.1. Administration Division.** Ms. Kilburn presented the Fiscal Year Budget Report.

**10.2. Licensing Division.**

a. Parenteral Anesthesia Permit Applications.

A MOTION WAS MADE BY DR. FINN AND SECONDED BY MS. GRANT TO APPROVE 21 ANESTHESIA PERMITS PRESENTED. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

b. Report of Nitrous Oxide and Enteral Conscious Sedation Permit Applications. Ms. Ferris reported that 99 Nitrous Oxide Inhalation Conscious Sedation Permits were issued and 135 Enteral Conscious Sedation Permits were issued through the Second Quarter.

c. Licensing Division Report. Ms. Ferris presented Licensing statistics through the Second Quarter of FY 2011.

**10.3. Enforcement Division.** Ms. Jones presented the Case Aging and Monthly Activity Report.

**10.4. Legal Division.**

**10.4.1. Administrative Law Judge (ALJ) Proposals for Decision – State Office of Administrative Hearings (SOAH).**

**10.4.1.a. Docket No. 504-10-4920, Sonya J. Loy, RDA, Texas Dental Assistant Registration Number 15619.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-4920.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-4920, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law without Modifications.

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY DR. FINN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND REVOKE DENTAL ASSISTANT REGISTRATION NUMBER 15619 ISSUED TO SONYA J LOY. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10.4.1.b. Docket No. 504-10-3828, Gabriel Vela, Applicant for a Registered Dental Assistant Certification.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-3828.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-3828, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law without Modifications.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. PAULI TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND DENY THE APPLICATION OF GABRIEL VELA. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10.4.1.c. Docket No. 504-10-4832, Melissa Solis, Applicant for a Registered Dental Assistant Certification.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-4832.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-4832, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law with Modifications.

Consider recommendation(s) and take action regarding Registered Dental Applicant Melissa Solis.

A MOTION WAS MADE BY MS. MATZ AND SECONDED BY DR. BIRDWELL TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, MODIFY THE PROPOSAL FOR DECISION, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND DENY THE APPLICATION OF MELISSA SOLIS. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10.4.1.d. Docket No. 504-10-2089, Charles G. Rule, DDS, Texas Dental License Number 7867.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-2089.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-2089, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law without Modifications.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. PAULI TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND REVOKE TEXAS DENTAL LICENSE 7867 ISSUED BY CHARLES G. RULE. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10.4.1.e. Docket No. 504-10-2225, Allen Atterson, DDS, Texas Dental License Number 16324.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-2225.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-2225, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law without Modifications.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY DR. BIRDWELL TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND ISSUE A REPRIMAND ON TEXAS DENTAL LICENSE NO 16324 ISSUED TO ALLEN L. ATTERSON. (FOR – 14 / OPPOSED – 0) MOTION CARRIES.

**10.4.1.f. Docket No. 504-10-3332, Kenneth D. Ainsworth, DDS, Texas Dental License Number 22351.**

Consideration of the Administrative Law Judge's Proposal for Decision in Docket No. 504-10-3332.

Consideration of Staff's Recommendations for Disposition of Docket No. 504-10-3332, Including Adoption of the Proposal for Decision's Findings of Fact and Conclusions of Law without Modifications.

A MOTION WAS MADE BY MS. MATZ AND SECONDED BY DR. FINN TO TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AS PRESENTED AND REVOKE TEXAS DENTAL LICENSE 22351 ISSUED TO KENNETH AINSWORTH. (FOR – 14 / OPPOSED – 0) MOTION CARRIES

**EXECUTIVE SESSION PURSUANT TO TEX. GOV'T CODE ANN. §551.074 (TEXAS OPEN MEETINGS ACT) REGARDING PERSONNEL MATTERS: ANNUAL PERFORMANCE EVALUATION OF SHERRI MEEK, EXECUTIVE DIRECTOR.**

The Presiding Officer called for a break at 11:52 a.m. The meeting reconvened at 12:05 p.m.

Dr. Purifoy noted for the record that Dr. Ramos left the meeting at 11:18 a.m. and Ms. Matz left the meeting at 12:06 p.m.

**10.4.2. C- Agreed Settlement Orders.**

The following Agreed Settlement Orders were pulled from the Consent Agenda for further review and consideration:

Bayat, Mahboobeh, DDS # 17134  
Dolce, Charles L., DDS# 7673  
Kol, Lynda Pheng, DDS# 18351

- Kol, Lynda Pheng, DDS# 18351

This Settlement Order was not received in time for this Board Meeting and will therefore be discussed at the April Meeting.

- Dolce, Charles L., DDS# 7673

A MOTION WAS MADE BY DR. FINN AND SECONDED BY MS. PAULI TO APPROVE THE SETTLEMENT ORDER ISSUED BY DOLCE, CHARLES L., DDS# 7673 AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES

- Bayat, Mahboobeh, DDS # 17134

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. SCHLATTMAN TO CHANGE THE SETTLEMENT ORDER OF DR. MAHBOOBEB BAYAT, DDS #17134 TO A CONDITIONAL DISMISSAL. (FOR – 6 / OPPOSED - 5 / ABSTENTION - 1) MOTION CARRIES.

**10.4.3. Legal Division Activity Report.** Ms. Sparks presented the Legal Division Report through the Second Quarter of 2011.

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

Dr. Austin declared his availability and interest in serving as Board Secretary.

**10. EXECUTIVE DIRECTOR’S REPORT.**

Ms. Meek reported that user testing of all agencies involved in the Versa Project is on-going. Versa Project leadership have postponed the live launch date due to critical testing before acceptance and launching can be accomplished.

Ms. Meek reported on the project of making Board Orders available online, hosted by Neubus, will begin interfacing with the Versa Project when the Versa Project has launched live online.

Ms. Meek briefed the Board on the upcoming Legislative Session and provided an update on agency staff.

**11. PRESIDING OFFICER’S REPORT.**

Dr. Purifoy recognized the Board and Staff as well as key visitors attending the meeting.

**12. PUBLIC COMMENTS.**

Dr. Purifoy announced the format then invited participation from the audience. Speakers included: Mark Stankewitz; Kevin Tran; Douglas Terry; Lenny Brook; Lyric Smith; Charles Repa; and Gwen Mitchell.

**13. MISCELLANEOUS.**

- Board Items of Interest.
  - Board Committee Meetings - Austin, TX, January 13, 2011 (Tentatively Scheduled)
  - Board Meeting - Austin, TX, January 14, 2011 (Tentatively Scheduled)

**14. ADJOURN.**

A MOTION WAS MADE BY MR. ROMERO AND SECONDED BY MS. HYDE TO ADJOURN THE MEETING AT 12:38 P.M. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

**TAMELA L. GOUGH, D.D.S., M.S.**  
**Presiding Officer**  
**Texas State Board of Dental Examiners**

**Date: April 15, 2011**