

**MINUTES OF THE SPECIAL MEETING
OF THE
LOUISIANA STATE BOARD OF DENTISTRY
HELD AT ITS BOARD OFFICE
LOCATED AT
ONE CANAL PLACE-SUITE 2680-365 CANAL STREET
NEW ORLEANS, LOUISIANA 70130
BEGINNING AT 10:30 A.M. ON
FRIDAY, FEBRUARY 18, 2011**

A special meeting of the Louisiana State Board of Dentistry was held on Friday, February 18, 2011, at the offices of the Louisiana State Board of Dentistry located at One Canal Place, Suite 2680, 365 Canal Street, New Orleans, Louisiana 70130. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted. The meeting was called to order at 10:45 a.m. by Dr. Romell Madison, President.

At the request of Dr. Madison, a roll call was taken. Dr. Madison stated that a quorum of the Board was present.

PRESENT WERE:

Dr. Romell Madison, President
Dr. David Melancon, Vice-President
Dr. Dean Manning, Secretary-Treasurer
Dr. Aubrey Baudean, Member
Dr. H.O. Blackwood, Member
Mrs. Patricia Cassidy, R.D.H., Member
Dr. Wilton Guillory, Member
Dr. Frank Martello, Member
Dr. Rusty Mayer, Member
Dr. Conrad McVea, Member
Dr. James Moreau, Member
Dr. Lynn Philippe, Member
Dr. John Taylor, Member
Dr. Sam Trinca, Member

ALSO PRESENT BY BOARD INVITATION WERE:

C. Barry Ogden, Executive Director
Brian Bégué, Board Counsel
Erin Conner, Director of Licensing
Diana Chenevert, Board Staff

Rachel Daniel, Board Staff

John Roth, Board Staff

Alison Schenk, Board Staff

Todd Corbitt, D.D.S.

Suzanne Farrar, R.D.H., LDHA

Kenneth Schott, D.D.S., NODA

Ward Blackwell, Executive Director, LDA

Marilyn Bernard, R.D.H.

Robert Barsley, D.D.S., LSUSD

At this point, Dr. Madison asked all guests to introduce themselves. After the introductions Dr. Madison welcomed new members, Dr. Aubrey Baudean and Mrs. Patricia Cassidy, R.D.H. to the board. Dr. Trinca stated that he was very happy to have Dr. Baudean back who had given up his position on the board before. He thanked Dr. Baudean for his past and future honorable attention to board matters.

Dr. Trinca also thanked Mrs. Cassidy for coming to the board, and he looked forward to working with her on other matters including the dental hygiene licensing examinations.

Dr. Madison then asked for public comment. Hearing none, he turned to Agenda item number 4 wherein Dr. Trinca then made the motion which was seconded by Dr. Blackwood that it be:

RESOLVED, that the minutes, as circulated, of the Special Board meeting of December 4, 2010 in New Orleans, Louisiana, are hereby adopted, ratified and approved in their entirety.

After the board voted unanimously in the affirmative, Dr. Madison declared the motion passed.

Next, Dr. Blackwood made the motion which was seconded by Dr. McVea that it be:

RESOLVED, that the acts and decisions taken by the President, Vice-President, Secretary/Treasurer and Executive Director in the general conduct and transactions of Board business since December 4, 2010, be and they are hereby approved, adopted, and ratified in full by the board.

After voting unanimously in the affirmative, the motion was declared passed.

Dr. Madison then referred to Agenda item number 6, **Licensing and Credentials Committee**, Dr. Dean Manning, Chairman.

Dr. Manning made the following motion which was seconded by Dr. Trinca that it be:

RESOLVED, having considered the application for licensure by credentials in the State of Louisiana by the persons named below, the Louisiana State Board of Dentistry hereby approves said application and awards said named persons, their

requested license to practice dentistry or dental hygiene in the State of Louisiana, granting them all the privileges, duties, and responsibilities associated therewith.

