

DRAFT



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 14, 2005

1. **CALL TO ORDER:** Dr. Irons called the meeting of the Texas State Board of Dental Examiners to order on January 14, 2005. The time was 8:05 a.m.

2. **ROLL CALL:** Dr. McDonald called the roll. It was noted for the record that a quorum was present.
 - a. **Members Present:**

Dr. J. Kevin Irons	Presiding Officer
Dr. Gary W. McDonald	Secretary
Ms. Tammy Allen, RDH	Member
Ms. Amy Juba	Public Member
Ms. Helen McKibben, RDH	Member
Dr. Martha Malik	Member
Dr. Norman Mason	Member
Ms. Marti Morgan	Public Member
Ms. Phyllis Stine	Public Member
Dr. George Strunk	Member
Dr. Paul Stubbs	Member
Dr. Nathaniel Tippit	Member
Dr. Juan Villarreal	Member
Mr. Charles Wetherbee	Public Member

 - b. **Members Absent:**

Mr. Oscar Garcia	Public Member (Excused)
------------------	-------------------------

 - c. **TSBDE Staff Present:**

Mr. Bobby D. Schmidt, M.Ed.	Executive Director
Mr. Ben Ablon	Director of Enforcement
Mr. Fread Houston	General Counsel
Ms. Sherri Sanders	Director of Licensing and Examinations
Ms. Heather Fritz	Attorney
Mr. Rob Hill	Attorney
Ms. Vicki Shoemith	Executive Assistant

DRAFT

DRAFT

d. Others Present:

Ms. Cheryl Burke	SBDE Dental Hygiene Advisory Committee
Ms. Rhonda Lane	Texas Dental Hygienists' Association
Ms. Kirsten McGee	Texas Dental Hygienists' Association
Ms. Lois Palermo	Texas Dental Hygienists' Association
Mr. Jerry Valdez	Texas Dental Hygienists' Association
Ms. Jeanette Tolar	Dental Assisting National Board
Ms. Holly Johnston	Professional Recovery Network
Mr. Kim Roberson	Texas Pharmacy Association
Dr. Patricia Blanton	Texas Dental Association
Mr. Jay Bond	Texas Dental Association
Dr. S. Jerry Long	Texas Dental Association
Ms. Jenny Long	Texas Dental Association
Dr. Mark Schriefer	Appearance as per Agenda

A MOTION WAS MADE BY MS. MCKIBBEN, SECONDED BY DR. STUBBS TO EXCUSE MR. GARCIA FROM THE MEETING. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF PAST MINUTES.

Dr. Irons entertained a motion to approve the Minutes of the August 27, 2004 Meeting of the Texas State Board of Dental Examiners with the following changes:

- Page 4, Paragraph 5, Line 3, Change the word “acknowledge” to “acknowledged”.
- Page 6, Paragraph 1, Line 3, Change “professional” to “professionals”.
- Page 11, Paragraph 4, Line 1, Delete the first appearance of the word “amendments”.
- Page 22, Paragraph 1, Last Line, Change “their” to “tier”.
- Page 22, Paragraph 5, Line 2, First Word, Capitalize the word “L” in the word “legislative”.

A MOTION WAS MADE BY MS. MCKIBBEN, SECONDED BY DR. STUBBS TO APPROVE THE MINUTES AS AMENDED FROM THE NOVEMBER 19, 2004 MEETING. (FOR - 13 / OPPOSED - 0) MOTION CARRIES.

4. APPEARANCES BEFORE THE BOARD.

a. Dr. Mark A. Schriefer, License No. 0012146, Request for Modification of Board Order

Mr. Houston stated that Dr. Schriefer is seeking permission to be re-licensed by the Board following the passage of a clinical examination in accordance with TSBDE Rule 101.1(f). Dr. Schriefer surrendered his license in May 1998 in lieu of a Board Order.

Mr. Houston stated that the complaints involved the abandonment of patients and unprofessional conduct. Dr. Schriefer was previously granted permission to take a clinical exam in order to obtain his license in January 2002; however, he did not pass the authorized exam as required.

Mr. Houston stated that Dr. Schriefer is appearing before the Board for a second time to request permission to retake the clinical exam and if the Board grants this request, Dr. Schriefer would be re-licensed if he passes the clinical exam within one year. He added that in the event the Board grants this request, Staff would request that the conditions that were placed upon Dr. Schriefer by the Board also be included as a condition for licensure in the future.

DRAFT

DRAFT

Mr. Houston stated that the requirements issued by the Board in 2002, in the event of licensure, Dr. Schriefer would enter into a Board Order to address the previous cases and that his license be placed on probation for a period of five years, enter into Peer Assistance for five years, take 24 hours of continuing education courses above and beyond what is required by Statute for the renewal of a license, of which 16 hours would be in restorative dentistry and 8 hours in treating the pediatric patient. Those Continuing Education (CE) courses would be completed within the first 12 months of practice. Mr. Houston further stated that Dr. Schriefer was ordered to practice in a group setting with a dentist, associates, or partners for a period of two years. Dr. Schriefer would notify the dentist, associates, or partners of the group he is practicing under a Board Order and that those dentists, associates, or partners are to notify the Board of any change in this arrangement. Dr. Schriefer will not apply for, or be granted, a nitrous oxide permit or sedation anesthesia permit.

Mr. Houston concluded that originally there was a requirement that Dr. Schriefer would not petition the Board for modification of the Board Order in this particular case and that Staff is not as beholding to that particular requirement, and if the Board sees fit to issue any modification in the future that Dr. Schriefer should be allowed to request that.

Dr. Irons asked Dr. Schriefer if he had any comments and invited him to speak.

Dr. Schriefer submitted the documents listed below in support of his second request to be re-licensed and thanked the Board for the opportunity to make this request.

- Statement given to TSBDE on January 18, 2002, explaining his actions that led to the suspension and subsequent surrendering of license.
- A one-page chronological listing of important events from 1996 to the present.
- A detailed explanation entitled, "Explanation of Chronological Events" that in more detail explains the events from 1996 to the present.
- A letter from psychiatrist, Dr. B. Patel, concerning Dr. Schriefer's compliance of treatment.
- A letter of clinical psychologist, Dr. J. Lawrence Muirhead, concerning Dr. Schriefer's progress.

After much discussion regarding Dr. Schriefer's current employment status, past treatment, questions pertaining to his supporting document and his future plans Dr. Irons called for a motion.

Mr. Hill stated that the Board Order will contain the following terms:

- A five-year suspension of the license, probated in its entirety;
- Enter into, and comply with the Peer Assistance Program for a period of five years;
- Take and complete 24 hours of CE (in addition to the annual 12-hour requirement) CE in:
 - Sixteen hours in restorative dentistry to be completed within the first 12 months of licensure;
 - Eight hours in treating the pediatric patient all to be completed within the first 12 months of licensure;
- Practice in a group setting for the first two years of licensure and notify the dentist associates and partners of the group of this Board Order and that those dentist associates and partners notify the Board of any change in the employment agreement;
- Limited to a maximum of 24 hours a week for the first six months of licensure;
- Shall not treat patients under the age of 12, for the first 12 months of licensure;
- Shall return and make a report of his progress one year from the date of licensure.

Dr. Schriefer stated that he agrees to these terms.

A MOTION MADE BY DR STUBBS, SECONDED BY MR. WETHERBEE TO THE TERMS OF THE BOARD ORDER AS LISTED IN THE ABOVE PARAGRAPH. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

DRAFT

b. Ms. Michelle Nguyen, Request for Radiology Certification Approval.

Mr. Houston stated that Ms. Nguyen is appearing before the Board in order to address a testing incident involving the copying of test information. On August 9, 2004, the Board received notification from Prometric that Ms. Nguyen was observed and video-taped copying information from the test onto scratch paper. When she was questioned about the scratch paper, she denied possession initially, but after a series of additional questions, and an attempt to leave, the testing administrator did recover what was evidence of scratch paper that contained questions and answers to 36 questions from the examination. That scratch paper was turned over to Board Staff who have that in their possession. Ms. Nguyen was advised that she would not be granted a certification until she made an appearance before the Board and provided an explanation that was acceptable to the Board for the incident.

Representing Ms. Nguyen before the Board is her attorney, Mr. Robert Phan.

Dr. Tippit asked Mr. Phan what was Ms. Nguyen going to do with the copied 36 questions.

Mr. Phan responded that he has discussed the matter with Ms. Nguyen and she states that her intent was to know the areas of the test so she could improve her test score.

Dr. Irons called upon Ms. Sanders to add further comment.

Mr. Sanders stated that what Mr. Houston has outlined, and what's outlined in the materials provided to Board Members is that we received formal notification from the Client Services Director at Prometric that an incident had occurred at the Sugarland testing site, that there was a video tape of the incident, there was the paper with the 36 questions and answers written, that the test center administrator solicited the missing scratch paper from Ms. Nguyen as she was leaving, she claimed to not have it, the more the administrator pushed for the scratch paper, Ms. Nguyen finally produced the paper.

Mr. Wetherbee asked if it is against the rules to have a copy of the questions made for any reason, whether its for self-study or for selling questions to others in the State of Texas.

Ms. Sanders responded that it is against the rules and the secure environment for testing is to avoid that kind of circumstance.

Dr. McDonald asked Ms. Nguyen if she is currently employed in a dental office.

Mr. Phan responded that Ms. Nguyen is currently working in a dental office at this time as a dental assistant.

