



TEXAS STATE BOARD OF DENTAL EXAMINERS
BOARD MEETING
William P. Hobby, Jr. Building
333 Guadalupe Street, Tower 3, Room 100
Austin, Texas 78701

BOARD MEETING
MINUTES
September 10, 2021

1. Call to Order.

Dr. Yu called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:34am. Ms. Jones performed the secretary duties in Dr. Quirch's absence.

Dr. Yu asked Dr. Maldonado to read the mission of TSBDE.

2. Roll Call of Board Members.

Ms. Jones called the roll. It was noted, for the record, that a quorum was present.

a. Members Present:

Dr. David Yu	Presiding Officer
Dr. Bryan N. Henderson	Member
Dr. Yvonne Maldonado	Member
Dr. Margo Melchor	Member
Ms. Lorie Jones	Member
Ms. Lois M. Palermo	Member
Dr. Linda T. Burke	Member
Ms. Kathryn Sisk	Member
Ms. Marquita Pride	Member

b. Members Absent - Excused:

Dr. Robert G. McNeill	Member
Dr. Jorge Quirch	Secretary

3. Discussion and Approval of Minutes from Previous Board Meetings.

a. Minutes for June 18, 2021 Board Meeting.

A motion was made by Dr. Burke to amend the minutes with a change to add Dr. Margo Melchor to the roll call and seconded by Dr. Melchor.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

TIMECODE: 22:01

4. Discussion and Possible Action on Proposed Case Resolutions.

a. Agreed Settlement Orders.

Ms. Studdard introduced the Agreed Settlement Orders and staff asks that the board approve them as presented. A motion to approve was made by Dr. Henderson and seconded by Ms. Jones.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

b. Remedial Plans.

Ms. Studdard introduced the Remedial Plans and staff asks that the board approve them as presented. A motion to approve was made by Dr. Burke and seconded by Ms. Palermo.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

c. Agreed Administrative Penalties.

Ms. Studdard introduced the Agreed Administrative Penalties and staff asks that the board approve them as presented. A motion to approve was made by Dr. Henderson and seconded by Dr. Maldonado.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

d. Consent Orders.

Ms. Studdard introduced the Consent Orders and staff asks that the board approve them as presented. A motion to approve was made by Dr. Melchor and seconded by Dr. Burke.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

TIMECODE: 25:33

e. Pre-ISC Recommendations of Dismissal.

Ms. Studdard introduced the Pre-ISC Recommendations of Dismissal and staff asks that the board approve them as presented. A motion to approve was made by Ms. Sisk and seconded by Ms. Palermo.

(FOR - 9/OPPOSED- o/ABSTAIN-o) MOTION CARRIES

f. Post-ISC Recommendations of Dismissal.

Ms. Studdard introduced the Post-ISC Recommendations of Dismissal and staff asks that the board approve them as presented. A motion to approve was made by Ms. Jones and seconded by Dr. Burke.

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

g. Modification Orders.

Ms. Studdard introduced the Modification Order and staff asks that the board approve it as presented. A motion to approve the Modification order was made by Dr. Burke and seconded by Ms. Palermo.

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

h. Discussion of Specific Orders.

None.

5. Presiding Officer Report.

Dr. Yu gave his report and Ms. Palermo updated the board on CRDT.'s activities Dr. Yu discussed CITA volunteers. Dr. Burke, Ms. Jones and Dr. Maldonado volunteered for CITA. On October 8 and 9, two members, one voting can attend the CITA conference in Florida. Dr. Yu will volunteer for SRTA in the absence of other volunteers. The DERB meeting was cancelled and DERB is now joining CDCA. HERB is similar and in July approved the merger. Ms. Jones advised the CRDTS will start on-site dental exam re-takes for the first section and \$250 for each section after, and improved hygiene exams, stand-alone testing sites instead of waiting for a school to host a test and it will be open every day of the week. A trial site will begin in Georgia. Prometheum Dental's virtual haptic experience may merge with actual testing. Dr. Yu advised that the Senator Kolkhorst meeting was successful and the relationship is ongoing.

