



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES November 9, 2012

1. **CALL TO ORDER.** Dr. Gough called the meeting of the Texas State Board of Dental Examiners to order at 8:57 a.m.

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

a. Members Present:

Dr. Tamela Gough	Presiding Officer
Dr. Steven Austin	Member
Dr. William Birdwell	Member
Dr. James Chancellor	Member
Ms. Renee Cornett, RDH	Member
Dr. D. Bradley Dean	Member
Dr. Maxwell Finn	Member
Ms. Alicia Grant, RDH	Member
Ms. Whitney Hyde	Member
Ms. Evangelia Mote	Member
Dr. Rodolfo Ramos	Member
Mr. Arthur Troilo	Member
Ms. Emily Willeford	Member

b. Members Absent:

Dr. Christy Leedy	Member (Excused)
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c. Staff Present:

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

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO EXCUSE DR. LEEDY FROM THE MEETING. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

3. REVIEW AND APPROVAL OF PAST MINUTES FROM AUGUST 10, 2012 BOARD MEETING.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEANTO APPROVE THE MINUTES AS WRITTEN. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

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

Settlement Orders pulled from the agenda include: Dr. Dwyer, Dr. Zaman and Dr. Croley.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. FINN TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED - 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MS. WILLEFORD TO APPROVE THE CONSENT ORDERS AS PRESENTED. (FOR – 12 / OPPOSED – 0) MOTION CARRIES.

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

American Association of Dental Boards (AADB) Presentation – Evaluating Competency. Dr. White Graves, Past President of the AADB presented the AADB Assessment Services Program (ASP), ASP Services Fees and two pilot cases from the Dentist-Professional Review and Evaluation Program Report (DPREP)

6. PUBLIC COMMENTS. Comments were heard from: Dr. Mark Peppard, speaking for the Texas Academy of General Dentistry; Dr. James Coleman, speaking on behalf of the Texas Dental Association; Dr. Douglas Terry, speaking on behalf of the Texans for Dental Reform; and Ms. Monna Carpenter-Barin, speaking on behalf of the Texas Dental Hygienists Association.

7. DISCUSSION AND POSSIBLE ACTION CONCERNING REPORTS OF BOARD COMMITTEES.

- **Executive Committee Report.** Dr. Gough reported that the Executive Committee met on October 1, 2012 to discuss and consider possible action on the temporary suspension of Texas Dental License Number 14901. After considerable discussion the Committee voted not to suspend Texas Dental License Number 14901.

8. MISCELLANEOUS REPORTS.

- **Professional Recovery Network (PRN) Report.** Ms. Courtney Bolin presented the PRN Report for the First Quarter of 2013.

9. BOARD DISCUSSION ON THE DIAGNOSIS AND TREATMENT OF SLEEP APNEA BY DENTISTS.

After considerable discussion the Board directed Staff to draft a statement for the next meeting.

The Presiding Officer called for a break at 10:41 a.m. The meeting reconvened at 10:45 a.m.

10. DISCUSSION AND POSSIBLE ACTION REGARDING SELF-DIRECTED SEMI-INDEPENDENT STATUS (SDSI) FOR THE STATE BOARD OF DENTAL EXAMINERS.

Mr. Parker presented an overview of the SDSI process and stated he would bring Bill language at a future meeting.

It was noted for the record that Dr. Finn left the meeting at 12:01 p.m.

11. DISCUSSION AND POSSIBLE ACTION REGARDING RULES.

11.1. Consideration of proposed Rules Review pursuant to Tex. Gov't Code 2001.029.

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

A MOTION WAS MADE BY MS. GRANT AND SECONDED BY MS. HYDE TO PROPOSE A RULE REVIEW OF CHAPTER 104 AND PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

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

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO PROPOSE A RULE REVIEW ON CHAPTER 113 AND PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.2. Consideration of final adoption of Rules Review published in the Texas Register on October 5, 2012.

