



TEXAS STATE BOARD OF DENTAL EXAMINERS

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BOARD MEETING MINUTES

November 20, 2015

1. CALL TO ORDER – BOARD MEETING.

Dr. Ramos called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:39 a.m.

2. ROLL CALL.

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

a. Members Present:

Dr. Rodolfo G. Ramos Jr.	Presiding Officer
Dr. Steven J. Austin	Secretary
Dr. Kirby Bunel Jr.	Member
Dr. James W. Chancellor	Member
Ms. Emily W. Christy	Member
Ms. Renée S. Cornett, RDH	Member
Dr. D. Bradley Dean	Member
Dr. Christie M. Leedy	Member
Ms. Lois M. Palermo, RDH	Member
Dr. M. David Tillman	Member
Mr. Lewis M. White	Member
Dr. Jason A. Zimmerman	Member

b. Members Absent:

Ms. Whitney Hyde	Member
Mr. Timothy J. O'Hare	Member

c. Staff Present:

Ms. Kelly Parker	Executive Director
Ms. Nycia Deal	General Counsel
Ms. Simone Salloum	Assistant General Counsel
Dr. Brooke Bell	Director of Dental Division
Ms. Irma Rodriguez	Director of Finance and Administration Division
Ms. Lisa Jones	Director of Investigations Division
Ms. Vicki Shoesmith	Director of Licensing Division

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE AUGUST 14, 2015, BOARD MEETING.

Review and approval of the August 14, 2015, Board Meeting Minutes occurred after Agenda item #6, Miscellaneous Reports.

4. DISCUSSION AND ACTION ON PROPOSED CASE RESOLUTIONS.

4.1. Agreed Settlement Orders.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. DEAN TO APPROVE THE AGREED SETTLEMENT ORDERS AS WRITTEN.

(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

4.2. Remedial Plans.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MR. WHITE TO APPROVE THE REMEDIAL PLANS AS PRESENTED.

(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

4.3. Consent Orders.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO APPROVE THE CONSENT ORDERS AS WRITTEN.

(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

4.6. Dismissals.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. BUNEL TO APPROVE THE DISMISSALS AS PRESENTED.

(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

5. PUBLIC COMMENTS.

There were no public comments at this board meeting.

6. MISCELLANEOUS REPORTS.

6.1. Professional Recovery Network (PRN) Report.

Ms. Hulbert presented the PRN report.

3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE AUGUST 14, 2015, BOARD MEETING.

A MOTION WAS MADE BY MS. CHRISTY AND SECONDED BY DR. BUNEL TO APPROVE THE MINUTES AS WRITTEN.

(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

7. DISCUSSION AND ACTION ON APPLICATIONS FOR SPECIAL CONSIDERATION OR EXCEPTION TO BOARD RULES.

7.1. Cheryl Thomas, RDH.

Ms. Palermo relayed that Ms. Thomas had fulfilled her CE requirements. Ms. Thomas' Exception was withdrawn.

7.2. Blue Star Dental Inc., Dental Laboratory.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY DR. DEAN TO DENY BLUE STAR DENTAL INC.'S APPLICATION FOR SPECIAL CONSIDERATION OR EXCEPTION TO BOARD RULE.

(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

7.3. Mariana Stovall, RDH.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. LEEDY TO GRANT MS. STOVALL'S APPLICATION FOR SPECIAL CONSIDERATION OR EXCEPTION TO BOARD RULE.

(FOR – 0 / OPPOSED – 10 / ABSTAIN – 1) MOTION FAILS.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. ZIMMERMAN TO DENY MS. STOVALL'S APPLICATION FOR SPECIAL CONSIDERATION OR EXCEPTION TO BOARD RULE.
(FOR – 9 / OPPOSED – 0 / ABSTAIN – 2) MOTION CARRIES.

8. DISCUSSION AND ACTION CONCERNING COMMITTEES AND COMMITTEE REPORTS.

Ms. Deal led the discussion on the Dental Hygiene Advisory Committee. Board Members will be tasked with considering a Dentist member appointment to this committee at the next Board meeting.

Dr. Dean led the discussion on the Ownership Committee.

Dr. Ramos led the discussion on Board Members appointed to the Licensing Committee. Dr. Ramos appointed Dr. Zimmerman as Chair of this committee and appointed Dr. Tillman, Ms. Christy, and Ms. Palermo as members. If Ms. Cornett is reappointed to the Board, she will continue to serve on this committee.

