



**TEXAS STATE BOARD OF DENTAL EXAMINERS**  
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**BOARD MEETING MINUTES**  
**June 1, 2018**

**1. CALL TO ORDER – BOARD MEETING.**

Dr. Tillman called the meeting of the Texas State Board of Dental Examiners (TSBDE) to order at 8:36 a.m.

**2. ROLL CALL.**

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

**a. Members Present:**

Dr. M. David Tillman	Presiding Officer
Ms. Lois M. Palermo	Member
Dr. Bryan N. Henderson	Member
Dr. David H. Yu	Member
Dr. Robert G. McNeill	Member
Ms. Lorie Jones	Member
Dr. Margo Melchor	Member
Ms. Kathryn Sisk	Member

**b. Members Absent - Excused:**

Mr. Bustamante	Member
Dr. Quirch	Member
Dr. Haynes	Member

**c. Staff Present:**

Dr. W. Boyd Bush	Executive Director
Ms. Christine Mendez	Licensing Director
Mr. Alex Phipps	General Counsel
Dr. Brooke Bell	Dental Practice Director
Ms. Nelda Chapa	Administrative Assistant
Ms. Cassie Kamp	Attorney
Ms. Leticia Kappel	Director of Finance and Administration

**3. REVIEW AND APPROVAL OF PAST MINUTES FROM THE APRIL 20, 2018 BOARD MEETING.**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. HENDERSON TO APPROVE THE MINUTES AS AMENDED.

(FOR – 6 / OPPOSED – 0 / ABSTAIN – 2) MOTION CARRIES.

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

**4.1. Agreed Settlement Orders.**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. YU TO APPROVE THE AGREED SETTLEMENT ORDERS AS PRESENTED.

(FOR – 7 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**4.2. Remedial Plans.**

A MOTION WAS MADE BY DR. HENDERSON AND SECONDED BY DR. MCNEILL TO APPROVE THE REMEDIAL PLANS AS PRESENTED.

(FOR – 7 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**4.3. Consent Orders.**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. YU TO APPROVE THE CONSENT ORDER AS PRESENTED.

(FOR – 7 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**4.4. Staff Pre-ISC Recommendations of Dismissals.**

A MOTION WAS MADE BY DR. YU AND SECONDED BY DR. PALERMO TO APPROVE THE DISMISSALS AS PRESENTED.

(FOR – 7 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**4.5. Staff Post-ISC Recommendations of Dismissals.**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. HENDERSON TO APPROVE THE DISMISSALS AS PRESENTED.

(FOR – 7 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**5. ACTION ON SETTLEMENT NEGOTIATIONS**

**5.1 Harrison, DDS, V. TSBDE, CAUSE NO.03-18-0029-CV**

A MOTION WAS MADE BY HENDERSON TO ENGAGE IN SETTLEMENT NEGOTIATIONS SECONDED BY JONES (FOR – 8 / OPPOSED – 10 / ABSTAIN – 0) MOTION CARRIED

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY JONES TO GO INTO EXECUTIVE SESSION WITH ATTORNEY GENERAL REPRESENTATIVES.

(FOR – 8 / OPPOSED – 10 / ABSTAIN – 0) MOTION CARRIED

**Executive Session Began at: 9:30am**

**Executive Session Ended at: 9:42am**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. HENDERSON TO END EXECUTIVE SESSION (FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED

MOTION TO ENTER INTO SETTLEMENT NEGOTIATIONS

SECONDED BY DR YU

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

**5.2 ACTION ON ABATE APPEAL**

A MOTION WAS MADE BY DR. MCNEILL AND SECONDED BY DR. YU TO END EXECUTIVE SESSION  
ABATE CAUSE NO. D-A-1-GN-17-003434  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED

**6. PRESIDING OFFICER’S REPORT**

Dr. Tillman reviewed agency changes and reported the committee meeting day was successful.

Dr. Tillman informed the Board that he is considering annual board strategic planning.

Dr. Tillman advises of future evaluations of the Executive Director and the Board Members on an annual basis.