11.2.a. 22 Tex. Admin. Code Chapter 100 – General Provisions.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. HYDE TO FINAL ADOPT THE RULE REVIEW OF CHAPTER 100 CONCERNING GENERAL PROVISIONS. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.2.b. 22 Tex. Admin. Code Chapter 112 – Visual Dental Health Inspection.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. AUSTIN TO FINAL ADOPT THE RULE REVIEW OF CHAPTER 112 CONCERNING VISUAL DENTAL HEALTH INSPECTION. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.3. Consideration of proposed repeal of rule 22 Tex. Admin Code 101.8 – Persons with Criminal Background.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. DEAN TO PROPOSE A REPEAL OF RULE 101.8 CONCERNING PERSONS WITH CRIMINAL BACKGROUND. (FOR - 11 / OPPOSED – 0) MOTION CARRIES.

11.4. Consideration of proposed new rule 22 Tex. Admin. Code 101.8 – Persons with Criminal Background.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. GRANT TO PROPOSE NEW RULE 101.8 AND PUBLISH THE RULE IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.5. Consideration of proposal to amend 22. Tex. Admin Code as follows:

11.5.a. 107.66 – Modification to Order.

11.5.b. 107.67 – Review of Modification.

11.5.c. 107.68 – Appearances.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. TROILO TO PROPOSE AMENDMENTS TO RULES 107.66, 107.67 AND 107.68 AND PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.6. Consideration of proposal to amend SBDE Disciplinary Matrix, published in the Texas Register on September 3, 2010.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO PROPOSE AMENDMENTS TO THE SBDE DISCIPLINARY MATRIX AND PUBLISH IN THE TEXAS REGISTER FOR A 30-DAY COMMENT PERIOD. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.7. Consideration of Final Adoption of new rules 22 Tex. Admin. Code as follows:

11.7.a. 107.2 – Effect of Child Support Payment Default on Licensure Application and Renewal.

A MOTION WAS MADE BY MS. WILLEFORD AND SECONDED BY DR. AUSTIN TO FINAL ADOPT 107.2 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.7.b. 107-3 – Effect of Student Loan Payment Default on Licensure Renewal.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO FINAL ADOPT 107.3 WITHOUT CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.7.c. 112.3 – Limited Oral Evaluation.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO FINAL ADOP WITH CHANGES RULE 112.3 AND PUBLISH IN THE TEXAS REGISTER. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

11.8. Consideration of Final Adoption of Amendments to 22 Tex. Admin Code as follows:

11.8.a. 112.1 – Definitions.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MS. GRANT TO FINAL ADOPT RULE 112.1 WITH CHANGES AND PUBLISH IN THE TEXAS REGISTER. (FOR – 10 / OPPOSED – 1) MOTION CARRIES.

11.8.b. 112.2 - Visual Dental Health Inspections.

A MOTION WAS MADE BY MS. WILLEFORD AND SECONDED BY DR. DEAN TO ADOPT WITH CHANGES NEW RULE 112.2 AND PUBLISH IN THE TEXAS REGISTER. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

11.9. Consideration of Final Adoption of repeal of 22 Tex. Admin Code 108.50 - 108.61.

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY MS. CORNETT TO REPEAL RULES 108.50 AND PUBLISH IN THE TEXAS REGISTER. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

11.10. Consideration of final adoption of new rules, 22 Tex. Admin Code 108.50 - 108.63, with changes, in response to comments received.

A MOTION WAS MADE BY DR. RAMOS AND SECONDED BY DR DEAN TO FINAL ADOPT NEW RULES 108.50 - 108.55, 108.57-108.63 AS WRITTEN AND AMEND RULE 108.56 AND PUBLISH IN THE TEXAS REGISTER. (FOR - 8 / OPPOSED - 3) MOTION CARRIES.

12. AGENCY DIVISION REPORTS.

12.1. Administration Division Report. Ms. Rodriguez presented the SBDE Budget.

12.2. Licensing Division Report. Ms. Shoesmith presented 247 Anesthesia Permits for approval to the Board and the Licensing Division Report.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO APPROVE 247 ANESTHESIA PERMITS. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

12.3. Enforcement Division Report. Mr. Parker presented the Enforcement Division Report.

12.4. Legal Division Report.

12.4.a. Legal Division Report. Ms. Hildebrand presented the Legal Division Report.

12.4.b. Administrative Law Judge (ALJ) Proposals for Decision (PFDs) - State Office of Administrative Hearings (SOAH).

