



## TEXAS STATE BOARD OF DENTAL EXAMINERS

333 Guadalupe Street, Tower 3, Suite 800  
Austin, Texas 78701-3942

### BOARD MEETING MINUTES

February 22, 2019

**1. CALL TO ORDER – BOARD MEETING.**

Dr. Tillman called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:32 a.m.

Mr. Bustamante 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. Lois M. Palermo, RDH	Member
Ms. Lorie Jones, RDH	Member
Mr. Rodney Bustamante	Member

**b. Members Absent – Excused:**

Dr. Margo Melchor	Member
Ms. Kathryn Sisk	Member

**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 motion was made by Dr. Quirch and seconded by Ms. Palermo to approve the Minutes for August 31, 2018; November 30, 2018; and December 7, 2018 Board meetings.

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

**4. DISCUSSION AND ACTION ON PROPOSED CASE RESOLUTIONS.**

**a. Agreed Settlement Orders.**

A motion was made by Dr. McNeill and seconded by Dr. Yu to approve the Agreed Settlement Orders for Abdel-Rahman (2017-01134 & 2018-00049); Alexander (2016-01962; 2017-00863 & 2017-01160); Anderson (2019-00476); Benage (2018-00599 & 2018-01171); Burke (2016-00079; 2016-01392 & 2016-02037); Dowd (2016-02159); Duvall (2017-01203; 2018-00141; 2018-00166; 2018-00301; 2018-00331 & 2018-00680); Enemo (2016-00436); Gajera (2017-01597); Kelsey (2018-00669); Kim (2017-00693); Knowles (2017-00079); Nino (2018-00044); Osorio (2016-01734; 2017-00252; 2017-00976; 2017-01010; 2017-01568 & 2018-00153); Searby (2018-00045); Skormin (2016-01645; 2017-01415 & 2018-00317); and Thompson (2018-00587).

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

**b. Remedial Plans.**

A motion was made by Dr. Quirch and seconded by Mr. Bustamante to approve the Remedial Plans for Bayless (2017-00826); Belcher (2017-00928); Davis (2016-02041; 2017-00021 & 2017-01019); Gunn (2017-00104 & 2018-00539); Laaly (2017-00266); Lee (2018-00162); Maredia (2018-00371); Matystin (2017-00447); Packard (2017-01732); Pooskoor (2019-00503); Pritchard (2019-00504); Vasarla (2018-00034); and Whitfield (2018-00446).

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

**c. Modification Orders.**

A motion was made by Dr. McNeill and seconded by Ms. Jones to approve the Modification Order for McDonald (2018-01236).

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

**d. Consent Orders.**

A motion was made by Dr. Yu and seconded by Dr. Quirch to approve the Consent Orders for Dixon (2019-00366); Hackett (2019-00048); Martinez (2019-00190); Morales-Ryan (2018-01459); Ramirez (2019-00391); White (2019-00131); Williams (2018-01456); and Williamson (2019-00330).

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

**e. Pre-ISC Recommendations of Dismissal.**

A motion was made by Dr. McNeill and seconded by Dr. Henderson to approve the Pre-ISC recommendations of dismissal for 2017-00263; 2017-00222; 2017-00969; 2017-00223; 2017-00680; 2017-00162; 2017-00675; 2017-01225; 2017-01316; 2017-01263; 2017-01227; 2017-01129; 2018-01321; and 2017-01077.

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

**f. Post-ISC Recommendations of Dismissal.**

A motion was made by Dr. Quirch and seconded by Dr. Haynes to approve the Post-ISC recommendations of dismissal for 2017-01202; 2017-01797; 2017-01126; 2018-00327; 2017-01893; 2017-00226; 2018-00638; 2016-01803; 2017-01056; 2017-00444; 2017-00574; 2017-00467; 2017-00595; 2017-00673; 2017-00980; 2017-01425; 2017-00221; 2016-01254; 2017-01197; 2017-00567; 2017-01477; 2017-00179; 2017-01894; 2018-00841; 2018-00533; 2017-00464; 2017-00939; 2018-00299; 2017-00814; 2018-00387; 2017-00947; 2017-01563; and 2017-00221.

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

**g. Discussion of Specific Orders: Panel Recommendation of Denial for Modification of SBDE No. 09-0216-1028 - Ray D. Snider, DDS.**

Mr. Phipps gave a brief summary of the modification request. Dr. Snider was present and made a presentation.

