



TEXAS STATE BOARD OF DENTAL EXAMINERS

William P. Hobby, Jr. Building
333 Guadalupe Street, Tower 3, Room 800
Austin, Texas 78701

BOARD MEETING MINUTES

August 23, 2019

1. CALL OR ORDER – BOARD MEETING.

Dr. Tillman called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:30 a.m.

Dr. Melchor read the mission statement of the Texas State Board of Dental Examiners.

2. ROLL CALL.

Dr. Quirch called the roll. It was noted for the record that a quorum was present.

a. Members Present:

Dr. David Tillman	Presiding Officer
Dr. Jorge Quirch	Secretary
Dr. Bryan N. Henderson	Member
Dr. David H. Yu	Member
Dr. Robert G. McNeill	Member
Dr. Kimberly Haynes	Member
Ms. Lorie Jones, RDH	Member
Dr. Margo Melchor	Member
Ms. Kathryn Sisk	Member
Mr. Rodney Bustamante	Member

b. Members Absent – Excused:

Ms. Lois M. Palermo, RDH	Member
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c. Staff Present:

Dr. W. Boyd Bush	Executive Director
Mr. Alex Phipps	General Counsel
Dr. Brooke Bell	Director of Dental Practice Division
Ms. Christine Mendez	Director of Licensing Division

Ms. Charlice Kruger, RDH	Director of Investigations
Ms. Wendy Richardson	Executive Assistant
Mr. Dan Matthews	IT Department Project Manager

3. REVIEW AND APPROVAL OF MINUTES FROM PREVIOUS BOARD MEETINGS.

a. Minutes for May 17, 2019, Board Meeting.

A motion was made by Dr. McNeill and seconded by Dr. Quirch to approve the Minutes for the May 17, 2019 Board meeting.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

4. DISCUSSION AND ACTION ON PROPOSED CASE RESOLUTIONS.

a. Agreed Settlement Orders.

A motion was made by Dr. Yu and seconded by Dr. Haynes to approve the Agreed Settlement Orders for Miller (2015-00819 & 2017-00951); Pinkston (2016-00510); Murphey (2016-01197 & 2017-00915); Lepow (2017-00298 & 2017-01733); Wiederhold (2017-00547); Deacon (2017-00822); Morgan (2017-01260 & 2018-01020); Cook (2017-01262); Yelton (2017-01389); Cottrill (2017-01492); Pridgen (2017-01668); German (2018-00636); Chon (2018-00907); Iglesias (2019-00134); Truong (2019-00135); Degray (2019-00444); Villarreal (2019-00546); Toriggino (2019-00753); and Wright (2019-00911).

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

b. Remedial Plans.

A motion was made by Dr. Yu and seconded by Dr. Quirch to approve the Remedial Plans for Evangelista (2017-00127 & 2017-01102); Turner (2017-00581); Margavitch (2017-00813); Krenz (2017-00881); Sherrick (2017-00952); Gillespie (2017-00959); Waldrop (2017-00999); Desai (2017-01007); Koeppen (2017-01018); Melendez (2017-01066); Baird (2017-01163); Sergie (2017-01259); Quach (2017-01385); Nguyen (2017-01414, 2017-01724 & 2017-01785); Hunter (2017-01426); Dinh (2017-01455); Tran (2017-01496); Parsi (2017-01516); Chung (2017-01637); Sopian (2017-01691); Trahan (2017-01710); Rodriguez (2017-01717); Ransom (2017-01783); Small (2017-01820); Grigsby (2018-00149); Rodriguez (2018-00643); Miller (2018-00878); and Le (2018-00893).

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

c. Agreed Administrative Penalties.

A motion was made by Dr. Henderson and seconded by Mr. Bustamante to approve the Agreed Administrative Penalties for Reinert (2017-00143); Chinta (2017-00446); Weber (2017-00900); Bonola (2017-01257); Francom (2017-01484); Ng (2017-01770); Elmore (2018-00126); Tran (2018-00464); De Los Santos (2018-00470); Lindsey (2018-00701); Fetouh (2018-00756); and Reddell (2019-00152).