- a. Dr. Mario Pary
- b. Dr. Gopikiran Thota
- c. Melissa Farmer, R.D.H.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Manning made the following motion which was seconded by Dr. Trinca that it

be:

RESOLVED, having considered the application for licensure by credentials in the State of Louisiana by Dr. Todd Corbitt, the Louisiana State Board of Dentistry hereby approves said application and awards Dr. Todd Corbitt, his requested license to practice dentistry in the State of Louisiana, granting him all the privileges, duties, and responsibilities associated therewith contingent upon the receipt of his certification of good standing from the states of Arkansas and Oklahoma.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Manning made the motion which was seconded by Dr. McVea that it be:

RESOLVED, that under the authority of R.S. 37:760 (A)(12), the Louisiana State Board of Dentistry hereby approves the issuance of a restricted dental license to the following person:

Dr. Shamina Khanum LSU School of Dentistry

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Manning made the motion which was seconded by Dr. McVea that it be:

RESOLVED, under the authority of R.S. 37:760 (A)(6) and LAC 46:XXXIII.120, the Louisiana State Board of Dentistry hereby approves the issuance of a temporary dental hygiene license to the following person:

Melissa Farmer, R.D.H.

and

BE IT FURTHER RESOLVED, that the members of the Louisiana State Board of Dentistry do hereby ratify the actions of its Licensing and Credentials Committee in connection therewith.

After voting unanimously in the affirmative, the motion was declared passed.

Discussion then ensued on the staff examining applications for licensure by credentials.

After some discussion, Dr. Manning made the motion which was seconded by Dr. Trinca that is

be:

RESOLVED, the Louisiana State Board of Dentistry has discussed the utilization of staff to review applications for licensure by credentials and hereby instructs staff who have the primary responsibility to review all applications for licensure by credentials; and

BE IT FURTHER RESOLVED, that the staff will forward any application for licensure by credentials to the Chairman of the Licensing and Credentials Committee with whatever problems are noted on the application for review by the Chairman.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Madison referred to Agenda item number 7, **Office Management Committee**, Dr. Lynn Philippe, Chairman.

Dr. Philippe asked Mr. Ogden to explain the financial statement for the six months ending December 31, 2010. Mr. Ogden related that for the first six months of this fiscal year enforcement actions had totaled \$29,833 making it a 5.9% of the revenue generated during that period of time. Mr. Ogden also advised the board members that more money is being spent on subcontract labor for two reasons. First, the board staff is unable to take time away from their duties to extricate millions of staples in preparation for scanning which is being performed by a temporary employee. Secondly, a temporary employee is also being used for this and other duties and is in training to replace Mr. John Roth upon his retirement. Mr. Ogden recommended raising the budget for subcontract labor.

Mr. Ogden then also related that the computer consulting fees were higher than usual due to the fact that we had just completed our first online renewal. He also suggested that this budget figure be increased as well. Mr. Ogden then addressed the total legal expenses which had risen to \$172,362 for the first six months, which far outweighed his original prognostication. Mr. Ogden related that the board had been in the process of prosecuting several formal disciplinary actions which have been very expensive with the board being forced to go up to the Supreme Court on several occasions. He also recommended increasing this budgetary amount. Concomitant with the legal expenses, our investigative expenses totaled \$61,649. He also recommended that budgetary figure be raised as well. Mr. Ogden then explained that he had not budgeted for credit card charges for online renewals and asked for an amount to cover that expense.

At this point, Dr. McVea made the motion which was seconded by Dr. Moreau that it be:

RESOLVED, the Louisiana State Board of Dentistry having reviewed its budget for fiscal year 2010-2011 hereby increases allocations for legal expense in the amount of \$125,000; for investigative expenses in the amount of \$20,000; temporary help in the amount of \$10,000; and hereby increases expenditures for credit card payments in the amount of \$25,000.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. McVea made the motion which was seconded by Dr. Trinca that it be:

RESOLVED, the Louisiana State Board of Dentistry hereby instructs its Rulemaking Committee, President, Executive Director, and Counsel to prepare a fee increase in amount of \$20.00 per year for dentists and \$10.00 per year for dental hygienists.