TIMECODE: 40:09

6. Professional Recovery Network Report (PRN).

Executive Director, Ms. Raquel Leal, gave her report.

7. Discussion and Possible Action on Continuing Education Review Committee Report and Recommendations.

Dr. Melchor gave her committee report. E-Strategies may provide a presentation on the CE procedures at a future meeting. TDA has a great illustration on the CE procedure and compliments to Ms. Rhodes on its creation.

- a. Committee recommendation and possible action on licensees providing continuing education documentation to the Board.
- b. Committee recommendation and possible action on currently proposed rule from June 18, 2021 Board Meeting: 22 Tex. Admin. Code § 101.1 – General Qualifications for Licensure (Dental), published in the July 9, 2021, issue of the Texas Register.

Dr. Melchor reviewed the committee recommendations.

A motion for approval of dentists to take the HHSC course on line is made by Dr. Melchor and no second is needed as it came from committee.

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

TIMECODE: 49:29

- c. Committee recommendation and possible action on currently proposed rule from June 18, 2021 Board Meeting: 22 Tex. Admin. Code § 103.1 – General Qualifications for Licensure (Hygiene), published in the July 9, 2021, issue of the Texas Register. A motion for approval of hygienists to take the HHSC course on line was made by Dr. Melchor and no second is needed as it came from committee
(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIES
- d. Committee recommendation and possible action on currently proposed rule from June 18, 2021 Board Meeting: 22 Tex. Admin. Code § 114.6 – General Qualifications for Registration or Certification (Dental Assistants), published in the July 9, 2021, issue of the Texas Register. A motion for approval of dental assistants to take the HHSC course on line was made by Dr. Melchor and no second is needed as it came from committee.
(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIES

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

- a. Committee recommendation and possible action on dental and hygiene school students or graduates providing patient care.

Ms. Palermo led the discussion. The committee asked board staff to add an attestation to the application to state that an applicant will not work until licensed. The amended application will be presented at the December Board Meeting. Dr. Henderson asks what the penalty will be for the student practicing before being licensed and legal advises it would be “unlicensed practice”. More discussion may occur in December. Dr. Burke speaks to also addressing the dentist that is allowing the non-licensed candidate to work in their practice.

Ms. Palermo makes the motion to add the attestation to the dental application. No second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

TIMECODE: 1:08:44

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

i. 2022-Q1-DDS1

Ms. Mendez gave the summary of the case. Dr. Vishwamitra was rescheduled from the June meeting. She is the sole dental provider at the Indian Services and is unable to bill insurance. She is on Federal land and licensed in Virginia which is allowed. A motion was made by Ms. Palermo to deny the exception and there is no second needed as it came from committee.

(FOR - 7/OPPOSED- 2/ABSTAIN-o) MOTION CARRIED

TIMECODE: 1:15:59

ii. 2022-Q1-DDS2

Ms. Mendez reviewed the case. Licensure by examination. Ms. Sunwoo had taken an approved course but did not have it pre-approved by the board. A motion was made by Ms. Palermo to grant exception to board rule and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-o) MOTION CARRIED

iii. 2022-Q1-DDS3

Ms. Mendez summarized the case. Dr. Janabi requested foreign graduate licensure. A motion was made to grant the exception and no second is needed as it comes from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-o) MOTION CARRIED

iv. 2022-Q1-DDS4

Ms. Mendez reviewed the case. Dr. Oriola has taken the National Board but took a state exam in the District of Columbia in 1997 which is not accepted under Board rules. A motion was made by Ms. Palermo to deny the exception and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-o) MOTION CARRIED

v. 2022-Q1-DDS5

Ms. Mendez reviewed the case. Dr. Cortes requested licensure by credentials but did not earn a DDS or DMD degree from a CODA accredited school. A motion was made by Ms. Palermo to deny the exception to the rule and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-o) MOTION CARRIED

vi. 2022-Q1-DDS6

Ms. Mendez reviewed the case. Dr. Khan requested approval for a remediation program. A motion was made by Ms. Palermo to grant the request to take the remediation course and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