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

d. Consent Orders.

A motion was made by Dr. McNeill and seconded by Ms. Jones to approve the Consent Orders for O'Donoghue (2019-00709); Jarvis Dental Lab (2019-00729); Puente (2019-00784); Holloway (2019-00917); and Martinez (2019-01008).

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

e. Pre-ISC Recommendations of Dismissal.

A motion was made by Dr. Henderson and seconded by Dr. Yu to approve the Pre-ISC Recommendations for Dismissal for 2017-01873; 2018-01068; 2018-00620; 2018-00903; 2018-00104; 2018-00639; 2018-00624; 2018-00695; 2018-00616; 2018-00853; 2018-00737; and 2016-01122.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

f. Post-ISC Recommendations of Dismissal.

A motion was made by Dr. Quirch and seconded by Dr. Yu to approve the Post-ISC Recommendations for Dismissal for 2017-01533; 2017-00563; 2017-01530; 2017-01556; 2017-01576; 2017-01766; 2017-01711; 2018-00358; 2017-01116; 2017-01508; 2017-01642; 2017-00265; 2017-01844; 2018-00250; 2017-01726; 2018-01071; 2018-00098; 2017-01879; 2018-00167; 2017-00886; 2018-00094; 2018-00073; 2017-01279; 2018-00367; 2018-01278; 2018-00281; 2018-00200; 2018-00786; 2017-01692; 2018-00447; 2017-01550; 2017-01545; 2017-01815; 2017-01184; 2017-01196; 2017-01514; 2017-01650; 2017-01861; 2017-01645; 2017-01502; 2017-01273; and 2017-01713.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

g. Modification Orders.

None were presented.

h. Discussion of Specific Orders.

None were presented.

5. DISCUSSION AND ACTION ON CASES HEARD BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS.

a. Docket No. 504-18-2039, Anuradha Gade, DDS, Dental License No. 22979.

Consideration of the Administrative Law Judge's Proposal for Decision, Recommendations, and Board Action.

Board staff recommendation presented by Anitra Abdullah-Levy, Staff Attorney.

A motion was made by Dr. Quich and seconded by Dr. McNeill to adopt the Order of the Board recommended by staff.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

b. Docket No. 504-18-5349, Becky L. Davis, RDA, Registered Dental Assistant No. 751.

Consideration of the Administrative Law Judge's Proposal for Decision, Recommendations, and Board Action.

Board staff presented an overview of the case and the board recommendation. Mark Hanna and Respondent were in attendance and made a statement requesting a reduced sanction.

A motion was made by Dr. McNeill and seconded by Dr. Henderson to go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act, Section 551.071, Government Code at 8:50 a.m.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

Executive Closed Session began at 8:50 a.m. and open session resumed at 9:00 a.m. and it was announced that no action was taken.

A motion was made by Dr. Henderson and seconded by Ms. Sisk, to accept the Findings of Fact and Conclusions of Law in the Proposal for Decision as written, adopt the Order of the Board recommended by staff and revoke Becky L. Davis' Registered Dental Assistant Registration No. 751.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

c. Docket No. 504-19-5922, Deano Sakos, DDS, Dental License No. 14810.

Consideration of the Administrative Law Judge's Order No. 1 Conditional Order of Default Dismissal and Remand, Recommendations and Board Action.

Board staff presented an overview of the case and the board recommendation. The Respondent did not appear at the hearing and a default was entered.

A motion was made by Dr. Melchor and seconded by Dr. McNeill to go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act, Section 551.071, Government Code at 9:04 a.m.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES.

Executive Closed Session began at 9:04 a.m. and open session resumed at 9:08 a.m. and it was announced that no action was taken.