A motion was made by Dr. McNeill and seconded by Dr. Yu 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 8:48 a.m.

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

Executive Closed Session began at 8:48 a.m. and open session resumed at 8:57 a.m. and it was announced that no action was taken.

A motion was made by Dr. Henderson and seconded by Dr. McNeill to deny modification of SBDE No. 09-0216-1028.

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

**5. DOCKET NO. 504-17-2023, PAUL WAYNE NEWMAN, DDS, License No. 16013.**

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

Board staff recommendation presented by Lauren Studdard, Assistant General Counsel. The Respondent's attorney, Jim McClendon was present.

A motion was made by Dr. Quirch and seconded by Dr. Henderson 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 discipline Dr. Paul Wayne Newman's Texas Dental License No. 16013.

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

**6. PRESIDING OFFICER REPORT.**

A motion was made by Dr. Tillman and seconded by Dr. Quirch to go into Executive Session for personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee under the authority of the Open Meetings Act, Section 551.074, Government Code at 9:06 a.m.

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

Executive Closed Session began at 9:06 a.m. and open session resumed at 9:20 a.m., and it was announced that no action was taken. A certified agenda was made.

Dr. Tillman discussed possible action on appointment of Advisory Committee on Dental Anesthesia Chairperson, appointment of replacement member due to a resignation, and confirmation of appointment terms. Dr. Tillman discussed holding a meeting before the May board meeting to take up these appointments.

No Board action was taken.

**7. PROFESSIONAL RECOVERY NETWORK REPORT (PRN).**

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

**8. ANESTHESIA COMMITTEE REPORT AND RECOMMENDATIONS.**

a. Committee recommendations and possible action on currently-proposed rule amendments from November 30, 2018, Board Meeting:

- i. Proposed amendment to 22 Tex. Admin. Code § 110.13 – Required Preoperative Checklist for Administration of Nitrous Oxide and Levels 1, 2, 3, and 4 Sedation/Anesthesia, published in the January 18, 2019, issue of the Texas Register.

Mr. Phipps read the written public comments submitted to the Board. A motion was made and did not require a second because the recommendation was made from the committee to adopt the amendments to the rule as published.

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

- ii. Proposed amendment to 22 Tex. Admin. Code § 110.14 – Emergency Preparedness Policies and Procedures, published in the January 18, 2019, issue of the Texas Register.

Mr. Phipps read the written public comments submitted to the Board. A motion was made and did not require a second because the recommendation was made from the committee to adopt the amendments to the rule as published.

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

- iii. Proposed amendment to 22 Tex. Admin. Code § 110.15 – Prevention of and Response to Sedation/Anesthesia Emergencies, published in the January 18, 2019, issue of the Texas Register.

Mr. Phipps read the written public comments submitted to the Board. A motion was made and did not require a second because the recommendation was made from the committee to adopt the amendments to the rule as published.

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

b. Committee recommendation and possible action on Board rule 22 Tex. Admin. Code § 110.18 - Inspection of Sedation/Anesthesia Providers.

Dr. Henderson stated no formal recommendation out of committee.

Dr. McNeill made a motion to discuss an amendment to Rule 110.18(d). Motion seconded by Dr. Quirch. Dr. McNeill read his suggested amendment.

Discussion was had on the proposed amendment.

Board staff prepared a draft of the language, which Mr. Phipps presented. Dr. McNeill agreed to substitute the draft prepared by staff as presented, and withdrew his original motion.

Dr. McNeill made a new motion to propose the amendment of Rule 110.18(d) as presented by Mr. Phipps. Dr. Quirch seconded the motion.

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

c. Committee recommendation and possible action on live-patient observation requirements of Board rule 22 Tex. Admin. Code § 110.17(b)(1), (b)(2)(o) - Sedation/Anesthesia of Pediatric Patients.

Dr. Henderson asked Mr. Phipps to read the recommendation out of committee and referred Board members to view highlighted PDF of the amendment.

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

**9. DISCIPLINARY REVIEW COMMITTEE REPORT AND RECOMMENDATIONS.**

- a. Committee recommendation and possible action on proposed Board rule from November 30, 2018, Board Meeting: 22 Tex. Admin. Code § 107.206 - Public Actions of the Board, published in the January 18, 2019, issue of the Texas Register.

