



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

January 25, 2013

1. **CALL TO ORDER.** Dr. Ramos called the meeting of the Texas State Board of Dental Examiners to order at 8:42 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 Ramos	Presiding Officer
Dr. Steven Austin	Secretary
Dr. William Birdwell	Member
Ms. Renee Cornett, RDH	Member
Dr. D. Bradley Dean	Member
Dr. Maxwell Finn	Member
Ms. Whitney Hyde	Member
Ms. Evangelina Mote	Member
Mr. Arthur Troilo	Member
Mr. Lewis White	Member
Ms. Emily Willeford	Member

b. Members Absent:

Dr. James Chancellor	Member	(Excused)
Dr. Tamela Gough	Member	(Excused)
Ms. Alicia Grant, RDH	Member	(Excused)

c. Staff Present:

Mr. Glenn Parker	Executive Director
Ms. Julie Hildebrand	General Counsel
Ms. Sarah Carnes-Lemp	Assistant General Counsel
Ms. Lisa Jones	Director of Enforcement
Ms. Irma Rodriguez	Director of Administration and Finance
Ms. Vicki Shoesmith	Director of Licensing
Ms. Nycia Deal	Staff Attorney
Mr. Richard Gober	Staff Attorney

A MOTION AS MADE BY DR. BIRDWELL AND SECONDED BY MR. WHITE TO EXCUSE DR. GOUGH, DR. CHANCELLOR AND MS. GRANT FROM THE MEETING. (FOR – 10 / OPPOSED: 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF PAST MINUTES FROM NOVEMBER 9, 2012 BOARD MEETING.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. AUSTIN TO APPROVE THE MINUTES AS WRITTEN. (FOR – 10 / OPPOSED: 0) MOTION CARRIES.

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

Agreed Settlement Orders. The following orders were pulled from the Consent Agenda:

Michael Dwyer, DDS	License #14764
Champa Rani Chatterjee, DDS	Dentist Applicant

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

Consent Orders. The following Consent Orders were pulled from the Consent Agenda:

Dominick Valdez	RDA Applicant
Jon Wagner	Dentist Applicant

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO APPROVE THE CONSENT ORDERS AS PRESENTED. (FOR – 10 / OPPOSED: 0) MOTION CARRIES.

5. PUBLIC COMMENTS. The following persons gave public testimony:

David McClure	Gwen Mitchell	Dr. Mark Peppard
William Gerlach	Douglas Bogan	Martin Dewbar
Dr. Robert Anderton	Keith Thornton	Jerald Simmons
Dr. Mark Stankewitz	Dr. Douglas Terry	

6. MISCELLANEOUS REPORTS.

Professional Recovery Network Report. The Board reviewed the PRN report submitted by Courtney Bolin, LMSW, PRN Director.

7. DISCUSSION AND POSSIBLE ACTION REGARDING RULES.

7.1. Consideration of final adoption of Rule Reviews published in the Texas Register on December 7, 2012:

7.1.a. 22 Tex. Admin Code Chapter 104 – Continuing Education.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. BIRDWELL TO ADOPT THE REVIEW OF RULES CONTAINED IN THE TEXAS ADMINISTRATIVE CODE, TITLE 22, CHAPTER 104, CONCERNING CONTINUING EDUCATION IN ACCORDANCE WITH SECTION 2001.039 OF THE TEXAS ADMINISTRATIVE CODE. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7.1.b. 22 Tex. Admin. Code Chapter 113 – Requirements for Dental Offices.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BIRDWELL TO ADOPT THE REVIEW OF THE RULES CONTAINED IN THE TEXAS ADMINISTRATIVE CODE, TITLE 22, CHAPTER 113. CONCERNING REQUIREMENTS FOR DENTAL OFFICERS IN ACCORDANCE WITH SECTION 2001.039 OF THE TEXAS ADMINISTRATIVE CODE. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7.2. Consideration of final adoption of new rule 22 Tex. Admin Code 101.8 – Persons with Criminal Backgrounds.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY MS. HYDE TO ADOPT THE NEW RULE TEXAS ADMINISTRATIVE CODE RULE 101.8 AS PUBLISHED IN THE TEXAS REGISTER ON DECEMBER 7, 2012. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7.3. Consideration of final adoption of repeal of 22 Tex. Admin Code 101.9 – Persons with Criminal Backgrounds.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. LEEDY TO ADOPT THE REPEAL OF 22 TEXAS ADMINISTRATIVE CODE RULE 101.8 CONCERNING PERSONS WITH CRIMINAL BACKGROUNDS. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7.4. Consideration of final adoption of amendments to 22 Tex. Admin Code. As follows:

7.4.a. 107.66 – Modification to Order.

7.4.b. 107.67 – Review of Modification.

7.4.c. 107.68 – Appearances.