Dr. McDonald asked the name of the dental practice.

Mr. Phan responded that Ms. Nguyen is currently working for Dr. La in Houston, Texas.

Dr. McDonald asked if Dr. La is aware of this incident.

Mr. Phan responded that he is not aware of this incident.

Dr. Malik asked if Ms. Nguyen is making radiographs.

Mr. Phan responded that Ms. Nguyen is not making radiographs.

DRAFT

Dr. Mason asked if Ms. Nguyen can read and write English.

Mr. Phan responded, "Not very much."

Dr. Malik asked if the notes Ms. Nguyen wrote were written in English.

Mr. Houston responded that the notes were written in English. He also stated that he has had conversations with Ms. Nguyen in the past and she can speak English but is not as proficient as what you would have in everyday occurrences.

Dr. McDonald asked Ms. Sanders if there are any provisions at the testing site to inform testers that they cannot remove materials, they cannot bring in study materials.

Ms. Sanders responded that she is uncertain if testers are given written instruction relative to that, I know they are given scratch paper upon request with the clear understanding that that will be turned in to the TCA as they depart the facility.

A MOTION WAS MADE BY DR. TIPPIT, SECONDED BY MR. WETHERBEE TO DENY DENTAL ASSISTANT REGISTRATION FOR MS. MICHELLE NGUYEN FOR A PERIOD OF TWO YEARS. MS. NGUYEN MAY REAPPLY AFTER TWO YEARS AND WILL NEED TO SUBMIT ALL DOCUMENTATION FOR QUALIFICATION FOR REGISTRATION WHICH WOULD INCLUDE SUCCESSFUL COMPLETION OF A RETEST AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD ON INFECTION CONTROL, JURISPRUDENCE AND RADIOLOGY. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

Dr. Tippit stated that Mr. Phan should tell Ms. Nguyen to share with her dentist employer of this incident and that if radiographs are taken during this period there would be a violation.

5. COMMITTEE REPORTS.

a. Professional Evaluation Committee Report.

Dr. Stubbs reported that the Professional Evaluation Committee (PEC) met to review Case Number 05-0322-1227A, heard on appeal from original Case Number 04-927-071. This was a Standard of Care case in which the Complainant was not in agreement with the decision made by original reviewers.

Dr. Stubbs concluded that Members of the PEC concurred with the decision of the original reviewers and felt the Standard of Care had been met and voted unanimously to dismiss Case Number 05-0322-1227A.

b. Enforcement Committee Report.

Dr. McDonald reported the Enforcement Committee discussed the formation of the Dental Consultant Task Force, and new individuals to be introduced. The Committee unanimously voted to request the Presiding Officer to recognize these individuals with a Certificate of Commendation for serving the TSBDE.

Dr. McDonald stated that the Committee discussed proposed amendments and new Rules which will be covered within the Rule Section of this meeting.

c. Licensing and Examination Committee Report.

Dr. Strunk reported that the Licensing and Examination Committee approved one request for alternative CE for a dental hygienist living in Argentina. The Committee also reviewed the results of dental assistant testing and is pleased with the pass rate results on the Infection Control and Jurisprudence Examinations. There is concern regarding the high failure rate on the Radiology Examination. This Committee has monitored this since the

DRAFT

DRAFT

exam adjustments last Summer and although the pass rate has increased by five percent, it is still not as high as the Committee would like to see. Several options were discussed and Staff has been asked to return to the Committee a detailed proposal of options for improving the results. It is anticipated that a detailed plan will be presented to the Board at the April 2005 Meeting.

Dr. Strunk stated that the Committee received a request from the Dental Hygiene Advisory Committee to revisit the language of 115.1(2) that limits the use of lasers by Dental Hygienists. After a great deal of discussion it was consensus of this Committee that this is a Scope of Practice issue to be considered by a greater number and brought before the Board for further consideration. Dr. Strunk also added that the Committee strongly encourages the Presiding Officer to appoint Dental Hygiene Members of the Board to an ad-hoc committee and involve appropriate stakeholders in these discussions.

Dr. Irons responded that he will take the matter under advisement.

Dr. Irons commended Dr. Malik for her three years of work serving as Chair of the Licensing and Examination Committee.

Dr. Villarreal asked what options the Committee is looking at with regard to the Radiology Examination.

Ms. Sanders responded that Prometric has recommended a number of options be considered prior to a complete exam re-write because of the monumental undertaking of a re-write and large expense. Prometric psychometricians have suggested conducting an item analysis, cut score analysis to determine if the same questions are being missed, or perhaps the same distractors are being selected as being appropriate answers, or perhaps there be two appropriate answers to a question. Staff will begin to evaluate the financial impact involved in this process and prepare a detailed proposal to present to the Board at the April 2005 meeting.

d. Government Relations Committee Report.

Ms. Juba reported that Committee received a report from the Executive Director pertaining to progress-to-date as we approach the 79th Legislative Session. Since the last Board Meeting, the Executive Director has met with the Appropriation Committee Staff and presented our Parity and Exceptional Items requests.

Ms. Juba stated that Staff has taken steps to find sponsorship of our housekeeping legislation. The Committee was also briefed that support regarding Parity and the Exceptional Items has been received from the Texas Dental Hygienists' Association, Texas Dental Assistants Association and the Dental Laboratory Association of Texas.

Ms. Juba asked Staff to provide the talking points to Board Members again and asked Board Members to keep Staff informed of any Legislative contacts made.

e. Medicaid Fraud Ad-Hoc Committee Report.

Dr. McDonald reported that this Committee continues to stand ready to move when the Governor's office is prepared to initiate further action.

The Presiding Officer called for a recess at 9:20 a.m. The Board resumed business at 9:39 a.m.

6. OTHER REPORTS.

a. Enforcement Database Report.

Dr. McDonald stated he has not had an opportunity to speak with the Stream Studios representative; however, we are looking forward to the Database being fully implemented in February 2005, barring any unforeseen consequences.

DRAFT

DRAFT

b. Professional Recovery Network Report.

Ms. Holly Johnson provided the PRN Fiscal Year 2005 Second Quarter Report.

<u>Licensees</u>	1 st Quarter			2 nd Quarter			3 rd Quarter			4 th Quarter		
	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug
Dentists												
Board Ordered	14	17	18	18								
Compelled Volunteers	-	-	6	6								
Volunteer	10	11	7	7								
Total	24	28	31	31								
Dental Hygienists												
Board Ordered	2	2	2	2								
Compelled Volunteers	-	-	2	2								
Volunteer	2	2	0	0								
Total	4	4	4	4								
<u>Students & Assistants</u>												
Dental Students	0	0	0	0								
Hygienist Students	0	0	0	0								
Dental Assistants	0	0	0	0								
Total	0	0	0	0								
Grand Total	28	32	35	35								

Note: Beginning November 2004, "Volunteer" counts were subdivided into two categories.

- 1) Compelled Volunteer – Board Action Pending 2) Volunteer – Confidential. Not known to Board.

Projects Pending

- Athena Software.** As mentioned at the last Board Meeting, PRN has acquired a new software program to manage participant's compliance. We are currently in the process of having the software modified to meet PRN's specific needs. As of Thursday, January 13, 2005, 70% of the initial modifications had been made. The remaining 30% should be completed within two weeks. Following this deadline, a two-week period of PRN review of the software will occur followed by a final revision to complete any newly identified modifications. It is expected at this time that the software system will generate sample reports to be reviewed by TSBDEE staff by the end of February 2005. The end of March 2005, the software should be fully functional.
- PRN Spring Seminar.** The spring seminar is scheduled for April 3rd. The topic is Mental Health Issues with Addicted Professionals (primary focus - bipolar disorder and depression). The presenter is Susan Blank, M.D. from Talbott Recovery Campus.
- PRN Spring Advisory Meeting.** The PRN Advisory Committee Meeting is scheduled for April 2nd.
- Marketing to Dental Hygienists.** PRN will be mailing a marketing piece to 8,000 Texas Dental Hygienists in metropolitan areas by the end of June 2005. The remaining rural area hygienists will receive mailing by the end of the calendar year.

Completed Projects

Financial Audit. The financial audit of the PRN program was completed in December 2004. The auditor is currently drafting the results of the audit. Once PRN receives these results they will be forwarded to the TSBDE.

c. Dental Laboratory Certification Council Report.

Mr. Schmidt briefed the Board on the meeting of the Dental Laboratory Certification Council (DLCC). The Council met on January 7, 2005 to certify the List of Registered Dental Laboratories for 2005. Also discussed was the proposal of Rule 116.10 on Prosthetic Identification and issues regarding electronic recordkeeping for prescriptions. Rules and requirements of Certified Dental Technicians (CDTs) working at multiple operations

DRAFT

were discussed. Mr. Schmidt reported that Ms. Sanders discussed changes to the Dental Laboratory Application, the online renewal process for Dental Laboratories and that Mr. Ablon discussed Dental Laboratory complaints. The DLCC Budget was discussed and the possibility of adding a second DLCC meeting to the Fiscal Year budget. Mr. Roosevelt Davis was elected to serve another year as Chair of the DLCC and Mr. Gary Box has agreed to serve another two-year term on the Council.

d. American Association of Dental Examiners (AADE) Report.

Dr. Malik reported that the AADE will next meet on March 21, 2005 in Chicago and a report will be made at the April 2005 Board Meeting.

e. Western Regional Examining Board (WREB) Report.