A motion was made and did not require a second because the recommendation was made from the committee to adopt the rule as published.

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

- b. Committee recommendation and possible action on new rulemaking: new Board rule 22 Tex. Admin. Code § 107.110 - Baseless or Unfounded Complaints.

Dr. McNeill called on Mr. Phipps to present new rule text as recommended by the Committee. Proposed rule is mandated by SB 313. 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 – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- c. Committee Recommendation and possible action on Disciplinary Matrix and related rulemaking.

Dr. McNeill presented a brief summary of the Committee's report. Board staff was instructed to make clarification to the matrix. Board staff will provide revised drafts at the next committee meeting.

No Board action was taken.

The Presiding Officer called for a recess at 10:25 a.m.

The Presiding Officer called the meeting back to order at 10:45 a.m.

**10. DENTAL PRACTICE COMMITTEE REPORT AND RECOMMENDATIONS.**

- a. Committee recommendation and possible action on proposed Board rule from November 30, 2018, Board Meeting: 22 Tex. Admin. Code § 101.11 - Employment by Estate of Dentist or Person Acting for Mentally Incompetent Dentist, published in the January 18, 2019, issue of the Texas Register.

Dr. Yu called on Mr. Phipps to review the committee recommendations. Mr. Phipps noted the proposed rule was mandated by SB 313. A motion was made and did not require a second because the recommendation was made from the committee to adopt the rule as presented.

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

- b. Discussion of public input received at February 1, 2019, Stakeholder Meeting.

Mr. Phipps indicated that the meeting was short, due to attendance. However, numerous written comments were received from stakeholders, and those comments used in preparation of a draft amendment of Rule 108.14.

- c. Committee recommendation and possible action on Board staff's suggested amendments to 22 Tex. Admin. Code § 108.14 - Pediatric and Special Needs Case Management; Protective Stabilization.

Dr. Yu called on Mr. Phipps to review the committee recommendations. Committee recommended changes to Board staff's draft. Committee recommended the rule, with changes from the committee meeting, be proposed as presented. 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 – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

- d. Committee recommendation on existing registered dental assistant regulations and implementation status of S.B. 313 after Sunset Commission review:

- i. Discussion of S.B. 313 changes to Chapter 265 of the Occupations Code and existing 22 Tex. Admin. Code §§ 114.3 and 114.5.

No committee recommendation at this time. Board staff was instructed to obtain clarification from Sunset staff.

No Board action was taken.

- ii. Committee recommendation and possible action on Board rules 22 Tex. Admin. Code § 114.3 - Pit and Fissure Sealant, and 22 Tex. Admin. Code § 114.5 - Coronal Polishing.

No committee recommendation at this time. Board staff was instructed to obtain clarification from Sunset staff.

No Board action was taken.

**11. LICENSING COMMITTEE REPORT AND RECOMMENDATIONS.**

- a. Committee recommendation and possible action on Staff's recommended application denial: 2019-Q2-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-Q2-RDA1.

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

- b. Committee recommendation and possible action on Request for Exception to Board Rules: 2019-Q2-DDS1.

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-Q2-DDS1.

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

- c. Committee recommendation and possible action on Board rule 22 Tex. Admin. Code § 104.2 - Providers.

No committee recommendation at this time. Board staff was instructed to review other state boards and report back at the next committee meeting.

No Board action was taken.

**12. DISCUSSION AND POSSIBLE ACTION ON PETITION FOR ADOPTION OF A RULE.**

- a. TDHA request for review of existing Board rule 22 Tex. Admin. Code § 115.2(b) - replacement of "direct" supervision requirement with "general" supervision requirement.

Mr. Phipps presented a brief summary of the petition sent to the Board. Motion was made by Ms. Palermo to refer to the Dental Practice Committee for rulemaking action. Motion was seconded by Ms. Jones.

(FOR – 4/OPPOSED – 5 /ABSTAIN – 0) MOTION FAILS.

- b. TDHA request for rulemaking regarding the use of Silver Diamine Fluoride - request to restrict application of Silver Diamine Fluoride to Dentists and Registered Dental Hygienists.

Mr. Phipps presented a brief summary of the petition sent to the Board. Motion was made by Ms. Jones to refer to the Dental Practice Committee for rulemaking action. Motion was seconded by Dr. McNeill.

(FOR – 9/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIED.