**7. MISCELLANEOUS REPORTS**

**7.1. Professional Recovery Network Report (PRN)**

Dr. Tillman introduced Ms. Emily Abel, Social Worker from PRN to give a brief summary of the PRN Report.  
Shortfall of \$1,500 fee was discussed.

**8. DISCUSSION AND POSSIBLE ACTION ON ANESTHESIA COMMITTEE REPORT AND RECOMMENDATIONS:**

**8.1 ACTION ON NEW 22 TEX.ADMIN.CODE § 110.16, SEDATION/ANESTHESIA OF HIGH-RISK PATIENTS**

A MOTION WAS MADE BY THE COMMITTEE TO ADOPT RULE 22 TEX.ADMIN.CODE § 110.16  
SEDATION/ANESTHESIA OF HIGH-RISK PATIENTS  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**8.2 ACTION ON NEW 22 TEX. ADMIN. CODE § 110.17, SEDATION/ANESTHESIA OF PEDIATRIC PATIENTS**

A MOTION WAS MADE BY THE COMMITTEE TO ADOPT RULE 22 TEX.ADMIN.CODE § 110.17,  
SEDATION/ANESTHESIA OF PEDIATRIC PATIENTS  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**8.3 ACTION ON NEW 22 TEX. ADMIN. CODE § 110.18, INSPECTION OF SEDATION/ANESTHESIA PROVIDERS**

A MOTION WAS MADE BY THE COMMITTEE TO ADOPT RULE 22 TEX. ADMIN. CODE § 110.18,  
INSPECTION OF SEDATION/ANESTHESIA PROVIDERS  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**8.4 ACTION ON AMENDMENT OF 22 TEX.ADMIN. CODE § 102.1, FEE SCHEDULE**

A MOTION WAS MADE BY THE COMMITTEE TO ADOPT THE AMENDMENT TO 22 TEX. ADMIN.CODE §  
102.1, FEE SCHEDULE  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**8.5 ACTION ON AMENDMENT TO 22 TEX.ADMIN. CODE § 110.9, ANESTHESIA PERMIT RENEWAL**

A MOTION WAS MADE BY THE COMMITTEE TO ADOPT THE AMENDMENT TO 22 TEX. ADMIN. CODE §  
110.9, FEE SCHEDULE  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**9. DISCUSSION AND POSSIBLE ACTION ON DISCIPLINARY REVIEW COMMITTEE REPORT AND RECOMMENDATIONS:**

**9.1 RECOMMENDATIONS ON THE DELEGATION OF CERTAIN COMPLAINT DISPOSITIONS**

NO RECOMMENDATIONS AT THIS TIME

**9.2 RECOMMENDATIONS OF RULEMAKING RELATED TO THE DISCIPLINARY MATRIX**

REVISIT TOPIC AT THE NEXT MEETING

**10. DISCUSSION AND POSSIBLE ACTION ON DENTAL PRACTICE COMMITTEE REPORT AND RECOMMENDATIONS:**

**10.1 ACTION ON AMENDMENT OF 22 TEX. ADMIN. CODE § 114.12, CONTINUING EDUCATION CERTIFICATE HOLDERS**

A MOTION WAS MADE BY MS. JONES TO ADD EDITORIAL ADJUSTMENT TO THE AMENDMENT TO ADD A REFERENCE TO SECTION 104.2. SECONDED BY MS. PALERMO.  
(FOR – 8 / OPPOSED – 10/ ABSTAIN – 0) MOTION CARRIED

**10.2 ACTION ON AMENDMENT OF 22. TEX. ADMIN. CODE § 114.4, MONITORING THE ADMINISTRATION OF NITROUS OXIDE**

THE COMMITTEE DECLINED TO MAKE A RECOMMENDATION AND WILL REVISIT THE TOPIC AT THE NEXT MEETING.

**10.3 ACTION ON RECOMMENDATION OF RULEMAKING RELATED TO THE RDA PRACTICE**

THE COMMITTEE WILL CONSIDER RULES AT A FUTURE MEETING.