Dr. Malik reported that she attended the Annual WREB Meeting on January 7, 2005. She stated she has available for review copies of their Board Meeting Minutes, Budget, Expenses, Bylaws and Appeals.

Dr. Malik stated that with regard to the National Examination, the American Dental Association (ADA) Consensus Committee is having a hearing and trying to bring all interested parties together. The WREB President will attend this meeting and present WREB's position on this. WREB wants to work towards a national exam, and wants to do it in a legally defensible, psychometrically correct fashion.

Dr. Malik stated that every five years, WREB convenes the Dental Examination Development Committee which is currently soliciting ideas on different ways to administer the exam, to determine if there may be a better format than what is currently being used.

Dr. Malik reported on the open business that the California Department of Consumer Affairs will be conducting an analysis of the California Exam and WREB Exam to determine if WREB will be approved. She further reported that the Continued Competency Committee is still in the developmental phase. This year WREB will be conducting exams at four new exam sites, University of California at San Francisco, Temple University, University of Pittsburgh and an additional exam held in University of Southern California in the Spring. The question of whether Nevada will be a location for exams in 2006 is still up in the air.

Dr. Malik reported that the Hawaii State Board has been judged invalid and unreliable and will be undergoing analysis of their exam in the future. In the meantime, Hawaii accepts all four Regional Exams until Hawaii's exam has been approved. The Central Regional Dental Testing Services, Inc., Southern Regional Testing Agency, Inc., and WREB (CSW) Company have been working together finally and with committees to produce an inter-active computer Prosthodontic Exam by 2006. The Periodontal Committee is also looking at producing an inter-active computer exam.

Dr. Malik reported that WREB has a shortage of Dentist Dental Examiners and has requested three names be submitted in the order of: Current Dentist Board Members who do not currently examine, previous Dentist Dental Board Members and the names of any reputable dentists. These names will be placed in "reserve" in the event they are needed.

f. WREB ERC RDH Report.

Ms. McKibben stated that the WREB ERC RDH Committee has not met since the last Board Meeting.

DRAFT

7. DISCUSS AND CERTIFY THE LIST OF REGISTERED DENTAL LABORATORIES FOR 2005.

Mr. Schmidt presented, on behalf of the DLCC, the 2005 List of Registered Dental Laboratories.

A MOTION WAS MADE BY DR. STUBBS, SECONDED BY MR. WETHERBEE TO APPROVE THE CERTIFIED LIST OF REGISTERED DENTAL LABORATORIES FOR 2005. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

8. RULES.

a. Discuss and Consider New Rule 116.10 – Prosthetic Identification.

Mr. Hill reported on New Rule 116.10 concerning prosthetic identification. The new section reinstates the language of previous Rule 116.11, which was repealed effective May 17, 2004. The language was to be simultaneously moved to a new Rule 116.10, but due to an oversight, the new section was not proposed. The language proposed contains no substantive changes from the language of the previous Rule 116.11, except that the requirement of a full name in a suitable prosthetic marking has been changed to last name and first initial. The language also contains revisions to clarify and standardize language, and to improve organization.

Rule 116.10 Prosthetic Identification

- (a) It shall be the duty of the licensed dentist to insure that all removable prosthetic devices or removable orthodontic appliances delivered to a patient under his or her care bear a permanent identification marking suitable to determine that the prosthetic device or removable orthodontic appliance belongs to that patient.
- (b) A suitable marking shall be defined as one that includes the patient's last name and first initial, and/or social security number. This marking shall be placed in the denture base of the removable prosthetic device or acrylic portion of the removable orthodontic appliance in such a manner as not to compromise the aesthetics of the restoration.
- (c) The licensed dentist shall install this identification marking or shall request on the prescription to a registered dental laboratory that the laboratory place the identification marking in the removable prosthetic device or removable orthodontic appliance.
- (d) Nothing in this rule shall preclude a dental laboratory from charging a fee for this service.
- (e) This rule shall not apply to any removable prosthetic device or removable orthodontic appliance that contains no acrylic, vinyl or plastic denture base, or if said appliance is too small to reasonably accomplish this procedure.

A MOTION WAS MADE BY DR. VILLARREAL, SECONDED BY DR. MASON TO PROPOSE NEW RULE 116.10 AS AMENDED AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

b. Discuss and Consider the Adoption of New Chapter 100 – General Provisions.

Mr. Hill reported on the adoption of New Chapter 100 stating the Chapter contains new Rule 100.1, Rule 100.2, Rule 100.3, Rule 100.4, Rule 100.5, Rule 100.10, and Rule 100.20. The new sections provide rules governing basic operations of the Board, pursuant to the recommendation of the Texas Sunset Advisory Commission.

Rule 100.1, "Introduction," defines the name, location, legal authority, composition, and fiscal year of the Board.

Rule 100.2 delineates the purpose and functions of the Board, as mandated by the Dental Practice Act.

Rule 100.3 describes the organization and structure of the Board, pursuant to the Dental Practice Act.

Rule 100.4 describes the Officers of the Board.

Rule 100.5 provides guidelines and requirements for Board Meetings.

Rule 100.10 describes the powers and responsibilities of the Executive Director.

Rule 100.20 discusses final board decisions in contested cases.

Chapter 100. General Provisions.

100.1. Introduction.

- (a) Name. The State Board of Dental Examiners, referred to as the “board,” is a decision-making board appointed by the governor of the State of Texas in compliance with Chapter 252 of the Occupations Code, and the Texas Constitution.
- (b) Location. The administrative offices shall be located in Austin, Texas.
- (c) Legal authority. The board is established pursuant to Occupations Code, Chapter 252.
- (d) Composition. The board shall be composed of those persons appointed by the Governor with the advice and consent of the senate.
- (e) Fiscal year. For all fiscal and administrative purposes, the reporting year of the board shall be identical to that of the State of Texas.

Rule 100.2. Purpose and Functions.

- (a) Purpose. The purpose of the board is to safeguard the health and safety of Texans by developing and maintaining programs to:
 - (1) Ensure that only qualified persons are licensed to provide dental care; and
 - (2) Ensure that violators of law and rules regulating dentistry are appropriately sanctioned.
- (b) Functions. The board shall perform the following functions, as outlined in Occupations Code, Chapter 254:
 - (1) Establish standards of dental practice and regulate the practice of dentistry;
 - (2) Interpret and enforce the Dental Practice Act and other statutes relating to the practice of dentistry, and implement the Act’s intent through the promulgation and enforcement of rules, as necessary to protect the public health and safety;
 - (3) Receive complaints and investigate possible violations of the Dental Practice Act, other statutes relating to the practice of dentistry, and board rules;
 - (4) Discipline licensees for violations of the Dental Practice Act, other statutes relating to the practice of dentistry, and board rules through appropriate legal action;
 - (5) Investigate infection control in the dental profession and adopt and enforce rules to control the spread of infection in the practice of dentistry as necessary to protect the public health and safety;
 - (6) Adopt and enforce rules placing reasonable restrictions on advertising relating to the practice of dentistry;
 - (7) Adopt rules to prohibit a dentist from engaging in contracts that allow a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment;

Rule 100.3. Organization and Structure.

- (a) General. The board shall consist of 15 members appointed by the governor with the advice and consent of the senate, as follows:
 - (1) eight reputable dentist members who reside in this state and have been actively engaged in the practice of dentistry for at least the five years preceding appointment;
 - (2) two reputable dental hygienist members who reside in this state and have been actively engaged in the practice of dental hygiene for at least the five years preceding appointment; and,
 - (3) five members who represent the public.
- (b) Privileges of office. Members of the board have full and identical privileges, except that only dentist members may participate in the decision to pass or fail an applicant for a license to practice dentistry during the clinical portion of the board examinations.
- (c) Terms of office. Members of the board serve staggered six-year terms. The terms of one-third of the members shall expire on February 1 of each odd-numbered year. A member may serve only one six-year term.
- (d) Eligibility. Refer to Occupations Code Section 252.002.
- (e) Membership and employee restrictions. Refer to Occupations Code Section 252.003.
- (f) Compensation. Each member of the board is entitled to receive a per diem set by legislative appropriation for each day the member engages in board business, and may receive reimbursement for travel expenses in accordance with the travel policies of the state of Texas and the Board of Dental Examiners.

Rule 100.4. Officers.

- (a) Presiding officer.
 - (1) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.
 - (2) The presiding officer must be a dentist.
 - (3) The presiding officer shall:
 - (A) Preside over all meetings of the board;
 - (B) Represent the board in legislative matters and in meetings with related groups;
 - (C) Appoint standing, ad hoc, and advisory committees;
 - (D) Perform other such duties as pertain to the position of presiding officer; and,

DRAFT

- (E) Designate a member of the board to coordinate the annual performance reviews of the executive director and evaluation of the agency.
- (b) Secretary. The board shall elect a secretary from its members to serve for a one-year term.

Rule 100.5. Meetings.