9. DISCUSSION AND ACTION ON RULES.

9.1. Discussion and action regarding adoption of rule proposals.

9.1.1. 22 Tex. Admin. Code 101.6, Dental Licensing for Military Service Members, Military Veterans, and Military Spouses.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. AUSTIN TO REPEAL RULE 101.6.
(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. TILLMAN TO ADOPT RULE 101.6.
(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

9.1.2. 22 Tex. Admin. Code 102.1, Fee Schedule.

A MOTION WAS MADE BY DR. BUNEL AND SECONDED BY DR. CHANCELLOR TO ADOPT THE AMENDMENT OF RULE 102.1.
(FOR – 10 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIES.

9.1.3. 22 Tex. Admin. Code 114.5, Coronal Polishing Certificate.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. CHANCELLOR TO ADOPT THE AMENDMENT OF RULE 114.5.
(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.2. Discussion and action regarding proposals of rules.

9.2.1. 22 Tex. Admin. Code 107.24, Respondent's Answer in a Disciplinary Matrix.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY MR. WHITE TO PROPOSE THE AMENDMENT OF RULE 107.24.
(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

9.3. Discussion regarding further rule-making topics.

9.3.1. 22 Tex. Admin. Code 108.54, Advertising of Dental Specialties.

Ms. Deal led the discussion regarding Rule 108.54 , Advertising of Dental Specialties.

9.3.2. 22 Tex. Admin. Code, Chapter 107, Dental Board Procedures.

Ms. Deal led the discussion regarding Chapter 107, Dental Board Procedures.

9.3.3. 22 Tex. Admin. Code, Chapter 108.5, Patient Abandonment.

Ms. Deal led the discussion regarding Chapter 108.5, Patient Abandonment.

A Stakeholder meeting on Chapter 108.5, Patient Abandonment is scheduled for January 26, 2016.

9.4. Discussion regarding Rule Review Plan.

A MOTION WAS MADE BY DR. TILLMAN AND SECONDED BY DR. AUSTIN TO APPROVE AND PUBLISH THE RULE REVIEW PLAN IN THE TEXAS REGISTER.
(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

The Presiding Officer called for a break at 9:45 a.m. The meeting reconvened at 10:03 a.m.

10. DISCUSSION REGARDING POSITION STATEMENTS.

10.1. Use of Sharps by Dental Assistants.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. CHANCELLOR TO TABLE THE DISCUSSION OF USE OF SHARPS BY DENTAL ASSISTANTS.
(FOR – 10 / OPPOSED – 1 / ABSTAIN – 0) MOTION CARRIES.

11. DISCUSSION REGARDING REVISION OF DISCIPLINARY MATRIX.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. TILLMAN TO APPROVE AND PUBLISH THE DISCIPLINARY MATRIX IN THE TEXAS REGISTER.
(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

Ms. Christy stepped out at 10:36 a.m. and returned at 10:49 a.m.

Dr. Zimmerman and Dr. Leedy stepped out at 10:47 a.m. and returned at 10:56 a.m.

12. AGENCY ACTIVITY REPORTS.

12.1. Executive Director’s Report.

Executive Director presented progress reports and statistics, business processes, made recommendations to the Board, and provided personnel updates from the previous Board meeting.

12.1.1. Discussion and Consideration of Agency Policy on Non-compliance with Deadlines in Public Actions of the Board.

Ms. Parker led the discussion on the Consideration of Agency Policy on Non-compliance with Deadlines in Public Actions of the Board.

Legal Opinion: Agency staff does not have the authority to modify the terms or deadlines in Agreed Settlement Orders, Remedial Plans, Consent Orders, or Orders of the Board.

Policy: Compliance Division staff should initiate a complaint file based on non-compliance with a public action of the Board.

At the November 20, 2015, meeting of the Board, the Board authorized the Executive Director to waive the initiation of a complaint if he or she determines that the licensee has demonstrated good cause for the delay in compliance. Good cause may include catastrophic illness or events; good cause does not include unavailability of continuing education courses.

At the November 20, 2015, meeting of the Board, the Board authorized agency staff to close complaint files related to untimely compliance without action by the Board if full compliance is achieved within a reasonable time of the opening of the complaint. Complaint files may not be closed by agency staff pursuant to this policy following filing of a formal complaint at the State Office of Administrative Hearings (SOAH).

