



## TEXAS STATE BOARD OF DENTAL EXAMINERS

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### BOARD MEETING MINUTES October 28, 2005

1. **CALL TO ORDER:** Dr. McDonald called the meeting of the Texas State Board of Dental Examiners to order on October 28, 2005. The time was 8:01 a.m.

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

**a. Members Present:**

Dr. Gary W. McDonald	Presiding Officer
Dr. Juan D. Villarreal	Secretary
Ms. Tammy Allen, RDH	Member
Mr. Oscar Garcia	Public Member
Dr. Tamela Gough	Member
Dr. William Purifoy	Member
Ms. Georgiana Matz	Member
Ms. Helen McKibben, RDH	Member
Dr. Norman Mason	Member
Dr. Russell Schlattman	Member
Ms. Phyllis Stine	Public Member
Dr. George Strunk	Member
Dr. Paul Stubbs	Member
Mr. Charles Wetherbee	Public Member

**b. Members Absent:**

Ms. Marti Morgan	Public Member (Excused)
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**c. TSBDE Staff Present:**

Dr. Jim Zukowski, Ed.D.	Executive Director
Mr. Fread Houston	General Counsel
Ms. Lisa Jones	Director of Enforcement
Ms. Sherri Sanders	Director of Licensing and Examinations
Ms. Carol McPherson	Director of Administration, Finance and Personnel
Mr. Lorenzo Nieto	Attorney
Mr. Felipe Alonzo	Attorney
Mr. Rob Hill	Attorney
Ms. Peggy DeAnda	Attorney
Ms. Vicki Shoemith	Executive Assistant

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. MASON TO EXCUSE MS. MORGAN FROM THE MEETING. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

### 3. REVIEW AND APPROVAL OF PAST MINUTES.

- a. Minutes from the August 19, 2005 Board Meeting.

**A MOTION WAS MADE BY DR. MASON AND SECONDED BY DR. STUBBS TO CHANGE THE YEAR '2006' ON PAGE 2, PARAGRAPH 5A TO CORRECTLY REFLECT THE YEAR '2005'. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- b. Minutes from the September 12, 2005 Board Meeting.

**A MOTION WAS MADE BY DR. VILLARREAL AND SECONDED BY DR. STUBBS TO APPROVE THE MINUTES OF SEPTEMBER 12, 2005. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

### 4. COMMITTEE REPORTS.

#### a. Enforcement Committee Report.

Dr. Villarreal reported that business included a unanimous vote to approve amendments to Rules 101.8, 108.9 and 107.103(d) and made a recommendation to the Board for approval and submission to the Texas Register.

Dr. Villarreal reported that Rules 108.7 and 108.8 were both Tabled due to comments being received. He then recommended these rules be referred to the Rules and Policy Committee for further review.

#### b. Licensing and Examination Committee Report.

Ms. Stine reported that the Committee approved two requests for Alternative Continuing Education (CE) and discussed statistics relating to the Dental Assistant Registration Program and received a status report regarding the Dental Assistant Advisory Committee from the Director of Licensing and Examination Division. Ms. Stine stated that the Dental Assistant National Board and American Dental Assistants Association were approved as CE providers under Rule 104.2.

The Committee approved the following actions to rules and recommended Board approval and submission to the Texas Register:

- Proposal of New Rules 101.6, 103.6, 101.7 and 103.7
- Proposed Repeal of Rule 108.10
- Proposed Amendments to Rule 104.2
- Adoption of the Rules 102.1, 108.11, 114.1 and 114.3

#### c. Rules and Policy Committee Report.

Dr. Mason reported that the newly formed Rules and Policy Committee met to discuss and consider the organization and structure of the committee.

### 5. OTHER REPORTS.

#### a. Enforcement Database Report.

Dr. McDonald reported that this database was rolled out on September 1, 2005 as scheduled and Staff are currently receiving training. The current database will be run in parallel with the new database while Staff and Mr. Swenson identify and resolve minor problems involving macros, link in the reporting process and printing. It is anticipated that within the next 45 days the new database will be fully operational with staff completely trained.

**b. Professional Recovery Network (PRN) Report.**

Ms. Holly Johnston reported on her meeting with TSBDE Legal and Enforcement Staff in January to review policies and procedures and evaluate the program and current methods of communication.