- (a) Frequency and location. The board shall hold meetings at least twice a year at times and places the board determines.
- (b) Agenda. An agenda for each meeting shall be posted in accordance with the Open Meetings Act and copies shall be sent to each member of the board, Dental Hygiene Advisory Council, and Dental Laboratory Certification Council.
- (c) Quorum. A majority of the members of the board shall constitute a quorum for the transaction of all business at any regular or special meeting.
- (d) Voting. The board may act only by majority vote of its members present and voting, with each member entitled to one vote, unless a conflict of interest exists.
- (e) Presiding officer. In the absence of the appointed presiding officer, the secretary shall act as presiding officer. In the absence of both the appointed presiding officer and the secretary, an acting presiding officer shall be chosen by a majority of the board members present, to preside over that meeting only.
- (f) Parliamentary procedure. Board and committee meetings shall be conducted pursuant to the protocols contained in Robert's Rules of Order Newly Revised.
- (g) Minutes. Minutes of all board meetings shall be prepared and supplied to board members for their review at or prior to the next subsequent board meeting, and shall be filed with the Legislative Reference Library and the Texas State Library within 45 days of board approval of the minutes.

Rule 100.10. Executive Director.

- (a) The board may determine qualifications for and retain an executive director who shall be the chief executive officer of the agency.
- (b) The executive director shall have the authority and responsibility for the operations and administration of the agency and such additional powers and duties as prescribed by the board. As chief executive of the agency, the executive director shall manage all aspects of the agency, including personnel, financial and other resources, in support of the Dental Practice Act, board rules and policies, the board's mission and strategic plan.
- (c) The executive director shall attend all meetings of the board and may offer recommendations to the board, but shall not vote on matters brought before the board.
- (d) The executive director, with the board's consent, may employ an assistant executive director to perform the executive director's duties when the executive director is absent or unable to act.

Rule 100.20. Final Board Decisions in Contested Cases.

- (a) The board shall render the final decision in a contested case and has the responsibility to assess sanctions against licensees who are found to have violated the Act.
- (b) The board welcomes recommendations of administrative law judges as to the sanctions to be imposed, but the board is not bound by such recommendations.
- (c) Sanctions should be consistent with sanctions imposed in similar cases and should reflect the board's determination of the seriousness of the violation and the sanction required to deter future violations. A determination of the appropriate sanction is reserved to the board. The appropriate sanction is not a proper finding of fact or conclusion of law.
- (d) This section shall be construed and applied so as to preserve board member discretion in the imposition of sanctions and remedial measures pursuant to the Act's provisions related to methods of discipline and administrative penalties. This chapter shall be further construed and applied so as to be consistent with the Act, and shall be limited to the extent as otherwise proscribed by statute and board rule.

A MOTION WAS MADE BY DR. MCDONALD, SECONDED BY DR. TIPPIT TO ADOPT NEW CHAPTER 100 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

c. Discuss and Consider the Adoption of Amendments to Rule 101.2 – Licensure by Examination.

Mr. Hill reported on the adoption of amendments to Rule 101.2 concerning Dental Licensure by Examination. The amendments establish standards for reexamination, as required by Occupations Code Section 256.006. The section as amended also contains revisions to clarify and standardize language, and to improve organization. Subsection (e) has been added to establish remediation requirements for applicants for Texas dental licensure that fail three general

DRAFT

dentistry clinical examination attempts, and another elevated level of requirements for those that fail four or more attempts. The section as amended also requires that all programs of remediation be approved in advance by the SBDE, and that reexamination be accomplished within 18 months of the approval of a program of remediation for the applicant.

101.2. Licensure by Examination.

- (a) In addition to the general qualifications for licensure contained in 101.1 of this chapter, an applicant for licensure by examination who is a graduate of an accredited school must present proof that the applicant:
 - (1) Has graduated and received either the "DDS" or "DMD" degree from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (2) Has taken and passed the examination for dentists in its entirety given by the American Dental Association Joint Commission on National Dental Examinations; and,
 - (3) Has taken and passed in its entirety the appropriate general dentistry clinical examination administered by a regional examining board designated by the SBDE.
- (b) In addition to the general qualifications for licensure contained in §101.1 of this chapter, an applicant for licensure by examination who is a graduate of a non-accredited school must present proof that the applicant:
 - (1) Has graduated from a dental school that is not accredited by the Commission on Dental Accreditation of the American Dental Association;
 - (2) Has successfully completed training in an American Dental Association-approved specialty in an education program that is accredited by the Commission on Dental Accreditation and that consists of at least two years of training as specified by the Council on Dental Education;
 - (3) Has taken and passed the examination for dentists in its entirety given by the American Dental Association Joint Commission on National Dental Examinations; and,
 - (4) Has taken and passed in its entirety the appropriate general dentistry clinical examination administered by a regional examining board designated by the Board. Many regional testing boards require prior written approval by the participating member state in order for graduates of non-accredited schools to be tested. Prior to submitting an application for regional examination, graduates of non-accredited schools must obtain such permission from the SBDE.
- (c) Licensure by specialty examination. Applicants for licensure by specialty examination must present proof that the applicant:
 - (1) Is currently licensed as a dentist in good standing in another state, the District of Columbia, or a territory of the United States, provided that such licensure followed successful completion of a general dentistry clinical examination administered by another state or regional testing service;
 - (2) Has taken and passed a specialty examination administered by a regional examining board designated by the SBDE. Many regional examining boards require prior written approval by the participating member state in order for graduates of non-accredited schools to be tested. Prior to submitting an application for regional examination, graduates of non-accredited schools must obtain such permission from the SBDE; and,
 - (3) Has either:
 - (A) successfully completed training in an American Dental Association-approved specialty in an education program that is accredited by the Commission on Dental Accreditation of the American Dental Association; or
 - (B) been currently or previously certified as "Board Eligible" by an American Dental Association-approved specialty board.
- (d) Designated regional examining boards.
 - (1) The following regional examining boards have been designated as acceptable by the SBDE as of the effective dates shown:
 - (A) Western Regional Examining Board, January 1, 1994;
 - (B) Central Regional Dental Testing Service, January 1, 2002;
 - (C) Northeast Regional Board, January 1, 2005;
 - (D) Southern Regional Testing Agency, January 1, 2005; and,
 - (2) Examination results will be accepted for five years from the date of the examination.
 - (3) Only results from examinations taken after the indicated acceptance date will be accepted.
- (e) Remediation.
 - (1) If an applicant for Texas dental licensure fails three general dentistry clinical examination attempts, the applicant must complete eighty (80) hours of clinical remediation through a dental school accredited by the Commission on Dental Accreditation of the American Dental Association (CODA) before approval will be issued to take another clinical examination.

DRAFT

- (2) If an applicant fails four or more general dentistry clinical examination attempts, the applicant will be required to complete one of the following before approval will be issued to take another clinical examination:
 - (A) the repetition of the 4th year of an undergraduate clinical program; or,
 - (B) a clinical remediation course offered by a CODA-accredited dental school, consisting of no less than 1,000 clinical hours.
- (3) All programs of clinical remediation require prior approval by the SBDE. Applicants will be responsible for locating, identifying and obtaining approval from the SBDE prior to registration for any program.
- (4) Re-examination must be accomplished within 18 months following the date the SBDE approves a remediation program for the applicant.

A MOTION WAS MADE BY DR. MCDONALD, SECONDED BY DR. STUBBS TO ADOPT AMENDMENTS TO RULE 101.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

d. Discuss and Consider the Adoption of Amendments to Rule 103.1 – General Qualifications for Licensure.

Mr. Hill reported on the adoption of amendments to Rule 103.1 concerning general qualifications for dental hygienist licensure. The amendment removes subsection (g), which previously addressed designated regional examining boards. 22 TAC Chapter 103, Rule 103.2, which addresses licensure by examination, is being concurrently amended to relocate the language of this subsection.

103.1. General Qualifications for Licensure.

- (a) Any person desiring to practice dental hygiene in the State of Texas must possess a license issued by the Texas State Board of Dental Examiners (SBDE) as required by law.
- (b) Any applicant for licensure under this chapter must meet the requirements of this section.
- (c) To be eligible for licensure, an applicant must present on or accompanying a form approved by the SBDE proof satisfactory to the SBDE that the applicant:
 - (1) Is at least 18 years of age;
 - (2) Has graduated from an accredited high school or holds a certificate of high school equivalency, General Equivalency Diploma (GED);
 - (3) Has graduated from a recognized dental school or college of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the SBDE with a degree in dentistry or a degree or certificate in dental hygiene, or has graduated from a recognized school or college of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board with a degree in dental hygiene;
 - (4) Has taken and passed the examination for dental hygienists in its entirety given by the American Dental Association Joint Commission on National Dental Examinations;
 - (5) Has successfully completed a current course in basic life support;
 - (6) Has taken and passed the jurisprudence examination administered by the SBDE or an entity designated by the SBDE within one year immediately prior to application; and,
 - (7) Has paid all application, examination and licensing fees required by law and SBDE rules and regulations.
- (d) Applications for licensure must be delivered to the office of the State Board of Dental Examiners.
- (e) An application for licensure is filed with the SBDE when it is actually received, date-stamped, and logged-in by the SBDE along with all required documentation and fees. An incomplete application for licensure and fee will be returned to applicant within three working days with an explanation of additional documentation or information needed.
- (f) In the event an applicant is uncertain whether he/she is qualified according to rule and law for licensure as a dental hygienist, prior to taking the clinical examination a written request may be submitted by the applicant with all proof required other than clinical examination scores. The SBDE will review the information and advise the applicant whether he or she is qualified for licensure pending successful completion of the clinical examination. The qualifying clinical examination must be taken within one year of the date of being so advised by the SBDE.

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. VILLARREAL TO ADOPT AMENDMENTS TO RULE 103.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

DRAFT

e. Discuss and Consider the Adoption of Amendments to Rule 103.2 – Licensure by Examination.