- c. Committee recommendation and possible action on currently proposed rule from June 18, 2021 Board Meeting: 22 Tex. Admin. Code § 108.55 – Advertising for General Dentists, published in the July 9, 2021, issue of the Texas Register. Ms. Studdard reviewed the rule adding the three specialty areas: oral medicine, dental anesthesiology, and orofacial pain. No comments were received regarding the adoption of the amendment. The committee voted unanimously to adopt this rule.

A motion was made by Ms. Palermo to approve the amendment and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

- d. Committee recommendation and possible action on rulemaking pertaining to House Bill 139, relating to state occupational licensing of certain military veterans and military spouses.

A motion was made by Ms. Palermo to approve the amendment for dentists and hygienists, no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

TIMECODE: 1:32:09

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

- a. Committee recommendation and possible action on currently proposed rule from June 18, 2021 Board Meeting: 22 Tex. Admin. Code § 108.7 – Minimum Standard of Care, General, published in the July 9, 2021, issue of the Texas Register.

Ms. Studdard led the discussion. No comments were received. A motion was made by Dr. Burke to approve the staff recommendation to amend the Standard of Care and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

- b. Committee recommendation and possible action on rulemaking pertaining to House Bill 2056, relating to the practice of dentistry and the provision of teledentistry dental services.

Dr. Burke led the discussion. The board is tasked with adopting rules by March 2022 on this topic. We received comments from stakeholders. She thanked the stakeholders that attended the August 11th stakeholder meeting.

The committee changes are included in the packet attached. E2 and 2a sections were reviewed. “Dental” can be added before “healthcare services” to make it more clear. 5. When talking about the information in writing and on website, what does it look like? Discussion on providing patients with an email or hard copy versions. Revised to “Must be publicly displayed and provided to the person via email or mail.” Discussion was conducted on “direct supervision.” Emergency time frame—an initial in person exam begins with being in office—if consulting via teledentistry, it is implied that 48 hours is the time frame to see the patient. The interpretation of 108.7, 3, it does open discussion on the initial medical history—per the rule it is the initial evaluation, not the first time interaction. More stakeholders and the Governor’s office will have time for additional input.

TIMECODE: 1:59:32

Ms. Brandi Marquez, from the SMILE DIRECT CLUB made an in-person public comment. Robert Holden from Align Technology made an in-person public comment.

BREAK: 10:29am
BREAK ENDED: 10:43am

TIMECODE: 2:26:41

Virtual comments: Dr. Nathan Suter performs teledentistry in Missouri. He primarily uses his dental record software with a Zoom feature and software with scanner, all HIPAA compliant. He does not record the video appointment.

Virtual comments: Dr. Gary Solomon, DDS. Texas Mobile Dentist services were described.

TIMECODE: 2:53:05

A motion was made by Dr. Burke to accept the committee recommendations of amended changes to add word “dental” to healthcare services and in F1 to remove “on a website” and “in person setting as established in rule 108.7” and was seconded by Ms. Jones.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

Rule regarding call coverage between dentists mirrors the medical board’s rule. A motion was made by Dr. Burke to accept the rule and no second is needed as it came from committee.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

10. Discussion and Possible Action on Anesthesia Committee Report and Recommendations.

TIMECODE:

Dr. Henderson thanks his committee members.

- a. Committee recommendation and possible action on request for exception to Board rules: 2022-Q1-DDS7

Dr. Henderson's committee motion is to grant Dr. Austin Lee the exception to the rule if a CPR course is updated and no second is needed as it came from committee.

(FOR - 0/OPPOSED- 9/ABSTAIN-0) MOTION CARRIED

A motion was made by Dr. Henderson to refer the applicant back to the agency to accept the nitrous permit and it was seconded by Dr. Burke.