A motion was made by Dr. Quirch and seconded by Dr. Yu to adopt the Order of the Board recommended by staff and discipline Dr. Deano Sakos' Texas Dental License No. 14810.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

6. DISCUSSION AND POSSIBLE ACTION ON PENDING CIVIL LITIGATION MATTERS.

A motion was made by Dr. McNeill and seconded by Dr. Quirch to go into Executive Session for private consultation and advice of counsel concerning pending or contemplated litigation, settlement offers, and/or legal matters subject to the attorney-client privilege under the authority of the Open Meetings Act, Section 551.071, Government Code at 9:10 a.m.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

Executive Closed Session began at 9:10 a.m. and open session resumed at 9:24 a.m. and it was announced that no action was taken.

7. PRESIDING OFFICER REPORT.

Dr. Tillman is reviewing the committee structure and appointments. If anyone is interested in being on a committee, let him know.

8. PROFESSIONAL RECOVERY NETWORK REPORT (PRN).

Eden Males, Executive Director, was present and gave her report.

There was a discussion about referencing PRN on the TSBDE website with a link.

9. ANESTHESIA COMMITTEE REPORT AND RECOMMENDATIONS.

a. Discussion of Advisory Committee on Dental Anesthesia 2019 Report.

Dr. Henderson gave report. The committee discussed the definition of “hospitalization” in Rule 108.6. The committee agreed that the current definition of “hospitalization” in the Rule 108.6 was sufficient.

b. Committee recommendations and possible action on Requests for Exception to Board Rules:

- i. John Larry Caldwell, DDS.

A motion was made and did not require a second because the recommendation was made from the committee to deny the request for exception to Board Rules by John Larry Caldwell, DDS.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- ii. Scott Anderson, DDS.

A motion was made and did not require a second because the recommendation was made from the committee to approve the request for exception, along with a \$1,000 administrative penalty to be assessed.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

c. Committee recommendation and possible action on the reduction or termination of nitrous oxide administration by auxiliaries.

Committee discussed drafted proposed rule and made no recommendation. No Board action taken.

10. Discussion and Possible Action on Disciplinary Review Committee Report and Recommendations.

- a. Committee recommendation and possible action on 22 Tex. Admin. Code § 101.8 - Persons with Criminal Backgrounds.

Dr. McNeill discussed administrative penalties. He encouraged Board members to utilize when possible, during the ISC process.

Mr. Phipps stated that Chapter 53 and Rule 108 were changed by the legislature. To incorporate those changes, Rule 101.8 has been revised with the language copied straight from the statute. The revised Chapter 53 will be in effect on September 1.

A motion was made by Ms. Jones and seconded by Dr. Quirch to adopt the committee recommendations. (Mr. Bustamante left the room before the vote was taken.)

(FOR – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

11. Discussion and Possible Action on Dental Practice Committee Report and Recommendations.

- a. Committee recommendation and possible action on proposed rule amendment from May 17, 2019, Board Meeting: 22 Tex. Admin. Code § 102.1 - Fees, published in the July 19, 2019, issue of the Texas Register.

Dr. Yu discussed the rule. Mr. Phipps stated that there were no comments to the proposed rule.

A motion was made and did not require a second because the recommendation was made from the committee to adopt the rule as proposed. (Mr. Bustamante left the room before the vote was taken.)

(FOR – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- b. Committee recommendation and possible action on 22 Tex. Admin. Code Chapter 111 - Standards For Prescribing Controlled Substances And Dangerous Drugs:

- i. Discussion and possible action on 22 Tex. Admin. Code § 111.1 - Additional Continuing Education Required.

Mr. Phipps discussed the rule. A motion was made and did not require a second because the recommendation was made from the committee to propose the rule as presented.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- ii. Discussion and possible action on 22 Tex. Admin. Code § 111.3 - Prescription Monitoring by the Dentist.

Mr. Phipps discussed the rule. A motion was made and did not require a second because the recommendation was made from the committee to propose the rule as presented.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- c. Committee recommendation and possible action on restriction of the use of silver diamine fluoride to dentists and registered dental hygienists.