Mr. Hill reported on the adoption of amendments to Rule 103.2 concerning dental hygienist licensure by examination. The amendments establish standards for reexamination, as required by Occupations Code Section 256.006. The section as amended also contains revisions to clarify and standardize language, and to improve organization. Subsection (b) has been added to accommodate the relocation of language concerning designated regional examining boards, that currently resides in Rule 103.1. That language is more appropriately be located in Rule 103.2. No changes were made to the language itself. Subsection (c) has been added to establish remediation requirements for applicants for Texas dental hygienist licensure that fail three general dentistry clinical examination attempts, and another elevated level of requirements for those that fail four or more attempts. The section as amended also requires that all programs of remediation be approved in advance by the SBDE, and that reexamination be accomplished within 18 months of the approval of a program of remediation for the applicant.

103.2. Licensure by Examination.

- (a) In addition to the general qualifications for licensure contained in Rule 103.1 of this chapter, an applicant for dental hygienist licensure by examination must present proof that the applicant has taken and passed in its entirety the appropriate clinical examination administered by a regional examining board designated by the SBDE.
- (b) Designated regional examining boards.
 - (1) The following regional examining boards have been designated as acceptable by the State Board of Dental Examiners as of the effective dates shown:
 - (A) Western Regional Examining Board, January 1, 1994;
 - (B) Central Regional Dental Testing Service, January 1, 2002;
 - (C) Northeast Regional Board, January 1, 2005;
 - (D) Southern Regional Testing Agency, January 1, 2005; and,
 - (2) Examination results will be accepted for five years from the date of the examination.
 - (3) Only results from examinations taken after the indicated acceptance date will be accepted.
- (c) Remediation.
 - (1) If an applicant for Texas dental hygienist licensure fails three dental hygiene clinical examination attempts, the applicant must complete forty (40) hours of clinical remediation through a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association (CODA) before approval will be issued to take another clinical examination.
 - (2) If an applicant fails four or more dental hygiene clinical examination attempts, the applicant must complete eighty (80) hours of clinical remediation through a CODA-accredited dental hygiene program before approval will be issued to take another clinical examination.
 - (3) All programs of clinical remediation require prior approval by the SBDE. Applicants will be responsible for locating, identifying and obtaining approval from the SBDE prior to registration for any program.
 - (4) Reexamination must be accomplished within 18 months following the date the SBDE approves a remediation program for the applicant.

A MOTION WAS MADE BY DR. VILLARREAL, SECONDED BY DR. MASON TO ADOPT AMENDMENTS TO RULE 103.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

f. Discuss and Consider the Adoption of Amendments to Rule 107.101(c) – Guidelines for the Conduct of Investigation.

Mr. Hill reported on the adoption of amendments to Rule 107.101(c) concerning guidelines for the conduct of investigations. The amendments alter the process by which investigations are tracked for possible consideration of emergency suspension proceedings. The section as amended also contains revisions to clarify and standardize language, and to improve organization. Subsection (c) currently requires the director of enforcement to determine “upon receipt” of a complaint whether temporary suspension of the licensee should be considered. The language as amended allows that determination to be made at any point in an investigation of a complaint. This allows for that determination to be made with the benefit of some level of supporting evidence. The amendment also links this determination to the next steps of the temporary emergency suspension process, by reference to Rule 107.102(c). The Board has adopted the corresponding amendments to Rule 107.102.

107.101. Guidelines for the Conduct of Investigation.

- (a) Every complaint shall be classified into one or more of the following categories:
 - (1) Quality of Care: failure to treat a patient according to the standard of care in the practice of dentistry or dental hygiene.
 - (2) Sanitation: failure to maintain the dental office in a sanitary condition.
 - (3) Professional Conduct: violations arising out of the day-to-day practice of dentistry, not including administrative requirements.
 - (4) Administration: failure to follow the administrative requirements of the Dental Practice Act/and or the board's rules and regulations.
 - (5) Dental Laboratories: violations of the Dental Practice Act and/or the board's rules and regulations pertaining to the operation of dental laboratories.
 - (6) Business Promotion: violations arising out of efforts to obtain business, such as advertising and referral schemes.
- (b) Every complaint shall be assigned a priority classification. Priority 1 represents more serious allegations of violations, including Patient Mortality, Patient Morbidity, Practicing Without a License, and Sanitation. Priority 2 represents less serious threats to the public welfare, including records-keeping violations and Advertising.
- (c) Every investigation shall be evaluated by the director of enforcement to determine whether or not temporary suspension, in compliance with the Occupations Code, Chapter 263, Section 263.004 should be considered, in accordance with Rule 107.102(c).

A MOTION WAS MADE BY DR. STUBBS, SECONDED BY DR. MCDONALD TO ADOPT AMENDMENTS TO RULE 107.101(C) AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

g. Discuss and Consider the Adoption of Amendments to Rule 107.102(c) – Procedures in Conduct of Investigation.

Mr. Hill reported on the adoption of amendments to Rule 107.102(c) concerning guidelines for the conduct of investigations. The amendments alter the process by which investigations are submitted for possible consideration of emergency suspension proceedings. The section as amended also contains revisions to clarify and standardize language, and to improve organization. Specifically, the amendments to subsection (c) allow for the referral of a case for consideration of emergency temporary suspension proceedings at any point in the investigation, rather than upon the initial review, as mandated by the current language.

Mr. Hill stated that the amendment also changes the standard for consideration of such cases from “possible threat” to the more specific “imminent threat”, which more accurately mirrors the “clear, imminent, or continuing threat” requirement of Occupations Code, Chapter 263, Section 263.004. Finally, the amendment routes those cases in which the investigation has revealed an imminent threat to the executive director, who then determines whether or not the case should be referred to the chairperson of the executive committee of the board, which ultimately bears the responsibility under Occupations Code, Chapter 263, Section 263.004 of determining whether or not to temporarily suspend the license involved. The introduction of this intermediate step helps to ensure proper controls over the use and efficacy of temporary emergency suspensions.

107.102. Procedures in Conduct of Investigation.

- (a) An investigative file accounting for each complaint filed with the SBDE shall be maintained under the supervision of the director of enforcement.
- (b) Every complaint shall be reviewed by the director of enforcement to determine jurisdiction. If jurisdiction exists, a complaint shall be investigated to determine the facts concerning the complaint. All investigators shall be state employees.
- (c) If, upon review, the investigation reveals an imminent threat to a person's welfare, the case shall be referred to the executive director, who shall determine whether or not to refer the case to the chairperson of the executive committee of the board for consideration of temporary suspension, pursuant to the Occupations Code, Chapter 263, Section 263.004.
- (d) – (j) (No change.)

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. MASON TO ADOPT AMENDMENTS TO RULE 107.102(C) AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

h. Discuss and Consider the Adoption of Amendments to Rule 108.6 – Report of Patient Death or Injury Requiring Hospitalization.

Mr. Hill reported on the adoption of amendments to Rule 108.6 concerning the required reporting of dental patient death or hospitalization. The amendments are proposed to more clearly delineate what patient hospitalizations must be reported by a dentist. The section as amended also contains revisions to clarify and standardize language, and to improve organization. Specifically, the section as amended defines hospitalization as “an examination at a hospital or emergency medical facility that results in an in-patient admission for the purpose(s) of treatment and/or monitoring.” The proposed language also allows for reporting within 30 days of such time as the dentist becomes aware or reasonably should have become aware of a qualifying hospitalization, to address instances in which the dentist has no knowledge of a patient’s hospitalization.

108.6. Report of Patient Death or Injury Requiring Hospitalization.

A dentist must submit a written report to the SBDE as provided below:

- (1) The death of a dental patient which may have occurred as a consequence of the receipt of dental services from the reporting dentist must be reported within 72 hours of the death, or such time as the dentist becomes aware or reasonably should have become aware of the death;
- (2) The hospitalization of a dental patient, as a possible consequence of receiving dental services from the reporting dentist, must be reported within 30 days of the hospitalization or such time as the dentist becomes aware of or reasonably should have become aware of the hospitalization. For purposes of this section, “hospitalization” shall be defined as an examination at a hospital or emergency medical facility that results in an in-patient admission for the purpose(s) of treatment and/or monitoring.
- (3) In the evaluation of sedation/anesthesia morbidity or mortality, the SBDE shall consider the standard of care necessary to be that applicable to the patient's state of consciousness during the procedure.

A MOTION WAS MADE BY DR. MCDONALD, SECONDED BY MS. MCKIBBEN TO ADOPT AMENDMENTS TO RULE 108.6 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR 20 DAYS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

i. Discuss and Consider the Proposal of Amendments to Rule 115.1(2) – Definitions.

Dr. Irons announced that this rule will be reviewed by an Ad-Hoc Committee to be developed in the near future.

j. Discuss and Consider the Proposal of Amendments to Rule 107.102 – Procedures in Conduct of Investigation.

Mr. Hill reported on the proposed amendments to Rule 107.102 concerning procedures in the conduct of investigations. The amendments are proposed to clarify and standardize language, and to improve organization. The amendments remove from Rule 107.102 subsections (g) through (j). The language contained in those subsections addresses dismissal of cases, and is being relocated to a new Rule 107.103. The Board is concurrently proposing new Rule 107.103, the repeal of the current Rule 107.103, and a new Rule 107.110 to contain the language currently residing in Rule 107.103. The proposed amendments also more accurately reflect that the director of enforcement may only recommend, and not dictate, the manner of disposition of complaints.