All but Dr. Guillory voted in the affirmative, and Dr. Madison declared the motion passed.

No action was taken regarding the discussion of online payments for initial applications for licensure for graduates of Louisiana dental and dental hygiene programs.

Dr. Philippe then brought the board's attention to the letter from the Department of State Civil Service stating that the Louisiana State Board of Dentistry far exceeded the statewide rate for performance planning and reviews, and congratulated the staff, especially Mr. John Roth, for taking care of these governmental matters.

At this point, Dr. Madison referred to Agenda item number 8, **Rulemaking Committee**, Dr. David Melancon, Chairman.

Dr. Melancon stated that some new rules had been prepared for their consideration today but first the minutes of the previous Rulemaking Committee meeting must be ratified wherein Dr. Blackwood made the motion which was seconded by Dr. Mayer that it be:

RESOLVED, that the minutes, as circulated, of the Rulemaking Committee meeting of December 3, 2010 in New Orleans, Louisiana, are hereby adopted, ratified and approved in their entirety.

After voting unanimously in the affirmative, the motion was declared passed.

No action was taken on Rule 313 regarding anesthesia for children and all operations to be limited to local anesthetics. The board felt that the present language was satisfactory.

Discussion then ensued on Rule 1509 "Minimal educational requirements for the granting of permits to administer nitrous oxide inhalation analgesia, conscious sedation with parenteral drugs, and general anesthesia – deep sedation." Dr. Philippe made the motion which was seconded by Dr. Trinca that it be:

RESOLVED, the number of successful cases of induction should be reduced from 12 to 6 placing the dentists on the same line as dental hygienists in order to be permitted to administer nitrous oxide.

After voting unanimously in the affirmative, the motion was declared passed.

Discussion ensued on Rules 1709 and 1711. After which, Dr. Trinca made the motion which was seconded by Dr. Melancon that it be:

RESOLVED, the Louisiana State Board of Dentistry hereby directs, empowers, and authorizes its Rulemaking Committee, President, Executive Director, and Counsel to go forward with the amendments of LAC 46:XXXIII.1509(A); .1709; and .1711, and

BE IT THEREFORE RESOLVED, those parties are instructed to commence promulgation of these rules as soon as possible.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Melancon brought the board's attention to the correspondence from Mr. Frank Recker, attorney at law who had sued the board several years earlier regarding its advertising regulations. Although the board won that lawsuit, it was of the opinion that Mr. Recker was searching for fertile ground in order to bring another lawsuit against the board. It was noted that Mr. Recker makes a living suing dental boards.

After some discussion, Dr. Trinca made the motion which was seconded by Dr. Moreau that it be:

RESOLVED, the Louisiana State Board of Dentistry has discussed the elimination of LAC 46:XXXIII.301(F) and hereby directs its Rulemaking Committee, President, Executive Director, and Counsel to prepare rulemaking to rescind this rule.

All but Dr. Baudean voted in the affirmative, and Dr. Madison declared the motion passed.

Dr. Melancon then brought the board's attention to the Notices of Intent which will become effective on February 20, 2011 pertaining to LAC 46:XXXIII.130, .132, .306, .313, .419, .701, .712, .714, .720, .1509, .1511, .1709, and .1711.

Dr. Melancon then made the motion which was seconded by Dr. Moreau to discuss LAC 46:XXXIII.124. Discussion ensued on what is a sufficient amount of time to define active practice. The board considered whether it would be advisable to put something on the renewal applications to require that a dentist state that he has worked for a minimum of 1,000 hours per year or in the alternative to state whether or not he has actively been practicing his profession. This would; however, exclude professors at the Louisiana State University School of Dentistry ("LSUSD").