**11. DISCUSSION AND POSSIBLE ACTION ON LICENSING COMMITTEE REPORT AND RECOMMENDATIONS:**

**11.1 Application 2018Q3DDS1**

A MOTION WAS MADE BY THE COMMITTEE TO APPROVE APPLICATION 2018-Q3-DDS1.  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

**11.2 Application 2018Q3DDS2**

A MOTION WAS MADE BY DR HENDERSON TO GO INTO EXECUTIVE SESSION REGARDING APPLICATION 2018-Q3-DDS2. SECONDED BY DR. MCNEILL  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED

**Executive Session Began at: 10:45am**

**Executive Session Ended at: 11:31am**

MCNEILL MOTIONED TO AMEND CONSENT ORDER, SECONDED BY JONES

(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED.

HENDERSON MOTIONS TO VOTE ON AMENDED CONSENT ORDER, SECONDED BY TILLMAN.

FOR: PALERMO, YU, MELCHOR, JONES, MCNEILL

OPPOSED: HENDERSON, TILLMAN, SISK

ABSENT: BUSTAMANTE, QUIRCH, HAYNES

(FOR – 5/ OPPOSED – 3 / ABSTAIN – 0) MOTION CARRIED

**11.3 Application 2018-Q3-RDA1**

(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED

**11.4 Application 2018-Q3-DDS3**

MCNEILL MOVED TO AMEND A CONSENT ORDER, SECONDED BY YU

FOR: PALERMO, YU, MELCHOR, JONES, MCNEILL

OPPOSED: HENDERSON, TILLMAN, SISK

ABSENT: BUSTAMANTE, QUIRCH, HAYNES  
(FOR – 5/ OPPOSED – 3 / ABSTAIN – 0) MOTION CARRIED

HENDERSON MOTIONS TO VOTE ON AMENDED CONSENT ORDER, SECONDED BY TILLMAN  
FOR: PALERMO, YU, MELCHOR, JONES, MCNEILL  
OPPOSED: HENDERSON, TILLMAN, SISK  
ABSENT: BUSTAMANTE, QUIRCH, HAYNES  
(FOR – 5/ OPPOSED – 3 / ABSTAIN – 0) MOTION CARRIED

MCNEILL MOTIONS TO APPROVE APPLICATION, SECONDED BY YU  
(FOR-3/OPPOSED-5/ABSTAIN-0) MOTION FAILS

HENDERSON MOTIONS TO DENY APPLICATION, SECONDED BY TILLMAN  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED

**11.5 Application 2018-Q3-RDA2**

**11.6 Application 2018-Q3-RDA3**

**11.7 Application 2018-Q3-RDA4**

**11.8 Application 2018-Q3-RDA5**

A MOTION WAS MADE BY THE COMMITTEE TO DENY THE APPLICATIONS  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 1) MOTION CARRIED

**12. PUBLIC COMMENTS.**

No comments

**13. AGENCY ACTIVITY REPORTS.**

**13.1 Executive Division Report.**

Dr. Bush highlighted items from the uploaded report materials. Dr. Bush reported he met with Senator Schwertner, discussed anesthesia inspections, testified before the House Committee on Opioid and Substance Abuse with Dr. Henderson, announced start date for new executive assistant Wendy Richardson and he is reviewing staff salaries.

**13.1.1 Discussion and possible action on TSBDE Strategic Plan**

Dr. Bush: turned in the strategic plan, added anesthesia inspection program, will address training and staff retention plans. Ms. Kappel spoke on the customer service report, survey sent to 80,000 people on the email list, provided a snapshot of a full year, while in 2014/2015 reports were not satisfied with the agency, for 2016 and 2018 the responses were “extremely satisfied” with their experiences with the agency. Ms. Kappel announced change from 330 days allowed to resolve a case to 400 days; this was approved by the Governor’s office.

**13.2 Finance and Administration Division Report**

Ms. Kappel provided the report materials and spreadsheets and noted highlights from the report. Ms. Kappel discussed staffing, remedial plan fines, and reiterated that fines are not included in the agency revenue, inspectors, and a new appropriation for the anesthesia committee.