12.4.b.(1) Docket No. 504-12-4802, Claudia Bourdett, Petitioner/Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. DEAN TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN AND RECOMMEND A CONDITIONAL REGISTRATION FOR FIVE (5) YEARS ISSUED WITH THE STIPULATIONS PROVIDED IN THE CONSENT ORDER. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

12.4.b.(2) Docket No. 504-12-6714, Cindy Courtney, Petitioner/Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY MR. TROILO AND SECONDED BY MS. WILLEFORD TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND DENY APPLICATION FOR A DENTAL ASSISTANT REGISTRATION FOR CINDY COURTNEY. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

12.4.b.(3) Docket No. 504-12-7339, Brian C. Dayton, DDS, Texas Dental License Number 13857.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. WILLEFORD TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND SUSPEND DENTAL LICENSE NO 18357 ISSUED TO BRIAN C. DAYTON, DDS. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

12.4.b.(4) Docket No. 504-12-6993, William R. Morris, DDS, Texas Dental License Number 18250.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL LICENSE NO 18250 ISSUED TO WILLIAM R. MORRIS. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

- 12.4.b.(5) Docket No. 504-12-6715, Rogelio Rodriguez, Petitioner/Applicant for Registered Dental Assistant.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. TROILO TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND DENY APPLICATION FOR DENTAL ASSISTANT REGISTRATION FOR ROGELIO RODRIGUEZ. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

- 12.4.b.(6) Docket No. 504-13-0174, Bobbie R. Zimmerman, RDA, Texas Dental Assistant Registration Number 33586.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. CHANCELLOR TO ACCEPT THE PROPOSAL FOR DECISION AS WRITTEN, ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS DENTAL ASSISTANT REGISTRATION NO. 33586 ISSUED TO BOBBIE R. ZIMMERMAN. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

- 12.4.c. Administrative Law Judge (ALJ) Default Orders - State Office of Administrative Hearings (SOAH).

- Docket No. 504-12-5108, Mona Gandara, RDA, Texas Dental Assistant Registration No. 1898.

A MOTION WAS MADE BY MS. GRANT AND SECONDED BY DR. CHANCELLOR TO ADOPT THE ORDER OF THE BOARD AND REVOKE TEXAS REGISTERED DENTAL ASSISTANT NUMBER 1898 ISSUED TO MONA GANDARA. (FOR - 11 / OPPOSED - 0) MOTION CARRIES.

Board Orders pulled from Item 4 of the Agenda:

- Settlement Orders – Dr. Riley, Dr. Croley, and Dr. Zaman. The Board discussed the aforementioned Orders and voted.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. MOTE TO APPROVE THE SETTLEMENT ORDERS FOR DR. RILEY, DR. CORLEY AND DR. ZAMAN. (FOR – 10 / OPPOSED – 1) MOTION CARRIES.

- Settlement Order – Dr. Dwyer.

A MOTION WAS MADE BY DR. BIRDWELL AND SECONDED BY DR. CHANCELLOR TO TABLE THE VOTE REGARDING THE SETTLEMENT ORDER FOR DR. DWYER. (FOR – 11 / OPPOSED – 0) MOTION CARRIES.

13. EXECUTIVE DIRECTOR'S REPORT.

Mr. Parker reported on his attendance at the American Association of Dental Board (AADB) Meeting. He also reported on his attendance at the Texas Dental Hygienists' Association Annual Meeting. Mr. Parker concluded his report stating he had attended the Public Health Committee held on October 15, 2012.

14. PRESIDING OFFICER'S REPORT.

Dr. Gough presented her final report as Presiding Officer.

It was noted for the record that Dr. Gough left the meeting at 1:39 p.m. Dr. Austin presided for the remainder of the meeting.

15. ANNOUNCEMENTS.

- Board Members interested in serving as Board Secretary were asked to notify Mr. Parker.
- Mr. Troilo announced that this would be his last meeting.
- Ms. Hildebrand announced that Board Members will be assigned SBDE E-Mail addresses to preclude personal e-mail from being subject to open records requests.
- Next Meeting is scheduled for January 25, 2013.

16. EXECUTIVE SESSION. No session was held.

17. ADJOURN.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY MS. GRANT TO ADJOURN THE MEETING AT 2:04 P.M. (FOR - 10 / OPPOSED - 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

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

STEVEN AUSTIN, DDS
Board Secretary

January 25, 2013

January 25, 2013