Dr. Yu discussed the possible rule that would prohibit the use of silver diamine fluoride by any dental hygienist. Mr. Phipps discussed the public comments. A motion was made and did not require a second because the recommendation was made from the committee to propose the rule as presented. (Dr. McNeill left the room before the vote was taken.)

(FOR – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

12. Discussion and Possible Action on Licensing Committee Report and Recommendations.

- a. Committee recommendation and possible action on staff's recommended application denial: 2019-Q4-RDA1.

Committee recommended denial of application. A motion was made and did not require a second because the recommendation was made from the committee to deny the application of 2019-Q4-RDA1.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- b. Committee recommendation and possible action on request for exception to Board rules: 2019-Q4-RDH1.

Committee recommended denial of application. A motion was made and did not require a second because the recommendation was made from the committee to deny the application of 2019-Q4-RDH1.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- c. Committee recommendation and possible action on requests for certification of nitrous oxide monitoring courses:

- i. Lamar Institute of Technology.

Committee recommended approval of certification. A motion was made and did not require a second because the recommendation was made from the committee to approve certification.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- ii. Amarillo College.

Committee recommended approval of certification. A motion was made and did not require a second because the recommendation was made from the committee to approve certification.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- d. Committee recommendation and possible action on proposed rule amendment from May 17, 2019, Board Meeting: 22 Tex. Admin. Code § 104.2 - Providers, published in the July 19, 2019, issue of the Texas Register.

Mr. Phipps discussed the proposed rule amendment. No comments were received. A motion was made and did not require a second because the recommendation was made from the committee to adopt the amendment to the rule as published.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- e. Committee recommendation and possible action on 22 Tex. Admin. Code § 104.1 - Requirement.

Mr. Phipps discussed. A motion was made and did not require a second because the recommendation was made from the committee to propose the rule as presented.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

13. Public Comments.

Jaime L. Copelo, Jr. spoke on behalf of Pacific Dental, seeking clarification on the dental service organization question on the dentist license application. Mr. Phipps stated that the new application, as of September 1, does not contain the question regarding dental service organizations. This question will be removed from the on-line application within 2 to 3 months.

14. Agency Activity Reports.

- a. Executive Division Report.

Dr. Bush discussed his report and the legislative changes this session on bills of interest. The Hobby Building will be sold and we will be moving at some point. The budget was fully funded with the items requested.

- b. Finance and Administration Division Report.

Leticia Kappel presented the division report. All reports have been uploaded to the website.

Ms. Kappel stated that the third quarter performance measures were completed. There is still one week left in the fiscal year, so the numbers do not reflect the entire fiscal year. The agency will have some travel costs, as well as new IT equipment upgrades being purchased before the final numbers are available.

There is another “mini” audit scheduled.

The Presiding Officer called for a recess at 10:55 a.m.

The Presiding Officer called the meeting back to order at 11:11 a.m.

- c. Licensing Division Report.

Ms. Mendez presented her division report. The pediatric and high risk sedation permits must be held by September 1 in order to have those privileges.

There were over 600 applicants processed at the dental expo in June.

- d. Dental Division Report.

Dr. Bell presented her division report. All reports have been uploaded to the website.

e. Legal Division Report.

Mr. Phipps presented his division report. All reports have been uploaded to the website. Mr. Phipps reported that case closures have increased over the last year. This is an upward trajectory and no backlog foreseen in the future.

f. Investigations Division Report.

Ms. Kruger gave her division report. All materials have been uploaded to the website.

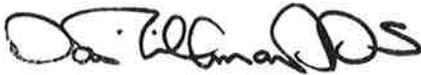
15. Announcements.

Dr. Henderson gave a WREB report. There will be a WREB meeting held in October, as well as the AADB annual meeting. Ms. Jones and Dr. Melchor discussed WREB for hygienists.

16. Adjourn.

Dr. Henderson made a motion and Dr. McNeill seconded to adjourn the meeting at 11:41 a.m.

(FOR – 10/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES



David Tillman, DDS
Presiding Officer
November 15, 2019



Jorge Quirch, DDS
Board Secretary
November 15, 2019