**13.3 Licensing Division Report**

Mrs. Mendez advised board members that the Licensing Division Report was provided in the board materials. Dental Assistant application will be updated by the end of July to align with rules 114.2(b), to take effect by September 1, 2018 as well as the “service code” needed in order to schedule a fingerprint sessions and no “activation” period. Once approved they will have either a registration

to take x-rays anywhere from 18-30 months. We have done our part on the Biennial Renewal to launch 9/1/18. Request a verification online is now available a duplicate renewal certificate to come in the next week. Ms. Mendez gave an Expo update: Dental hygiene expo had 214 attendees. Expos are offered one day a year for all graduates.

### **13.4 Dental Division Report**

Dr. Bell updated the board on her analysts. She stated she has 8 analysts including one supervisor. The current workload for these analysts is approximately 26 cases. She announced a recent mandate to have cases booked for ISC by 180<sup>th</sup> day. Dr. Bell stated that there was a small bottleneck sitting in preview area, 150 cases on the last report has been reduced to 40 cases. 77 cases are waiting on oral maxillo facial surgeon to review them. Dr. Bell always welcomes maxilla facial candidates for the DRP but the current staffing is sufficient.

#### **13.4.1 ACTION ON APPROVAL OF NEW DENTAL REVIEW PANEL MEMBERS**

A MOTION WAS MADE BY DR. HENDERSON TO APPROVE THE NEW DENTAL REVIEW PANEL MEMBERS AS PRESENTED. SECONDED BY DR MCNEILL.

(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

### **13.5 Legal/Enforcement Report**

Mr. Phipps provided a legal report and included legal division statistics. He discussed continuances and ISC schedules, good cause rules regarding scheduling in 180 days, issues to be addressed in the proposed amendments to Rule 107.63. Mr. Phipps also spoke about the pre ISC process, issues regarding licensees who are convicted of felony offenses or who receive deferred adjudication, and the decision-making process for revoking or suspending due to the felony offense. He introduced new staff attorney, Cassie Kamp. Mr. Phipps advised that they anticipate hiring two more staff attorneys. Regarding ISC panels, Mr. Phipps clarified that a person may waive a DDS being present at an ISC, but current rules and staff policy requires at least 1 board member and preferably 2, and DRC members may be included in panels going forward to satisfy the 2 person requirement.

## **14. DISCUSSION AND POSSIBLE ACTION ON RULEMAKING**

#### **14.1.2 Propose Amendment of 22 Tex. Admin. Code § 107.63, Informal Disposition and Alternative Dispute Resolution**

A MOTION TO MAKE THE AMENDMENT OF 22 TEX. ADMIN. CODE § 107.63, INFORMAL DISPOSITION AND ALTERNATIVE DISPUTE RESOLUTION WITH EDITORIAL CHANGES WAS MADE BY DR. HENDERSON AND SECONDED BY MS. JONES

(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

#### **14.2..2 Propose Amendment of 22 Tex. Admin. Code § 101.11, Employment by Estate of Dentist or Person Acting for Mentally Incompetent Dentist**

A MOTION WAS MADE BY DR. YU AND SECONDED BY DR. MCNEILL TO ADOPT AMENDED NEW 22 TEX. ADMIN. CODE § 101.11, EMPLOYMENT BY ESTATE OF DENTIST OR PERSON ACTING FOR MENTALLY INCOMPETENT DENTIST WITH MODIFICATIONS

(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

## **15. ANNOUNCEMENTS**

Dr. Henderson gave a brief summary on WREB. Dr. Henderson, Dr. Quirch and Dr. Tillman attended the AADB meeting. Dr. Palermo reported she did a CRDTS exam in Minneapolis and her report will be forthcoming. Dr. Yu communicated the DOCS education program may be potential training for license holders.

**17. ADJOURN**

A MOTION WAS MADE BY DR. HENDERSON TO ADJOURN THE MEETING AND SECONDED BY MELCHOR.  
(FOR – 8 / OPPOSED – 0 / ABSTAIN – 0) MOTION CARRIED.

**ADJOURNED AT 1:09PM**

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**David Tillman, DDS  
Presiding Officer  
August, , 2018**

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**Jorge Quirch, DDS  
Board Secretary  
August, 2018**