Rule 107.102 Procedures for Investigating Complaints.

- (a) An investigative file accounting for each complaint filed with the SBDE shall be maintained under the supervision of the director of enforcement.
- (b) Every complaint shall be reviewed by the director of enforcement to determine jurisdiction. If jurisdiction exists, a complaint shall be investigated to determine the facts concerning the complaint. All investigators shall be state employees.
- (c) If, upon review, the investigation reveals an imminent threat to a person's welfare, the case shall be referred to the executive director, who shall determine whether or not to refer the case to the chairperson of the executive committee of the board for consideration of temporary suspension, pursuant to the Occupations Code, Chapter 263, 263.004.

- (d) During the course of an investigation, the complainant shall be given an opportunity to explain or comment on the allegations made in the complaint. At the initiation of the investigation, the respondent shall be provided a copy of the complaint to facilitate a response, unless doing so would jeopardize an investigation.
- (e) The parties to the complaint shall receive notice of the complaint's status, at least quarterly, until final disposition of the complaint, unless such notice would jeopardize an investigation.
- (f) Upon completion of the investigation, the director of enforcement shall review the case. The director of enforcement may:
 - (1) recommend dismissal of the complaint;
 - (2) recommend the case be taken before the State Office of Administrative Hearings;
 - (3) recommend the case be taken before an informal settlement conference;
 - (4) recommend that the legal division prepare a proposed board order;
 - (5) refer the case for review by the board or a committee of the board;
 - (6) direct further investigation;
 - (7) refer the case for review by a board member; or,
 - (8) take other appropriate action or consideration in accordance with SBDE rules and the Dental Practice Act.

A MOTION WAS MADE BY MS. JUBA, SECONDED BY DR. MCDONALD TO PROPOSE AMENDMENTS TO RULE 107.102 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

k. Discuss and Consider the Repeal of Rule 107.103 – Compliance.

Mr. Hill reported on the Repeal of Rule 107.103 concerning compliance with board orders. The repeal is proposed to allow for a new Rule 107.103, regarding dismissal. The Board is concurrently proposing a new Rule 107.110 to contain the language currently residing in Rule 107.103. This restructuring will provide for better structure and flow in the chapter.

A MOTION WAS MADE BY DR. VILLARREAL, SECONDED BY DR. STUBBS TO PROPOSE THE REPEAL OF RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

l. Discuss and Consider New Rule 107.103 – Dismissal of Cases.

Mr. Hill reported on the proposal of New Rule 107.103 concerning dismissal of complaints. The new section is proposed to relocate language regarding dismissal that is currently contained in Rule 107.102, as well as to enact certain requirements imposed by Senate Bill 263, Section 12, 78th Legislature, that amended Texas Occupations Code Section 255.006. Occupations Code Section 255.006(d)(7) requires that the Board establish procedures for the expunction of dismissed complaints. Rule 107.103(d) as proposed describes such a procedure. The Board is concurrently proposing amendments to Rule 107.102, the repeal of the current Rule 107.103, and a new Rule 107.110 to contain the language currently residing in Rule 107.103.

107.103. Dismissal of Cases.

- (a) Dismissal.
 - (1) The director of enforcement may recommend dismissal of a complaint if an investigation fails to reveal a violation.
 - (2) If the director of enforcement recommends dismissal of a complaint, he or she shall state, with specificity, the reason or reasons for the recommended dismissal.
 - (3) A complaint recommended for dismissal by the director of enforcement shall be reviewed by a member of the enforcement committee. For complaints involving patient morbidity, professional conduct, or minimum standard of care, the reviewer must be a dentist member of the committee.
 - (4) If the committee member does not recommend dismissal, the complaint shall be forwarded to an informal settlement conference. If the committee member agrees that the complaint should be dismissed, then the dismissal shall be final.
 - (5) All jurisdictional complaints shall be investigated. No complaint shall be dismissed without appropriate consideration.

DRAFT

- (6) If a complaint is dismissed, the SBDE shall notify the complainant within ten days of the date of the dismissal. The notice of dismissal must be in writing, include the reason(s) for the dismissal and inform the complainant of the right to appeal the dismissal. An appeal under this section shall be considered a request for reconsideration of the dismissed complaint.
 - (7) All complaints dismissed under this section must be reported to the full board in a public meeting of the board.
- (b) Appeal.
- (1) The SBDE may hear an appeal in a dismissed complaint only if new information or evidence is presented, the acceptance of such, if taken as true, supports the original complaint.
 - (2) The complainant must request reconsideration of a dismissed complaint in writing, postmarked no later than twenty days from the date of receipt of the SBDE's dismissal letter. The complainant is presumed and deemed to be in receipt of the dismissal letter on the third day after the date on which the dismissal letter is mailed.
 - (3) A request for reconsideration of a dismissed complaint shall not be considered by the SBDE unless it is timely submitted.
 - (4) A request for reconsideration must contain the requirements specified in this subsection.
 - (5) Requests meeting the requirements of this subsection shall be heard by the professional evaluation committee no later than sixty days after the date the SBDE receives the request from the complainant requesting reconsideration. This time frame may be extended upon good cause shown by the SBDE. If the professional evaluation committee meets to reconsider the complaint after this sixty-day period, the SBDE shall notify the complainant in writing.
 - (6) This subsection does not apply to complaints dismissed by the full board pursuant to a recommendation from an informal settlement conference panel.
 - (7) All complaints dismissed by the full board may be appealed in accordance with the Government Code.
- (c) Professional evaluation committee.
- (1) The professional evaluation committee shall consist of three board members appointed by the presiding officer of the board, one of whom must be a public member.
 - (2) Complaints referred to the professional evaluation committee by the board secretary or the board secretary's designee may be dismissed, referred to an informal settlement conference or returned to the director of enforcement for further investigation. The professional evaluation committee may also propose an agreed board order imposing sanctions. All board orders proposed by the professional evaluation committee shall include a statement that the respondent should not agree to the order if he or she wants to explain any part of his or her conduct in connection with the complaint.
 - (A) Meetings of the professional evaluation committee are open meetings as defined by the Open Meetings Act;
 - (B) Only professional evaluation committee members and SBDE staff may participate in discussions concerning any complaint. The members may review and consider all information in the investigative file.
 - (C) All determinations reached by the professional evaluation committee involving reconsideration of an earlier dismissal by the SBDE are final.
- (d) Expunging dismissed complaints.
- (1) The director of enforcement may, at his or her discretion, recommend that a complaint be expunged from SBDE records on written request from the respondent if:
 - (A) The complaint has been dismissed under this section;
 - (B) There has been no successful appeal;
 - (C) There is no pending appeal;
 - (D) At least 30 days has passed since the dismissal notice letter was sent to the complainant; and,
 - (E) The executive director has determined that the complaint was clearly groundless and completely without merit.
 - (2) A recommendation that a complaint be expunged shall be reviewed by a member of the enforcement committee. For complaints involving patient morbidity, professional conduct, or minimum standard of care, the reviewer must be a dentist member of the committee. The determination of this reviewer shall be final.
 - (3) The expunging of any complaint under this subsection must be reported to the full board at a public meeting of the board.

DRAFT

DRAFT

- (4) This subsection does not apply to complaints dismissed by the full board pursuant to a recommendation from an informal settlement conference panel.

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. MCDONALD TO PROPOSE NEW RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

m. Discuss and Consider New Rule 117.110 – Compliance.

Mr. Hill reported on the proposal of New Rule 117.110 concerning compliance with board orders. The new section relocates the language currently residing in Rule 107.103, the repeal of which the Board is concurrently proposing. This restructuring will provide for better structure and flow in the chapter. The proposed language differs from the current language in that it removes language that has proven extraneous and over-specific in its description of the computer database system to be employed for compliance purposes. The proposed language also eliminates the need for the director of enforcement to coordinate with the executive director and board secretary before initiating a complaint against a licensee for non-compliance with a board order. All other changes to the relocated language are solely for clarity and grammatical purposes.

Rule 107.110. Compliance.

- (a) The director of enforcement shall ensure that a compliance monitoring program is established and maintained for those licensees who have received a board order. The monitoring program shall be maintained by an SBDE employee assigned to act as the compliance officer.
- (b) Upon determination that a licensee has not complied with the requirements specified in his or her board order, the compliance officer shall report the details of the non-compliance to the director of enforcement.

A MOTION WAS MADE BY DR. VILLARREAL, SECONDED BY MS. MCKIBBEN TO PROPOSE NEW RULE 117.110 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

n. Discuss and Consider Proposed Amendments to Rule 102.1 – Fee Scheduled

This rule is pending review by the Dental Hygiene Advisory Committee and will come before the Board at its April 2005 Board Meeting.

9. DIVISION REPORTS.

a. Licensing Division.

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

Dr. McDonald reported that nine practitioners have submitted Parenteral Anesthesia Permit Applications. The qualifications and credentialing of these individuals have been ascertained and submit a motion that these permits be granted.

A MOTION BY DR. MCDONALD, SECONDED BY DR. STUBBS TO APPROVE NINE PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

(3) Discuss and Consider Approval of Nitrous Oxide Permit Applications.

Dr. McDonald reported that 18 practitioners have submitted Nitrous Oxide Permit Applications. These applications have been reviewed by him and Staff and are hereby being submitted to the Board for approval.