**c. American Association of Dental Examiners (AADE) Report.**

Dr. Stubbs reported on the following topics relative to the AADE Meeting:

- AADE President's Report.
- Panel Discussions
- ADEX Report Update.
- General Assembly Actions

Dr. Stubbs reported that the next meeting of the AADE is scheduled for March 2006 and the focus will be International Accreditation.

Dr. Stubbs closed his report by reporting trends in the number of test candidates with the National Board Examinations, Part I and Part II given in the dental schools.

**d. Western Regional Examining Board (WREB) Report.**

Dr. Stubbs reported that the next meeting of WREB will be in January 2006.

**e. WREB ERC RDH Report.**

Ms. McKibben reported that WREB ERC for Registered Dental Hygienists has not met since her last report.

**6. ITEMS FOR GENERAL DISCUSSION.**

- Central Regional Dental Testing Agency (CRDTS) Membership and National Examination.

**DR. STUBBS RENEWED HIS SECOND TO THE MOTION MADE BY DR. MALIK FROM THE AUGUST 19, 2005 MEETING TO NOT MAKE APPLICATION TO CRDTS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

**7. RULES.**

- a. Discuss and Consider the Proposal of New Rule 101.6 – Emergency Provisional Licensure for Dentists Displaced by Hurricane Katrina.

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MR. GARCIA TO APPROVE THE PROPOSAL OF NEW RULE 101.6 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- b. Discuss and Consider the Proposal of New Rule 103.6 – Emergency Provisional Licensure for Dental Hygienists Displaced by Hurricane Katrina.

**A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. STUBBS TO APPROVE PROPOSED THE PROPOSAL OF NEW RULE 103.6 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- c. Discuss and Consider the Proposal of New Rule 101.7 – Retired License Status.

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. VILLARREAL TO APPROVE THE PROPOSAL OF NEW RULE 101.7 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- d. Discuss and Consider the Proposal of New Rule 103.7 – Retired License Status.

**A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. MASON TO APPROVE PROPOSED THE PROPOSAL OF NEW RULE 103.7 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- e. Discuss and Consider the Proposed Repeal of Rule 108.10 – Reinstatement of Retired License.

**A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE REPEAL OF RULE 108.10 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- f. Discuss and Consider the Proposal of Amendments to Rule 104.2 – Providers.

**A MOTION WAS MADE BY MS. MCKIBBEN AND SECONDED BY DR. PURIFOY TO APPROVE PROPOSED AMENDMENTS TO RULE 104.2 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- g. Discuss and Consider Adoption of Amendments to Rule 101.8 – Persons with Criminal Backgrounds.

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE THE ADOPTION OF AMENDMENTS TO RULE 101.8 AND DIRECT STAFF TO PUBLISH IN THE REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- h. Discuss and Consider the Adoption of Amendments to Rule 102.1 – Fee Schedule.

**A MOTION WAS MADE BY DR. PURIFOY AND SECONDED BY MS. MATZ TO APPROVE THE ADOPTION OF AMENDMENTS TO RULE 102.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- i. Discuss and Consider Adoption of Amendments to Rule 108.7 – Minimum Standard of Care, General.

**This rule was Tabled in Committee and withdrawn from the Texas Register.**

- j. Discuss and Consider Adoption of Amendments to Rule 108.8 – Records of the Dentist.

**This rule was Tabled in Committee and withdrawn from the Texas Register.**

- k. Discuss and Consider the Adoption of Amendments to Rule 108.9 – Dishonorable Conduct.

**A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MS. ALLEN TO APPROVE THE ADOPTION OF AMENDMENTS TO RULE 108.9 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- l. Discuss and Consider the Adoption of Amendments to Rule 108.11 – Display of Registration.

**A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY MR. WETHERBEE TO APPROVE THE ADOPTION OF AMENDMENTS TO RULE 108.11 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- m. Discuss and Consider the Adoption of Amendments to Rule 107.103 – Dismissal of Complaints.

**A MOTION WAS MADE DR. VILLARREAL AND SECONDED BY DR. PURIFOY TO APPROVE THE ADOPTION OF AMENDMENTS TO RULE 107.103 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- n. Discuss and Consider the Adoption of Amendments to Rule 114.1 – Permitted Duties.