(FOR - 9/OPPOSED- 0/ABSTAIN-0) MOTION CARRIED

11. Public Comments.

No other public comments.

TIMECODE: 3:05:54

12. Agency Activity Reports.

- a. Executive Division Report.

Ms. Nichols gave her report. Licensing is still working in the office every day. If an employee is positive for Covid-19 they must test negative to return in person, they may work remotely if they feel up to it. Virtual/Hybrid meetings will continue. We are members of all regional testing boards and ADEX. To date, 2, 496 waivers have been completed.

Dr. Henderson asked how we will alert practitioners on the one-year expiration of waivers and Ms. Nichols will discuss with Ms. Mendez.

- b. Finance and Administration Division Report.

TIMECODE: 3:13:40

Ms. Kappel is absent but her statistics and materials are uploaded to the site.

- c. Licensing Division Report.

Ms. Mendez gave her report. In the Anesthesia Program, Mr. William Jackson returns as an inspector on September 27th. Staffing internally: lost two people in July and have two positions open. Initial applications we are processing August 20th for Dentists and Dental Hygienists, July 29th for Dental Assistants. E-Prints on certificates are ongoing. Dr. Henderson notes that to e-print certificates you must turn off the Pop Up Blocker. Staff will look into a download option as an alternative. Renewal reminders are still sent out via mail.

TIMECODE: 3:22:42

- d. Dental Division/Investigations Report.

Dr. Bell gave her reports and her materials are uploaded to the site. Ms. Melinda Heiber is now the Director of Investigations. Regarding the DRP applicants, Dr. Melchor questioned one applicant and their attention to detail. Dr. Bell advised that there may be one additional report required in this instance and/or monitor their reports if in question. A DRP member can be taken out of rotation if they need additional training.

i. Discussion and possible action on Dental Review Panel Applications.

A motion was made to accept the DRP members as presented by Dr. Henderson and seconded by Ms. Jones.

(FOR - 9/OPOSED- o/ABSTAIN-o) MOTION CARRIED

Dr. Bell had one analyst resign with no notice. One position is filled out of two analyst positions.

Legal Division Report.

Ms. Studdard gave her report. Please sign up for ISCs.

ii. Discussion of 2022 Informal Settlement Conference Calendar.

TIMECODE: 3:35:23

13. Executive Session for Discussion and Possible Action on Consideration of Board Staff Personnel - Annual Review of Executive Director.

A motion to go into executive session to review the Executive Director, Ms. Casey Nichols, was made by Dr. Burke and seconded by Dr. Maldonado.

(FOR - 9/OPOSED- o/ABSTAIN-o) MOTION CARRIED

Executive Session at 11:51 a.m.

A motion was made by Dr. Henderson to end executive session and was seconded by Ms. Jones.

(FOR - 9/OPOSED- o/ABSTAIN-o) MOTION CARRIED

Executive Session ended at 12:20pm.

A motion was made by Ms. Sisk to raise Ms. Nichols' salary to \$127,435 to begin on October 1, 2021 and was seconded by Dr. Maldonado.

(FOR - 9/OPOSED- o/ABSTAIN-o) MOTION CARRIED

14. Announcements.

Dr. Henderson would like to welcome Ms. Pride to the board.

15. Adjourn.

A motion was made by Ms. Palermo to adjourn the meeting at 12:26pm and was seconded by Dr. Maldonado.

(FOR - 9/OPOSED- o/ABSTAIN-o) MOTION CARRIED

Handwritten signature of Dr. David Yu in black ink, including the text "Dr. David Yu" and "M.D." in smaller letters.

Dr. David Yu
Presiding Officer

Handwritten signature of Dr. Jorge Quirch in black ink, including the text "Jorge E. Quirch" and "M.D." in smaller letters.

Dr. Jorge Quirch
Board Secretary