### 13. PUBLIC COMMENTS.

- a. Janessa Bach spoke on behalf of the Texas Dental Hygienist Association, seeking clarification on nitrous oxide monitoring for Registered Dental Hygienists and Registered Dental Assistants.

Mr. Phipps states that 258.001 of Texas Occupations Code is clear that a dentist cannot delegate the administration of sedation/anesthesia, unless the person holds the appropriate sedation/anesthesia permit.

A motion was made by Ms. Jones to refer this question to the Anesthesia Committee and seconded by Ms. Palermo.

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

A motion was made by Dr. Tillman for an amendment, to include titration down to off, and seconded by Ms. Jones. Discussion was held.

(FOR – 5/OPPOSED – 4/ABSTAIN – 0) MOTION CARRIES

- b. Mr. Phipps read a written public comment by Jerry Teague, DDS.

No Board action was taken.

### 14. AGENCY ACTIVITY REPORTS.

- a. Executive Division Report.

Dr. Bush presented the Executive Division report. His report has been uploaded to the website.

Dr. Bush planned to continue working with the Governor's office regarding budget and new rule proposals.

Dr. Bush announced that the agency has completed 21 of 22 changes required from SB 313. The last requirement concerns certificates for Registered Dental Assistants. Staff will work with the Sunset committee to get clarification.

Dr. Bush discussed the new TSBDE website that is substantially finished. Board members can preview the website in the TSBDE conference room. The website should go live the first part of April.

Dr. Bush will be attending the AABD conference.

Dr. Bush has attended budget hearings at the Capitol. Dr. Bush reports that all exceptional items have been denied, except for the money previously not used for the implementation of the anesthesia program.

b. Finance and Administration Division Report.

Shauna Stacey presented the division report. All reports have been uploaded to the website.

The agency currently has 51 on staff, with 2 positions open – an investigator and analyst.

c. Licensing Division Report.

Ms. Mendez presented the division report. All reports from been uploaded to the website. There is 1 open position. Ms. Mendez reports that the division is being restructured. There is 1 anesthesia inspector position open at this time.

Ms. Mendez announced the dates for the expos: June 7 for hygienists and June 21 for dentists.

d. Dental Division Report.

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

Two DRP candidates are up for consideration and vote today. She would recommend that they be accepted.

Dr. Bell encouraged board members to recommend colleagues to apply to be on the DRP. There was discussion about candidates having 10 years of experience prior to application. Mr. Phipps read Rule 107.107 and discussed that the rule doesn't specifically state that an applicant would have to practice for 10 years prior to application. Dr. Bell will go back and review previous DRP applicants.

e. Discussion and possible action on staff recommendations for appointments to Dental Review Panel.

Dr. Tillman stepped out of the meeting at 11:40 a.m. and returned at 11:52 a.m. Dr. Tillman did not participate in the deliberation or vote on item 14(e).

Dr. Henderson made the motion to approve the 2 Dental Review Panel candidates. Motion was seconded by Dr. Yu.

(FOR – 8/OPPOSED – 0/ABSTAIN – 0) MOTION CARRIES

f. Legal Division Report.

Mr. Phipps presented the legal division report. All reports have been uploaded to the website. Mr. Phipps highlighted SOAH numbers. He also encouraged board members to sign up for ISCs.

g. Investigations Division Report.

Ms. Kruger presented the investigations division report. All reports have been uploaded to the website. There have been 3 new hires, so the division now has 16 on staff. Ms. Kruger introduced Kendra Owens, RDH as the new Program Specialist.

**15. ANNOUNCEMENTS.**

Dr. Henderson stated that he is participating in 2 WREB exams this year. Dr. Yu, Dr. Tillman, and Dr. Haynes are now WREB examiners. Ms. Jones and Ms. Palermo are WREB examiners for hygienists. Ms. Palermo is also an examiner for CRDTS and there is a meeting in July.

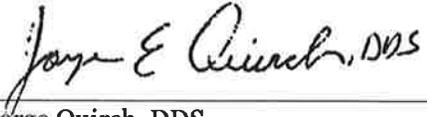
**16. ADJOURN.**

Dr. Quirch made a motion and Dr. Henderson seconded to adjourn the meeting at 12:42 p.m.

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



David Tillman, DDS  
Presiding Officer  
May 17, 2019



Jorge Quirch, DDS  
Board Secretary  
May 17, 2019