Procedure:

- 1). A licensee may request his or her designated compliance officer seek a one-time waiver of the requirement that a complaint be opened. No requests for waivers will be considered after the deadline.
- 2). The licensee must provide, all of the following required documents, to the compliance officer:
 - a). Completed waiver request form;
 - b). Explanation of circumstances; and

- c). Supporting documentation.
- 3). The compliance officer will review requests and transmit complete requests for waiver to the Director of Investigations for final review.
- 4). Upon final review by the Director of Investigations, the requests will be forwarded to the Executive Director for consideration.
- 5). The Executive Director has the distinct authority to approve and/or deny the waiver requests.
- 6). If a licensee fails to meet any deadline in the Board order and fails to request a waiver of such requirement, or has already been granted a one-time waiver and still fails to maintain compliance, a complaint will be initiated no more than 30 days from the date of non-compliance.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. ZIMMERMAN TO AUTHORIZE THE DELEGATION TO THE EXECUTIVE DIRECTOR THE AUTHORITY TO EXTEND THE DEADLINE BEFORE THE INITIATION OF A NEW COMPLAINT CAUSED BY THE NON-COMPLIANCE ON A SPECIFIC BOARD ORDER UP TO 30 DAYS BUT NO LONGER THAN THE NEXT BOARD MEETING FOR PUBLIC ACTIONS OF THE BOARD.

(FOR – 9 / OPPOSED – 0 / ABSTAIN – 2) MOTION CARRIES.

The Presiding Officer called for a break at 11:37 a.m. The meeting reconvened at 11:50 a.m.

12.2. Finance and Administration Division Report.

Division director presented progress reports and statistics, business processes, made recommendations to the Board, and provided personnel updates from the previous Board meeting.

12.3. Licensing Division Report.

Division director presented progress reports and statistics, business processes, made recommendations to the Board, and provided personnel updates from the previous Board meeting.

12.4. Joint Report of the Investigations and Dental Practice Divisions.

Division directors presented progress reports and statistics, business processes, made recommendations to the Board, and provided personnel updates from the previous Board meeting.

12.5. Legal Division Report.

Division director presented progress reports and statistics, business processes, made recommendations to the Board, and provided personnel updates from the previous Board meeting.

13. DISCUSSION AND ACTION ON CASES HEARD AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).

13.1. Docket No. 504-15-4283; Kris Marie Edgmon, RDA, Registered Dental Assistant Certificate No. 74902.

A MOTION WAS MADE BY MS. CORNETT AND SECONDED BY DR. CHANCELLOR 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 MS. EDGMON'S DENTAL ASSISTANT REGISTRATION NO. 74902.

(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

13.2. Docket No. 504-15-1031; Phuongchi Phan Sen, DDS, Texas Dental License No. 25185.

A MOTION WAS MADE BY DR. DEAN AND SECONDED BY DR. AUSTIN 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 IMPOSE A WARNING WITH OTHER REQUIREMENTS AS DESCRIBED IN THE ORDER.

(FOR – 9 / OPPOSED – 0 / ABSTAIN – 2) MOTION CARRIES.

14. PRESIDING OFFICER’S REPORT.

14.1. Unfinished Business.

Dr. Ramos led the discussion on the DOCS Education “Oral Sedation Course” for Level 2 Sedation Permit. The Board withheld a decision to approve the provider at the August 2015 Board meeting until it was audited by Board Members. Dr. Chancellor and Dr. Tillman audited and reviewed the course for the Board.

14.1.1. Discussion and Action on Request for Approval of Continuing Education Provider – DOCS Education “Oral Sedation Course” for Level 2 Sedation Permit.

A MOTION WAS MADE BY DR. AUSTIN AND SECONDED BY MR. WHITE TO APPROVE THE CONTINUING EDUCATION PROVIDER – DOCS EDUCATION “ORAL SEDATION COURSE” FOR LEVEL 2 SEDATION PERMIT.

(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

15. DECLARATIONS FROM BOARD MEMBERS INTERESTED IN SERVING AS SECRETARY OF THE BOARD.

Dr. Ramos led the discussion on the position and duties of the Secretary of the Board.

Dr. Austin expressed his availability and interest in continuing to serve as Secretary of the Board.

16. ANNOUNCEMENTS.

Election of Board Secretary will be held at the next Board meeting; February 26, 2016.

Dr. Ramos led the discussion on the Mandatory Governing Bodies Webinar Training. Board Members are required by statute to complete this training.

Dr. Ramos expressed his gratitude for the work and dedication of Board Members and agency staff.

17. ADJOURN.

A MOTION WAS MADE BY DR. CHANCELLOR AND SECONDED BY DR. AUSTIN TO ADJOURN THE MEETING AT 12:56 p.m.

(FOR – 11 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIES.

- SIGNED -

- SIGNED -

Rodolfo G. Ramos Jr., DDS, PC
Presiding Officer
February 26, 2016

Steven J. Austin, DDS
Board Secretary
February 26, 2016