Mr. Ogden was instructed to draft a rule to reflect this position for presentation at the next board meeting.

Dr. Madison then referred to Agenda item number 9, **Legislative Committee**, Dr. Wilton Guillory, Chairman. Dr. Guillory stated that the subject of mid-level providers will be coming to the state of Louisiana sometime in the near future. He has spoken with Dr. Bill Hall, immediate past chair of the Louisiana Dental Association Governmental Affairs Committee and they agreed that the Louisiana State Board of Dentistry ("LSBD") and the Louisiana Dental Association ("LDA") must work together on this issue to assure the health, safety, and welfare of the citizens of Louisiana. The spring meeting of the LDA will address this and perhaps can come up with some form of legislation to be prepared in anticipation of this development. All concurred.

Dr. Guillory stated that at this point, the board had prepared no legislation for introduction into the 2011 Regular Session of the Legislature. However, he also stated that he had spoken with Senator Joe McPherson regarding state agencies' lobbying. He reported that Senator McPherson informed him that state agencies can provide information regarding proposed legislation and perhaps give an opinion although this can be considered a grey area. Mr. Ogden the stated that board members are always free to contact their own legislators and that this could possibly help with any future proposed legislation.

Dr. Madison then referred to Agenda item number 10, **Examination Committee**, Dr. Sam Trinca, Chairman. Dr. Trinca stated that the Council of Interstate Testing Agencies ("CITA") would be conducting its first examination in this cycle in South Carolina and Puerto Rico. The examination season is upon us and the clinical licensing examination to be given at LSUSD will take place in March. He also stated that CITA had sent out invitations to all regional testing agencies to discuss the possibility of development of a national examination sometime in the near future.

Dr. Trinca also reported that there was a great deal of problems going on within the Northeast Regional Board ("NERB"). That regional testing agency was suing its former president, Dr. Joseph Rosa, who in turn was also suing them. He stated that the entire NERB regional licensing examination seemed to be falling apart.

Discussion then ensued on the activities of the Joint Commission on National Dental Examinations Committee for an integrated examination. Dr. Trinca felt that this was nothing more than a continuation of parts one and two of the national board examination. He was worried that other states might start using this as part three of the national board examination which in all actuality is the clinical licensing examination, which is administered for all states by testing agencies. No action was taken.

Discussion then ensued regarding the acceptance of only the CITA clinical licensing examination and much discussion took place. Mr. Ogden stated that he had been confused regarding earlier votes taken on this matter.

Dr. Trinca explained that we should not even be accepting the Southern Regional Testing Examination ("SRTA") during this cycle because the board should have notified SRTA that we were declining their examination beginning with the 2011 cycle. However, Ms. Conner stated that the board had received twelve applications from persons who were taking the SRTA examination and to deny them now would cause problems. As such, the board decided to allow

applicants taking the SRTA examination this year to be acceptable, but that SRTA and all other clinical licensing examinations except CITA shall be sent notice advising them that effective January 1, 2012 the board will only accept CITA examinations for initial licensure. Mr. Ogden was instructed to formulate the letters to the various regional testing agencies.

The board then reviewed the CITA examination schedule for 2012. Everyone was satisfied and no action was taken.

Dr. Madison then referred to Agenda item number 11, **Anesthesia Committee**, Dr. Lynn Philippe, Chairman. Dr. Philippe stated that although an Ad Hoc Committee had been formed to study anxiolysis consisting of Drs. Philippe, Madison, and Martello, no action had been taken on this subject because they were waiting for records from Dr. Ben Record at LSU before they could begin discussions. He hoped to get this matter rolling soon.

