



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 20, 2009

1. **CALL TO ORDER:** Dr. Purifoy called the meeting of the Texas State Board of Dental Examiners (SBDE) to order. The time was 9:00 a.m. Dr. Schlattman 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
Ms. Alicia Grant, RDH	Member
Ms. Whitney Hyde	Public Member
Ms. Ann Pauli	Public Member
Dr. Rudolfo Ramos	Member
Mr. Jerry Romero	Public Member
Dr. Russell Schlattman	Member
Mr. Arthur Troilo	Public Member

b. Members Absent:

Dr. Maxwell Finn	Member	(Excused)
Ms. Georgiana Matz	Public Member	(Excused)

c. SBDE Staff Present:

Ms. Sherri Sanders 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 Shoemith	Assistant to the Executive Director
Ms. Carey Olney	Staff Attorney

3. **ROLL CALL.**

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. PAULI TO EXCUSE DR. FINN AND MS. MATZ FROM THE MEETING. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

4. REVIEW AND APPROVAL OF MINUTES FROM THE AUGUST 28, 2009 BOARD MEETING.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MS. GRANT TO APPROVE THE MINUTES AS PRESENTED. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

Dr. Purifoy noted for the record that Mr. Troilo joined the meeting at 9:10 a.m.

5. APPEARANCES.

Dr. Isaiah L. Harris, Jr., – Licensure applicant seeking approval for licensure in accordance with Rule 101.1(f).

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. ROMERO TO DENY DR. HARRIS'S REQUEST TO SEEK APPROVAL FOR LICENSURE. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

6. COMMITTEE REPORTS.

Anesthesia Rules Ad-Hoc Committee Report.

Dr. Gough reported that the Anesthesia Rules Ad-Hoc Committee met on November 19, 2009 at 1:00 p.m. to review and consider proposed revisions to Sedation and Anesthesia Rules in New Texas Administrative Code Chapter 110. The Committee will meet again to continue its review of these rules.

7. OTHER REPORTS.

a. Professional Recovery Network Report (PRN).

Ms. Meek reported that in lieu of appearing at today's meeting Ms. Donna Chamberlain, L.C.S.W., Director of PRN, has submitted a written report.

b. Dental Hygiene Advisory Committee (DHAC) Report.

Ms. Meek reported the DHAC met on October 9, 2009 to review and consider proposed amendments to Rules 104.1; 115.3; 115.5; 115.20; 107.63; 107.202 and New Rules 115.7 and 107.69. The Committee voted to support all of these rulemaking actions.

c. Dental Laboratory Certification Council (DLCC) Report.

Mr. Brady Bradley reported that the DLCC met on September 23, 2009 to review and consider proposed amendments to Rule 116.3 and voted to support this rule change. Mr. Bradley recommended Ms. Brenda Saunders, CDT, for an appointment to the DLCC for a two-year term. Ms. Saunders will be replacing Mr. Rick Barton whose term has ended.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. GOUGH TO APPROVE THE APPOINTMENT OF MS. BRENDA SAUNDERS, CDT, TO THE DENTAL LABORATORY CERTIFICATION COUNCIL FOR A TWO-YEAR TERM EFFECTIVE JANUARY 2010.

8. RULES.

a. Chapter 100 – General Provisions:

- Discuss and consider the final adoption of amendments to Rule 100.3 – Organization and Structure.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. PAULI TO APPROVE THE FINAL ADOPTION OF AMENDMENTS TO RULE 100.3 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

b. Chapter 101 – Dental Licensure:

(1) Discuss and consider the proposed amendments to Rule 101.3 – Licensure by Credentials.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. BATY TO PROPOSE AMENDMENTS TO RULE 101.3 AND PUBLISH IN THE TEXAS REGISTER. (FOR - 12 / OPPOSED – 0) MOTION CARRIES.

(2) Discuss and consider proposed amendments to Rule 101.4 – Temporary Licensure by Credentials.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY DR. AUSTIN TO PROPOSE AMENDMENTS TO RULE 101.4 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(3) Discuss and consider final adoption of amendments to Rule 101.5 – Staggered Dental Registrations.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MS. HYDE TO ADOPT AMENDMENTS TO RULE 101.5 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(4) Discuss and consider proposed amendments to Rule 101.8 – Persons with Criminal Backgrounds.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MR. ROMERO TO PROPOSE AMENDMENTS TO RULE 101.8 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(5) Discuss and consider proposed New Rule 101.9 – Criminal History Evaluation Letter.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. GRANT TO PROPOSE NEW RULE 101.9 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

c. Chapter 103 – Dental Hygiene Licensure:

(1) Discuss and consider proposed amendments to Rule 103.3 – Licensure by Credentials.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY MS. BATY TO PROPOSE AMENDMENTS TO RULE 101.3 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(2) Discuss and consider proposed amendments to Rule 103.4 – Temporary Licensure by Credentials.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. GRANT TO PROPOSE AMENDMENTS TO RULE 103.4 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8. RULES.

c. Chapter 103 – Dental Hygiene Licensure (Continued)

(4) Discuss and consider New Rule 103.8 – Criminal History Evaluation Letter.