**A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY DR. MASON TO APPROVE AMENDMENTS TO RULE 114.1 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- o. Discuss and Consider the Adoption of Amendments to Rule 114.3 – Application of Pit and Fissure Sealants

**A MOTION WAS MADE BY DR. MASON AND SECONDED BY MS. MCKIBBEN TO APPROVE THE AMENDMENTS TO RULE 114.3 AND DIRECT STAFF TO PUBLISH IN THE TEXAS REGISTER FOR A 20-DAY PERIOD. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

**The Presiding Officer called for a recess at 9:14 a.m. The Board resumed business at 9:24 a.m.**

## **8. DIVISION REPORTS.**

### **a. Licensing Division.**

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

**A MOTION WAS MADE BY DR. VILLARREAL AND SECONDED BY MS. MCKIBBEN TO APPROVE 12 PARENTERAL ANESTHESIA PERMIT APPLICATIONS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

- (2) **Report of Nitrous Oxide and Enteral Conscious Sedation Permit Applications.**

Ms. Sanders reported on the Nitrous Oxide and Enteral Conscious Sedation Permit Applications.

- (4) **Licensing Division Fourth Quarter Report.**

Ms. Sanders reported on the Fourth Quarter statistics for the Licensing Division.

### **b. Enforcement Division Fourth Quarter Report.**

Ms. Jones presented the Enforcement Division Fourth Quarter Report for the Enforcement Division.

**c. Administration Division Report.**

Ms. McPherson provided a report on the FY 2005 Fourth Quarter Budget and LBB Performance Report – Fourth Quarter and Annual Report.

**d. Legal Division Report.**

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

**- Robert C. Dorris, DDS, SBDE No. 05-0962-0421**

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

**A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. MASON TO APPROVE THE SURRENDER OF THE LICENSE OF ROBERT C. DORRIS, DDS. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

Dr. McDonald called upon Dr. Robert C. Dorris who requested an appearance before the Board to request consideration of his application for licensure.

**A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MR. GARCIA TO GRANT A LICENSE WITH THE RESTRICTION THAT HE BE REGISTERED WITH THE PROFESSIONAL RECOVERY NETWORK FOR PERPETUITY, LIMIT HIS DEA LICENSE SCHEDULES II AND III AND MUST WORK IN ASSOCIATION WITH ANOTHER PRACTITIONER FOR TWO YEARS AND SUBMIT TO A HAIR ANALYSIS. (FOR – 12 / OPPOSED – 1) MOTION CARRIES.**

**(2) Proposals for Decision.**

Mr. Houston reported that there are no Proposals for Decision.

**(3) Proposed Board Orders (PBOs).**

Mr. Houston read through the Proposed Board Orders as follows:

05-0574-0114	04-342-0108	04-251-1126
04-524-0308	05-0468-0113	05-0844-0316
04-344-0108	04-133-1023	05-0414-0112
05-0400-0112	05-0367-0110	05-0512-0113
05-0438-0112	04-325-1231	04-493-0227
05-0636-0126	05-0308-1221	04-591-0325
04-758-0510	05-0310-1227	

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. STUBBS TO APPROVE THE PROPOSED BOARD ORDERS PRESENTED BEFORE THE BOARD REFLECTED ABOVE. (FOR - 13 / OPPOSED - 0) MOTION CARRIES.**

**(4) Modifications to Board Orders.**

Mr. Houston read through the Modification to Board Order 03-508-0305.

**A MOTION WAS MADE BY MR. GARCIA AND SECONDED BY DR. STUBBS TO APPROVE THE MODIFICATION OF BOARD ORDER 03-508-0305. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

**(5) Board Informal Settlement Conference Settlement Orders.**

Mr. Houston read Settlement Orders 04-806-0525 and 04-396-0126 from the July 21, 2005 ISC. Panelists: Dr. Stubbs and Mr. Wetherbee.

**A MOTION WAS MADE BY DR. STRUNK AND SECONDED BY DR. PURIFOY TO APPROVE THE SETTLEMENT ORDERS FROM THE JULY 21, 2005 BOARD INFORMAL SETTLEMENT CONFERENCE. (FOR – 11 / OPPOSED – 0 / ABSTENTIONS - 2) MOTION CARRIES.**

Mr. Houston read Settlement Order 03-879-0711 from the March 12, 2004 ISC. Panelists: Dr. Stubbs, Ms. Morgan and Dr. Mason.