Dr. Madison then referred to Agenda item number 12, **Impaired Dentist Committee**, Dr. H.O. Blackwood, Chairman. At this time, Dr. Jamie Manders addressed the board and explained the problems she was having with the LDA and NODA as it related to her retirement and how their well-being program would continue. Mr. Begue was instructed to talk to the attorneys for the medical examiners to determine how they were able to assess a small surcharge to all of their licensees in order to fund a program for impaired professionals. Everyone agreed that this was a very serious problem which needed to be tended to in short order. This is another example of how the LDA and the LSBDD can work together.

Dr. Madison then referred to Agenda item number 13, **Continuing Education Committee**, Dr. John Taylor, Chairman. Dr. Taylor noted that Dr. Martello wished to give credit to doctors donating time to Donated Dental Services as an inducement for more doctors to participate in this valuable program. After some discussion, the board directed the Rulemaking Committee to prepare a rule which would provide for six hours of continuing clinical dental education for persons donating their time to Donated Dental Services and to report back at the next board meeting.

Next, Dr. Taylor brought the board's attention to the new Licensing Board transcripts from the Academy of General Dentistry. After little discussion, Dr. McVea made the motion which was seconded by Dr. Baudean that it be:

RESOLVED, the Louisiana State Board of Dentistry discussed the acceptance of the Academy of General Dentistry Licensing Board transcripts and hereby agrees to accept said reports.

After voting unanimously in the affirmative, the motion was declared passed.

Dr. Madison then referred to Agenda item number 14, **New Business and any other business which may properly come before the board.**

At this point, Dr. Baudean made the motion which was seconded by Dr. Martello that it be:

RESOLVED, that the action of the President in entering into a resolution in the matter involving Joseph Ellis Bernard, D.D.S., via First Amendment to Agreement Containing Consent Decree by and between the Louisiana State Board of Dentistry and Joseph Ellis Bernard, D.D.S., (as per copy of First Amendment to Agreement Containing Consent Decree which is attached hereto and made a part hereof), be adopted, confirmed, and ratified by this Board; and further that all acts of the President, Board members, and Executive Director in the furtherance of this purpose are hereby ratified.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Baudean made the motion which was seconded by Dr. Martello that it be:

RESOLVED, that the action of the President in entering into a resolution in the matter involving Frank Gaesenhals, D.D.S., via Consent Decree by and between the Louisiana State Board of Dentistry and Frank Gaesenhals, D.D.S., (as per copy of Agreement Containing Consent Decree which is attached hereto and made a part hereof), be adopted, confirmed, and ratified by this Board; and further that all acts of the President, Board members, and Executive Director in the furtherance of this purpose are hereby ratified.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Baudean made the motion which was seconded by Dr. Martello that it be:

RESOLVED, that the action of the President in entering into a resolution in the matter involving Clyde L. Rougeou, D.D.S., via Consent Decree by and between the Louisiana State Board of Dentistry and Clyde L. Rougeou, D.D.S., (as per copy of Agreement Containing Consent Decree which is attached hereto and made a part hereof), be adopted, confirmed, and ratified by this Board; and further that all acts of the President, Board members, and Executive Director in the furtherance of this purpose are hereby ratified.

After voting unanimously in the affirmative, the motion was declared passed.

Next, the board reviewed the LDA peer review report from January-December 2010. All were satisfied and no questions were asked.

Discussion then ensued on mid-level providers. As this had been discussed earlier in the meeting, no action was taken.

Discussion then ensued on remediation. Dr. Martello said that he had heard from the doctors at LSUSD that the board needed to be more specific in its requests for remediation. The board agreed and all future consent decrees where remediation is required, the board shall specify which areas of dentistry where remediation is required.

Discussion then ensued regarding the program by "Snap On Smile." Although it was the opinion of the board that their program may be in violation of the Louisiana Dental Practice Act, the board decided to take no action at this time and see how this issue developed.

Mr. Ogden was instructed to remind all licensees of the prohibition of fee splitting. He was also instructed to advise all licensees that Automated External Defibrillators will be required in all dental offices after January 1, 2012. Mr. Ogden will include these announcements in the summer update.