A MOTION WAS MADE BY MR. ROMERO AND SECONDED BY DR. AUSTIN TO PROPOSE NEW RULE 103.8 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

d. Chapter 104 – Continuing Education:

(1) Discuss and consider final adoption of amendments to Rule 104.1 – Requirement.

A MOTION WAS MADE BY DR. GOUGH AND SECONDED BY DR. CHANCELLOR TO ADOPT AMENDMENTS TO RULE 104.1 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(2) Discuss and consider the final adoption of amendments to Rule 104.2 – Providers.

A MOTION WAS MADE BY MS. GRANT AND SECONDED BY MS. PAULI TO ADOPT AMENDMENTS TO RULE 104.2 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 10 / OPPOSED – 2) MOTION CARRIES.

(3) Discuss and consider the final adoption of amendments to Rule 104.4 – Penalties.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. GOUGH TO ADOPT AMENDMENTS TO RULE 104.4 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

e. Chapter 107 – Dental Board Procedures:

**(1) Discuss and consider the final adoption of amendments to Rule 107.63 –
Informal Disposition and Alternative Dispute Resolution.**

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY DR. RAMOS TO ADOPT AMENDMENTS TO RULE 107.63 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(2) Discuss and consider the final adoption of New Rule 107.69 –
Alternative Informal Assessment of Administrative Penalty.**

A MOTION WAS MADE MS. PAULI AND SECONDED BY DR. BIRDWELL TO ADOPT AMENDMENTS TO RULE 107.69 WITHOUT CHANGES TO THE BOARD'S RESPONSE TO THE COMMENT RECEIVED AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(3) Discuss and consider the final adoption of amendments to Rule 107.202 –
Disciplinary Guidelines and Administrative Penalty Schedule.**

A MOTION WAS MADE DR. BIRDWELL AND SECONDED BY MS. BATY TO ADOPT AMENDMENTS TO RULE 107.202 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8. RULES. (Continued)

f. Chapter 108 – Professional Conduct.

(1) Discuss and consider the final adoption of amendments to Rule 108.8 – Records of the Dentist.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. HYDE TO ADOPT AMENDMENTS TO RULE 108.8 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(2) Discuss and consider the final adoption of New Rule 108.10 –
Notification of Change of Information.**

A MOTION WAS MADE BY MS. BATY AND SECONDED BY MS. HYDE TO ADOPT NEW RULE 108.10 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

g. Chapter 114 – Extension of Duties of Auxiliary Personnel – Dental Assistants.

(1) Discuss and consider final adoption of amendments to Rule 114.1 – Permitted Duties.

A MOTION WAS MADE BY MR. ROMERO AND SECONDED BY DR. AUSTIN TO ADOPT AMENDMENTS TO RULE 114.1 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(2) Discuss and consider the final adoption of amendments to Rule 114.2 –
Registration of Dental Assistants.**

A MOTION WAS MADE TO ADOPT AMENDMENTS TO RULE 114.2 WITH CHANGES AND THE BOARD’S RESPONSE TO COMMENTS RECEIVED AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(3) Discuss and consider the final adoption of amendments to Rule 114.3 –
Application of Pit and Fissure Sealants.**

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MR. TROLIO TO ADOPT AMENDMENTS TO RULE 114.3 WITHOUT CHANGES AND THE BOARD’S RESPONSE TO THE COMMENTS AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(4) Discuss and consider the final adoption of amendments to Rule 114.5 –
Coronal Polishing Certificate.**

A MOTION WAS MADE BY MS. GRANT AND SECONDED BY DR. BIRDWELL TO ADOPT NEW RULE 114.5 WITHOUT CHANGES AND THE BOARD’S RESPONSE TO THE COMMENT AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(5) Discuss and consider New Rule 114.9 – Criminal History Evaluation Letter.

A MOTION WAS MADE BY MS. PAULI AND SECONDED BY DR. GOUGH TO PROPOSE NEW RULE 114.9 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

8. RULES.

g. Chapter 114 – Extension of Duties of Auxiliary Personnel – Dental Assistants. (Continued)

(6) Discuss and consider New Rule 114.12 – Continuing Education for Certificate Holders.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. BATY TO PROPOSE NEW RULE 114.12 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(7) Discuss and consider the final adopt on the repeal of Rule 114.22 –
Dental Assistant Course Objectives.**

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY DR. AUSTIN TO ADOPT THE REPEAL OF RULE 114.22 WITHOUT CHANGES AND THE BOARD'S RESPONSE TO THE COMMENT PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

h. Chapter 115 – Extension of Duties of Auxiliary Personnel – Dental Hygiene.

(1) Discuss and consider the final adoption of amendments to Rule 115.3 – Institutional Employment.