A MOTION BY DR. MCDONALD, SECONDED BY MR. WETHERBEE TO APPROVE 18 NITROUS OXIDE PERMIT APPLICATIONS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

DRAFT

DRAFT

(4) Discuss and Consider Approval of Enteral Conscious Sedation Permit Applications.

Dr. McDonald reported that 13 Enteral Conscious Sedation Permit applications. These applications have been reviewed by him and Staff and have been found to meet the criteria and credentialing necessary for permitting.

A MOTION BY DR. MCDONALD, SECONDED BY MR. WETHERBEE TO APPROVE 13 ENTERAL CONSCIOUS SEDATION PERMIT APPLICATIONS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

(5) Licensing Division First Quarter Report.

Ms. Sanders reported the following for the First Quarter:

<u>New Licenses/Registrations</u>	
Dental Total	67
by examination	(37)
by credentials	(21)
faculty	(9)
Dental Hygienist Total	49
by examination	(29)
by credentials	(18)
faculty	(2)
Dental Assistants Total	43
Laboratory	12
<u>Licenses Retired</u>	
Dental	34
Dental Hygienists	25
<u>Licenses Reinstated</u>	
Dental	5
Dental Hygienists	1
<u>Licenses/Registrations Renewed</u>	
Dental	3,061
Dental Hygienist	2,377
Laboratory	229
Dental Assistants	43
<u>Individuals Examined</u>	
N20 Monitoring	165
Jurisprudence (DDS & RDH)	175
Radiology	1,004
Infection Control	221
Jurisprudence (DA)	221

b. Enforcement Division Report.

(1) Enforcement Division Case Aging, First Quarter Reports

Mr. Ablon submitted the following report for the Enforcement Division:

Closed/Dismissed Cases for November 30, 2004:	56
Closed/Dismissed Cases for December 31, 2004:	43

DRAFT

Enforcement Division Report (Continued)

On-Going Investigations Case Aging Report

(01/03/05)

Under 6 Months Old:	242	(91%)
6 Mo. To 1 Yr:	23	(9%)
1 to 2 Yrs:	0	
2 to 3 Yrs:	0	
Over 3 Years Old:	0	

On-Going Investigations By Year

2004:	65	(24.5%)
2005:	200	(75.6%)

Total On-Going Investigations:	265
Jurisdictional Complaints Received in December:	71
Priority One Cases Over 90 Days Old:	2

(2) Appointment of New Dental Consultants.

Mr. Ablon stated that during the 78th Legislative Session the Sunset Advisory Commission recommended the Board form a task force of consultants to review cases where the patient had not been seen by a subsequent treating dentist and to reduce the backlog of cases during that time. Mr. Ablon stated that two years have passed and recommended the Board continue to use consultants.

Mr. Ablon stated he has prepared an application that Consultants complete asking them to indicate their interest in:

- 1) Reviewing records, radiographs and other documents and prepare a written detailed narrative indicating my findings regarding the standard of care and violations of Board Rules and the Dental Practice Act.
- 2) Conducting a clinical exams of complainants, which may include x-rays, and prepare a written report of my observations.
- 3) Testify as a witness for the Board at hearings or in depositions.

Mr. Ablon briefly explained the process of screening applications and appointment. The following individuals were submitted as Consultants:

<u>Name</u>	<u>Exam</u>	<u>Witness</u>	<u>Specialty</u>
Blume, Jeffrey L.			Periodontics
Bolton, James L.			
Clark, Tracy M.	X	X	
Harrison, Thomas C.	X		
Henwood, Robbie Wayne	X	X	
Jarret, Jeff	X		
Patten, Jimmy R.	X		Endodontics
Pavelka, Miro A.	X	X	Oral Surgery
Penchas, Jonathan	X	X	
Purifoy, William	X	X	Periodontics
Robinson, Timothy W.	X	X	
Ross, John B.	X	X	Endodontics
Sawyers, Norman Murray			Endodontics
Sewell, David A.	X	X	
Sherman, Carroll L.	X	X	Orthodontics
Smith, Glenda F.	X		
Spencer, Clark	X	X	Orthodontics
Thomas, Philip	X	X	Pedodontics
Wayman, Blake	X	X	Endodontics

Enforcement Division Report -

Appointment of Dental Consultants (Continued)

<u>Name</u>	<u>Exam</u>	<u>Witness</u>	<u>Specialty</u>
Welch, Dane	X	X	
Whiteside, Wilfred D.	X	X	
Wilhite, David	X		
Williamson, Jon W.	X	X	
Zayas, Joe D.	X	X	

Dr. Irons called for a motion to approve the dentists Mr. Ablon has presented to the Board.

A MOTION WAS MADE BY DR. MASON, SECONDED BY DR. VILLARREAL TO APPROVE THE DEVELOPMENT OF A CERTIFICATE TO BE PRESENTED TO DENTISTS WHO SERVE AS CONSULTANTS TO THE SBDE AND CONDUCT TRAINING WHERE CONSULTANTS WILL RECEIVE THREE (3) CREDIT HOURS OF CONTINUING EDUCATION IN JURISPRUDENCE. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

c. Administration Division Report.

Mr. Schmidt provided the following report on behalf of Ms. McPherson:

(1) FY 2005 Budget Review:

Fiscal Year 2005 Period 9/1/04 through 12/31/04: Percent of Year Remaining: 67%

Comparison of Expenditures to Revenue Collected (9/1/04 – 12/31/04):

Total expenditures for the first two months of the Fiscal Year total:	\$ 576,603
Total revenue	\$ <u>979,374</u>
Excess of Revenue over Expenditures:	\$ <u><u>402,772</u></u>

(2) LBB Performance Report for FY 2005:

<u>Measure</u>	<u>First Quarter</u>		
	<u>2005 Target</u>	<u>1st Quarter</u>	<u>YTD Performance</u>
Measure on Complaints Resolved	603 Resolved	239 Resolved	239 Resolved
Measure on Peer Assistance Program	64 Participants	31 New Participants	31 Participants
Measure on Licenses Issued: Dentists	420	67	67
Measure on Licenses Renewed: Dentists	11,479	3,061	3,061
Measure on Licenses Issued: Dental Hygienists	461	49	49
Measure on Licenses Renewed: Dental Hygienists	8,334	2,377	2,377
Measure on Avg. Time for Complaint Resolution	275 days	375.8 days	375.8 days
Measure on Avg. License Cost/Individual: Dentist	\$4.65	\$4.54	\$4.54
Measure on Avg. License Cost/Facility (Dental Labs)	\$7.99	\$8.07	\$8.07
Measure on Avg. License Cost/Individual: Dental Hygienist	\$3.35	\$3.53	\$3.53

DRAFT

d. LEGAL DIVISION REPORT.

(1) Discuss and Consider Approval of State Office of Administrative Hearings (SOAH) Settlement Orders.

Mr. Houston read through the Agreed Settlement Orders that came as a result of State Office of Administrative Hearings (SOAH) action.

SBDE 99-009-09043lb; 99-288-0311MK; 00-076-1025DI; 01-050-0925; 02-717-0626DF; 03-688-0508; 03-872-0709
SBDE 00-077-1025; 00-094-1103; 00-260-0131; 00-310-0224; 00-332-0308; 00-379-0406; 01-455-0326; 02-439-0304;
04-714-0430
SBDE 02-246-1218; 02-277-0110; 01-620-0619

A MOTION WAS MADE BY MR. GARCIA, SECONDED BY DR. STUBBS TO APPROVE THE SETTLEMENT ORDERS FROM SOAH ACTION. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

(2) Proposals for Decision.

Mr. Houston noted for the record that there were no Proposals for Decision to be heard at this meeting.

(3) Proposed Board Orders (PBOs).

Mr. Houston noted for the record that there were no Proposed Board Orders to be heard at this meeting.

(4) Board Informal Settlement Conference (ISC) Settlement Orders.

Mr. Houston read through Settlement Order 03-967-0812 from the March 2004 ISC, Panelists: Drs. Stubbs, Mason and Ms. Morgan.

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY MS. MCKIBBEN TO APPROVE SETTLEMENT ORDER 03-967-0812 FROM THE MARCH 2004 ISC. (FOR – 10 / OPPOSED – 0 / ABSTENSIONS - 3) MOTION CARRIES

Mr. Houston read through Settlement Orders from the December 2004 ISC, Panelists: Drs. Villarreal, Strunk and Ms. Stine.

03-128-1010	04-994-0723
04-067-0930	04-920-0629
03-838-0625	03-447-0212
03-627-0415	

A MOTION WAS MADE BY MS. JUBA, SECONDED BY DR. MASON TO APPROVE SETTLEMENT ORDERS FROM THE DECEMBER 2004 ISC. (FOR – 10 / OPPOSED – 0 / ABSENTIONS – 3) MOTION CARRIES

(5) Staff Informal Settlement Conference Settlement Orders.

Mr. Houston read through the Settlement Orders from the November 2004 Staff Informal Settlement Conference. Panelist: Dr. Stubbs.

04-374-0129	03-808-0617
-------------	-------------

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDERS FROM THE NOVEMBER 2004 STAFF INFORMAL SETTLEMENT CONFERENCE. (FOR – 12 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES

DRAFT

DRAFT

Mr. Houston read through Settlement Order 04-550-0312 from the December 9, 2004 Staff Informal Settlement Conference. Panelist: Dr. Irons.