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY DR. PURIFOY TO APPROVE THE SETTLEMENT ORDERS FROM THE MARCH 12, 2004 BOARD INFORMAL SETTLEMENT CONFERENCE. (FOR – 10 / OPPOSED – 0 / ABSTENTIONS – 3) MOTION CARRIES.**

**(6) Staff Informal Settlement Conference Settlement Orders.**

Mr. Houston read Settlement Order 03-728-0519 from the April 15, 2005, Staff ISC. Panelist: Dr. Malik.

**A MOTION WAS MADE BY MR. WETHERBEE AND SECONDED BY MR. GARCIA TO APPROVE SETTLEMENT ORDER 03-728-0519 FROM THE APRIL 15, 2005 STAFF ISC. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

Mr. Houston read Settlement Order 03-885-0715 from the June 23, 2005 Staff ISC. Panelist: Dr. Villarreal

**A MOTION WAS MADE BY MS. STINE AND SECONDED BY DR. STUBBS TO APPROVE SETTLEMENT ORDER 03-885-0715 FROM THE JUNE 23, 2005 STAFF ISC. (FOR – 12 / OPPOSED – 0 / ABSTENTIONS – 1) MOTION CARRIES.**

**(7) Legal Division Report.**

Mr. Houston presented the Legal Division Case Report and Fourth Quarter Report.

**The Presiding Officer called for a recess at 11:21 a.m. The Board resumed business at 11:48 a.m.**

**e. Report of Liaison to Legal Division for SOAH Resolution.**

Mr. Garcia reported SOAH resolution actions and indicated that Mr. Wetherbee will begin serving as Liaison beginning at the January 2006 meeting.

**9. EXECUTIVE DIRECTOR'S REPORT.**

Dr. Zukowski provided a report covering the following items:

- Meeting with Mr. Cronn, Legislative Liaison with the Governor's Office, on the subject of parity.
- Presentation at the TDHA Annual Meeting on October 14, 2005.
- Board Consultant Information.
- Electronic Fingerprinting.
- Meeting with the Executive Director and Director of Policy of Texas Dental Association.
- Performance Measures and Operating Budget Meetings with staff.
- Board Member Training.
- Report on meetings of the Health Professions Council and Professional Recovery Network staff.
- Agency goals for 2006.

**10. PRESIDING OFFICER'S REPORT.**

Dr. McDonald provided a report on the following business:

- Selection and orientation of the new Executive Director.
- Hurricane Katrina Proclamation and subsequent agency actions.
- Agency Funding.
- Board Committee Assignments and the development of a Rules and Policy Committee.

**11. PUBLIC COMMENTS.**

No public comments were made.

**12. ANNOUNCEMENTS.**

a. **Nominations for Board Secretary.**

Dr. McDonald covered the history of the election process and the selection of Board Secretary and explained that an individual who cares to seek the Office of Secretary of this Board will declare they are interested in serving as the Secretary. Formal nominations will be held at the next SBDE Board Meeting on January 27, 2006. At that Board Meeting, someone will specifically nominate that individual, or individuals who care to seek the position of Board Secretary.

Dr. McDonald opened the floor for declarations from Board Members interested in serving as SBDE Secretary.

Dr. Strunk declared his availability and interest in serving as the SBDE Secretary.

b. **Next Board Meeting.**

Dr. McDonald announced that the next Board and Committee Meetings are tentatively scheduled for January 26-27, 2006, respectively.

**13. EXECUTIVE SESSION.**

**The Presiding Officer announced the meeting would be conducted in closed session, the time was 12:20 p.m.**

**The Presiding Officer reconvened the Open Meeting at 12:29 p.m.**

**14. ADJOURN.** Dr. McDonald entertained a motion to convene the meeting.

**A MOTION WAS MADE BY DR. STUBBS AND SECONDED BY MR. WETHERBEE TO ADJOURN THE MEETING AT 12:30 P.M. (FOR – 13 / OPPOSED – 0) MOTION CARRIES.**

-- SIGNED --

-- SIGNED --

**GARY W. MCDONALD, D.D.S**  
**Presiding Officer**  
**Texas State Board of Dental Examiners**

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

**Date: January 27, 2006**

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