A MOTION WAS BY MR. TROILO AND SECONDED BY MS. GRANT TO ADOPT AMENDMENTS TO RULE 115.3 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(2) Discuss and consider the final adoption of amendments to Rule 115.5 –
Dental Hygienists Practicing in Long Term Care Facilities and School-Based Health Care Centers.**

A MOTION WAS MADE MS. BATY AND SECONDED BY MS. GRANT TO ADOPT AMENDMENTS TO RULE 115.5 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(3) Discuss and consider the final adoption of New Rule 115.7 – Notification of Change of Information.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. HYDE TO ADOPT NEW RULE 115.7 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

**(4) Discuss and consider the final adoption of amendments to Rule 115.20 –
Dental Hygiene Advisory Committee – Purpose and Composition.**

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. PAULI TO ADOPT AMENDMENTS TO RULE 115.20 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

i. Chapter 116 – Dental Laboratories.

- Discuss and consider the final adoption of amendments to Rule 116.3 – Registration and Renewal.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. ROMERO TO ADOPT AMENDMENTS TO RULE 116.3 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

The Presiding Officer called for a break at 11:03 a.m. The meeting reconvened at 11:17 a.m. It was noted for the record that Ms. Pauli left the meeting at 11:03 a.m. and a quorum was present.

9. AGENCY DIVISION REPORTS.

a. Licensing Division.

(1) Discuss and Consider Approval of Parenteral Anesthesia Permit Applications.

A MOTION WAS MADE BY MR. ROMERO AND SECONDED BY DR. CHANCELLOR TO APPROVE 14 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

(2) Report of Nitrous Oxide and Enteral Conscious Sedation Permit Applications. Ms. Ferris reported that 127 Nitrous Oxide permits were issued and 81 Enteral Conscious Sedation Permit Applications were issued from August 19, 2009 through November 16, 2009.

(3) Licensing Division Report. Ms. Ferris reported on Licensing statistics through November 16, 2009.

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

c. Administration Division. Ms. Kilburn presented the Fiscal Year Budget and LBB Performance Report.

d. Legal Division Report.

(1) Proposed Board Orders. SBDE 06-0191-1104

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MR. ROMERO TO APPROVE PROPOSED BOARD ORDER 06-0191-1104 AS PRESENTED. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

(2) Staff Informal Settlement Conference Board Orders.

• **May 14, 2009** (Panelist: **Dr. Tamela Gough**)

08-0833-0801 08-0399-0219 08-0664-0605

• **June 12, 2009** (Panelist: **Dr. Tamela Gough**)

08-0817-0728

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MR. ROMERO TO APPROVE THE BOARD ORDERS PRESENTED FROM THE MAY 14, 2009 AND JUNE 12, 2009 INFORMAL SETTLEMENT CONFERENCES. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.

• **September 3, 2009** (Panelist: **Dr. Rudolfo Ramos**) 08-0570-0425

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. BATY TO APPROVE SETTLEMENT ORDER 08-0570-0425 AS PRESENTED. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.

(3) Legal Division Report. Ms. Sparks presented the Legal Division Case Report through November 2009 and reported on the Draft SBDE Disciplinary Matrix updated through November 13, 2009.

10. EXECUTIVE DIRECTOR’S REPORT.

- Ms. Meek briefed the Board on the Business Process Review recently conducted by the agency.
- Ms. Meek provided a status on Neubus scanning Board Orders for publication on the SBDE website.
- Ms. Meek gave a follow-up report on the Versa database project.

11. PRESIDING OFFICER’S REPORT.

- Dr. Purifoy summarized the Business Process Review recently conducted by Agency Staff.
- Dr. Purifoy directed the Board’s attention to the Informal Settlement Conference Selection Form and urged Members to serve as often as possible.
- Dr. Purifoy briefly discussed the turnaround of cases through the Enforcement Committee and thanked the Committee Members for their thorough and expeditious review and processing of cases.

12. EXECUTIVE SESSION. An Executive Session was not held.

13. PUBLIC COMMENTS. The following public participants provided public comments: Mr. John Bitting; Mr. Scott Pierson; Ms. Rosalva Perez; Ms. Rhonda Lane; Ms. Gwen Mitchell; Ms. T. Stevens; Dr. Douglas Terry.

14. ANNOUNCEMENTS.

- The next meeting of SBDE Committees are tentatively scheduled for Thursday, January 14, 2010.
- The next Board Meeting is tentatively scheduled for Friday, January 15, 2010.

15. ADJOURN.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. ROMERO TO ADJOURN THE MEETING AT 12:14 P.M. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

WILLIAM L. PURIFOY, D.D.S.
Presiding Officer
Texas State Board of Dental Examiners

Date: April 16, 2010

- SIGNED -

TAMELA L. GOUGH, D.D.S., M.S.
Secretary
Texas State Board of Dental Examiners

Date: April 16, 2010