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY MS. HYDE TO ADOPT THE AMENDMENTS TO 22 TEXAS ADMINISTRATIVE CODE RULE 107.66, 107.67 AND 107.68 AS PUBLISHED IN THE TEXAS REGISTER ON DECEMBER 7, 2012. (FOR – 10 / OPPOSED – 0) MOTION CARRIES.

7.5. Consideration of final adoption of new rule 22 Tex. Admin. Code 108.56 - Certifications, Degrees, Fellowships, Membership and Other Credentials, with modifications in response to public comment.

A MOTION WAS MADE BY DR. FINN SECONDED BY DR BIRDWELL TO ADOPT THE PROPOSAL OF 22 TEXAS ADMINISTRATIVE CODE RULE 108.56 WITH CHANGES IN RESPONSE TO PUBLIC COMMENT TO BECOME EFFECTIVE MAY 1, 2013. (FOR - 10 / OPPOSED 0) MOTION CARRIES.

A MOTION WAS MADE BY MS. MOTE AND SECONDED BY DR. BIRDWELL TO NOT ENFORCE THIS RULE UNTIL SEPTEMBER 2013. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

10.3. Enforcement Division Report. Ms. Jones presented Enforcement Division Quarterly Statistics for FY 2013 and a report on the disposition of complaints dismissed by Enforcement. Ms. Jones reported on the Prescription Drug Monitoring Program (PDMP).

10.4. Legal Division Report. Ms. Hildebrand presented a report on Legal Case Statistics for FY 2012 and the First Quarter of FY 2013 as well as the status on current cases, future settlement conferences and cases set for Hearing at SOAH.

11. CONSIDERATION AND POSSIBLE ACTION ON ADMINISTRATIVE LAW JUDGE (ALJ) PROPOSALS FOR DECISION (PFD) - STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH)

11.4.a. Administrative Law Judge (ALJ) Proposals for Decision (PFDs) – State Office of Administrative Hearings (SOAH)

11.4.a.(1) Docket No. 504-13-0176, Abram Garcia, Petitioner/Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. LEEDY TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN AND ADOPT THE ORDER OF THE BOARD AND DENY APPLICATION FOR THE DENTAL ASSISTANT REGISTRATION FOR ABRAM GARCIA. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

11.4.a.(2) Docket No. 504-12-6713, Amelia Montalvo, Petitioner/Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY MS. CORNETT TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN AND RECOMMEND A CONDITIONAL DISMISSAL FOR FIVE (5) YEARS WITH THE STIPULATIONS PROVIDED IN A CONSENT ORDER. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

11.4.a.(3) Docket No. 504-12-7343, Christopher Nelson, DDS, Texas Dental License Number 16592.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. BIRDWELL TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NO. 16592 ISSUED TO CHRISTOPHER NELSON. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

11.4.b. State Office of Administrative Hearings (SOAH) Default Orders.

- **Docket No. 504-13-0536, Brandi McCommas, RDA, Texas Dental Assistant Registration No. 43878.**

A MOTION WAS MADE BY DR. LEEDY AND SECONDED BY MS. CORNETT TO ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS REGISTERED DENTAL ASSISTANT NO. 43878 ISSUED TO BRANDI MCCOMMAS. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

Dr. Ramos called for a break at 12:09 a.m. The meeting reconvened at 12:30 p.m.

12. ELECTION OF BOARD SECRETARY.

Dr. Ramos opened the floor for nominations for the position of Board Secretary. Dr. Birdwell nominated Dr. Austin and Dr. Leedy nominated Dr. Dean. Ballots were passed out to Board Members. The General Counsel and Executive Director counted the ballots and reported the results to Dr. Ramos.

Dr. Ramos announced that Dr. Austin was elected to serve as Secretary of the Board for a term of one year in accordance with SBDE Rule 100.4.

13. EXECUTIVE DIRECTOR'S REPORT.

Mr. Parker provided a report on the 83rd Legislative Session. He reported on Bills relating to dentistry, legislative inquiries, and on the upcoming Senate Finance Committee Hearing scheduled for February 11, 2013.

14. PRESIDING OFFICER'S REPORT.

Dr. Ramos stated he spoke with Mr. Parker regarding recommendations for change in the number of days cases are open in the Enforcement Division. Dr. Ramos shared some of the conversation he has had with the Florida Dental Board regarding their Probable Cause Panel and suggested the Texas Dental Board look at implementing a similar type of panel.

15. ANNOUNCEMENTS.

No announcements were made.

16. EXECUTIVE SESSION PURSUANT TO TEX. GOV'T CODE ANN. §551.074 (TEXAS OPEN MEETINGS ACT) REGARDING OPEN COURT CASES AND PROPOSED SETTLEMENTS.

17. ADJOURN.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO ADJOURN THE MEETING AT 12:58 P.M. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

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

STEVEN AUSTIN, DDS
Board Secretary

April 26, 2013

April 26, 2013