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDER 04-550-0312 FROM THE DECEMBER 9, 2004 STAFF INFORMAL SETTLEMENT CONFERENCE. (FOR – 13 / OPPOSED – 0) MOTION CARRIES

Mr. Houston read through Settlement Order 04-609-0330 from the December 17, 2004 Staff Informal Settlement Conference. Panelist: Dr. Mason.

A MOTION WAS MADE BY MR. WETHERBEE, SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDER 04-609-0330 FROM THE DECEMBER 17, 2004 STAFF INFORMAL SETTLEMENT CONFERENCE. (FOR – 13 / OPPOSED – 0 / ABSTENTION - 1) MOTION CARRIES

The Presiding Officer called for a recess at 11:21 a.m. The meeting reconvened at 11:40 a.m.

(5) Legal Division Report.

Mr. Houston submitted the following statistics listed below as part of his First Quarter Report:

<u>Fiscal Year Filed</u>	<u>Active Cases in the Legal Division</u>
1998	1
1999	4
2000	19
2001	33
2002	44
2003	200
2004	228
2005	6
Total:	535

Cases Closed by the Legal Division in December 2004:	24
Cases Received by the Legal Division from the Enforcement Division in December 2004:	8
Cases Returned to the Enforcement Division from the Legal Division in December 2004:	2

DECEMBER 2004 CASE STATISTICS

Total Number of Cases: 535 Active

Under Attorney Review/Preliminary Review:	94
Initial Proposed Board Orders:	39
Informal Settlement Conference:	275
Dismissal	11
SOAH	<u>116</u>
	535

DRAFT

DRAFT

I. Informal Settlement Conferences

December 2-3, 2004 Board Informal Settlement Conference
December 9, 16, 17, 2004 Staff Informal Settlement Conferences

- A. 45 Cases (37 Respondents)
- B. Board Orders Proposed at Settlement Conferences – 19
- C. Dismissals at Settlement Conferences – 19
- D. Tabled for Future Consideration/Further Action – 7
- E. Referrals to the State Office of Administrative Hearings (SOAH): 0

II. Initial Proposed Board Orders (PBO's)

- A. 10 PBO's dispatched since last Board Meeting (November 19, 2004)
- B. 00 PBO's received since last Board Meeting (November 19, 2004)

III. Legal Case Closures

- A. 31 Cases since last Board Meeting (November 19, 2004)

IV. SOAH Actions

- A. 1 Proposal For Decision (4 Cases) issued since last Board Meeting (November 19, 2004)
- B. 29 Cases filed at SOAH since last Board Meeting (November 19, 2004)
- C. 46 Total Cases filed under prosecution at SOAH
(16 Cases under Board Consideration at January 14, 2004, Board Meeting, 30 Cases Remaining)

V. Other Legal Issues

- A. 30 Board Order Cases projected to be resolved by action of the Board, January 14, 2005
- B. As of January 14, 2005, the projected number of cases in Legal is approximately 512

VI. Future Activity

- A. Board Informal Settlement Conference – February 17-18, 2005, March 17-18, 2005
- B. Staff Informal Settlement Conferences – January 21, February 24-25, March 24-25

Mr. Houston provided the Board a Draft 2005 Board Informal Settlement Conference Schedule.

10. NOMINATIONS FROM BOARD MEMBERS FOR THE POSITION OF BOARD SECRETARY AND ELECTION OF BOARD SECRETARY.

Dr. Irons covered the process and selection of Board Secretary and explained that a ballot will be provided to each Board Member, collected, and the results announced by the Executive Director and the General Counsel will record the count. He then opened the floor for formal nominations.

A MOTION WAS MADE BY MS. JUBA, SECONDED BY DR. MCDONALD TO NOMINATE DR. PAUL STUBBS FOR SECRETARY OF THE BOARD.

A MOTION WAS MADE BY MS. ALLEN, SECONDED BY DR. MASON TO NOMINATE DR. JUAN VILLARREAL FOR SECRETARY OF THE BOARD.

Following a collection of the ballots, Mr. Schmidt read the results aloud and Dr. Irons announced that Dr. Villarreal was elected Board Secretary.

11. EXECUTIVE SESSION.

Dr. Irons announced that there would be no Executive Session.

DRAFT

12. EXECUTIVE DIRECTOR'S REPORT.

Mr. Schmidt reported that his report would focus on issues being addressed with the Legislature and Legislative Offices and the second quarter agency goals and objectives.

Mr. Schmidt structured follow-up visits to all Legislative Offices during the month of December 2004. The purpose of the visits was three-fold: 1) to assure the Legislative Staff that assistance would be available from the TSBDE's Executive Director and staff throughout the Legislative Session, 2) to recruit a sponsor for the TSBDE's Housekeeping Legislation, and 3) to continue to gain support for the Compensation Parity for the TSBDE Staff. The emphasis being made to the Legislative Staffs is that the employees of this Agency deserve compensation parity with employees of other state agencies who have the same authority and/or job responsibilities. The justification for parity lies in the accomplishments of this Agency since 2002. As discussed in November 2004, this is the third tier of the organized effort to address the Legislative Offices regarding the issue of parity.

The Sunset Commission met on December 14-15, 2004. The agenda item of interest was the Licensing Reorganization Project. Testimony was heard from agencies as large as the Texas State Medical Board and as small as the State Board of Podiatric Examiners. The result of the two-day meeting was to table the project and let the Legislative process handle any reorganization effort. This included the suggestion of the creation of a new State agency for health professional licensing.

The Division Directors have set goals and objectives for the second quarter. The Executive Division continues with Legislative contacts, gaining support for parity, recruiting a sponsor for the Legislative Housekeeping and supporting the division directors and agency needs. The Legal Division is completing the 2005 ISC staffing, preparing cases for SOAH, pursuing final resolution of the Rabinowitz case, and pursuing online research access. The Enforcement Division continues with securing mandated training, completing the investigation of all FY 2004 cases, and obtaining a case age of under 180 days for all on-going investigations. The Licensing Division is exploring options to rewrite the radiology and nitrous monitoring examinations, preparing and executing new procedures for accepting the NERB and SRTA Regional Boards, attending annual dental meetings in Dallas and Houston to answer questions regarding the dental assistant issues, preparing responses for the Legislative Session, and sending application packets to all DDS and RDH Program Directors to distribute to 2005 graduates. The Administration Division is preparing the quarterly performance and the annual risk assessment reports, reviewing the Agency's operating budget, updating Legislative Notebooks and the personnel manual and preparing reconciliation reports for the ABEST/USAS financial systems.

The 79th Legislative Session may be one of the most challenging and important five months in the history of this Agency. Many accomplishments have been achieved over the last two years. Positive progress has been obtained and the Agency maintains an energy level that portrays an optimistic future.

As we go forward into the 79th Legislative Session, our message must be unified and apparent. Appropriate and fair compensation remains the critical issue to the Texas State Board of Dental Examiners and its employees. In order for this Agency to carry out its primary mission of protecting the public it is essential to maintain and support a team that possesses the necessary experience and expertise to handle complex issues in the dental field. It is crucial that funding be approved to allow for the recruitment and retention of professional personnel. However, we must be able to compete on a level playing field with other State agencies as well as outside forces. Comparable and fair compensation is an essential factor if we are to accomplish parity.

DRAFT

13. PRESIDING OFFICER'S REPORT.

Dr. Irons acknowledged Dr. McDonald for serving as Secretary of the TSBDE.

a. Appointment Confirmation of Mr. Roosevelt Davis to the Dental Laboratory Certification Council.

Dr. Irons called for a motion to confirm the appointment of Mr. Roosevelt Davis and announced that Mr. Davis will serve as the Chair of the DLCC.

A MOTION WAS MADE BY DR. VILLARREAL, SECONDED BY DR. TIPPIT TO CONFIRM THE APPOINTMENT OF MR. ROOSEVELT DAVIS TO THE DENTAL LABORATORY CERTIFICATION COUNCIL FOR A TWO-YEAR TERM. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

b. Appointment Confirmation of Mr. Gary Box to the Dental Laboratory Certification Council.

Dr. Irons called for a motion to confirm the appointment of Mr. Gary Box to the DLCC.

A MOTION HAS BEEN MADE BY DR. STRUNK, SECONDED BY DR. MASON TO CONFIRM THE APPOINTMENT OF MR. GARY BOX TO THE DENTAL LABORATORY CERTIFICATION COUNCIL FOR A TWO-YEAR TERM. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

14. PUBLIC COMMENTS.

Dr. Patricia Blanton, Immediate Past President of the Texas Dental Association (TDA), brought a statement from TDA introducing this Board to what it feels is their primary Legislative initiative for this Legislative Session.

15. ANNOUNCEMENTS.

Dr. Irons announced the following future meetings:

- Staff Informal Settlement Conference – January 21, 2005
- Board Informal Settlement Conference – February 17-18, 2005
- Board Informal Settlement Conference – March 24, 2005
- Board Informal Settlement Conference – March 31-April 1, 2005
- Board Committee Meetings – April 28, 2005
- Board Meeting – April 29, 2005

16. ADJOURN. A MOTION BY MS. MORGAN, SECONDED BY DR. MASON TO ADJOURN THE MEETING AT 12:09 P.M. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.

- SIGNED -

J. KEVIN IRONS, D.M.D.
Presiding Officer
Texas State Board of Dental Examiners

Date: April 29, 2005

- SIGNED -

JUAN D. VILLARREAL, D.D.S.
Secretary
Texas State Board of Dental Examiners

Date: April 29, 2005

DRAFT