Discussion then ensued on the term "Proceedings" as set forth in R.S. 37:780(B). After some discussion, Dr. Trinca made the motion which was seconded by Dr. McVea that it be:

RESOLVED, the term "Proceedings" as set forth in R.S. 37:780(B) means all actions from the beginning of an investigation to the finality of a judgment including the appellate process encompasses "Proceedings."

After voting unanimously in the affirmative, the motion was declared passed.

Discussion then ensued on the call for information on Dental Cone Beam Computer Tomography ("CBCT"). It was noted that although the American Dental Association was seeking comments on this new technology, the board was of the opinion that this is regulated by the Department of Environmental Quality. As such, no action was taken.

The board then reviewed the articles that were forwarded to the board by Dr. Mayer. The first being a very nice article by Louis Malcmacher, D.D.S. who noted that dental boards around the country and the American Association of Dental Boards were valuable assets to the public and should be supported by all dental associations.

Next, discussion regarding Kellogg moving ahead on their dental therapists projects and all felt that they would be coming to Louisiana sometime in the near future.

Discussion then ensued on the functions of each committee of the board. There were no questions and no action was taken.

At this point, Dr. Manning made the motion which was seconded by Dr. Blackwood that it be:

RESOLVED, that the Louisiana State Board of Dentistry go into Executive Session for the purpose of discussing investigations, adjudications, litigations, and professional competency of individuals and staff; and

BE IT FURTHER RESOLVED, that the Louisiana State Board of Dentistry may discuss litigation in Executive Session when an open meeting would have a detrimental effect on the bargaining and litigating position of the Louisiana State Board of Dentistry.

After voting unanimously in the affirmative, the motion was declared passed.

Upon returning from Executive Session, Dr. Blackwood made the motion which was seconded by Dr. McVea to amend the agenda to take up discussion of the executive director search. All but Dr. Philippe voted in the affirmative. As such, the Agenda was not amended.

At this point, Dr. Trinca made the motion which was seconded by Dr. McVea that it be:

RESOLVED, that the Louisiana State Board of Dentistry hereby authorizes and directs its Secretary-Treasurer to pay all per diem and authorized expenses to those Board members in connection with the December 3-4, 2010 board meeting and hearings held in New Orleans, Louisiana.

BE IT FURTHER RESOLVED, that the Secretary-Treasurer is authorized and directed to pay up to two additional travel days in per diem to Board members requiring same in connection with their attendance at said meeting.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Trinca made the motion which was seconded by Dr. McVea that it be:

RESOLVED, that the Louisiana State Board of Dentistry hereby authorizes and directs its Secretary-Treasurer to pay all per diem and authorized expenses to those Board members in connection with the January 21, 2011 meeting with the senior class held at Louisiana State University School of Dentistry.

BE IT FURTHER RESOLVED, that the Secretary-Treasurer is authorized and directed to pay up to two additional travel days in per diem to Board members requiring same in connection with their attendance at said meeting.

After voting unanimously in the affirmative, the motion was declared passed.

Next, Dr. Trinca made the motion which was seconded by Dr. McVea that it be:

RESOLVED, that the Louisiana State Board of Dentistry hereby authorizes and directs its Secretary-Treasurer to pay all per diem and authorized expenses to those Board members in connection with the January 28-30, 2011 Southern Conference of Dental Deans and Examiner's meeting and hearings held in Charleston, S.C.

BE IT FURTHER RESOLVED, that the Secretary-Treasurer is authorized and directed to pay up to two additional travel days in per diem to Board members requiring same in connection with their attendance at said meeting.

After voting unanimously in the affirmative, the motion was declared passed.

At this point, Mrs. Cassidy made the motion which was seconded by Dr. Baudean that it be:

RESOLVED, that the Louisiana State Board of Dentistry hereby adjourns its meeting of February 18, 2011.

After voting unanimously in the affirmative, the motion was declared passed.

Dr. Madison then adjourned the meeting at 5:00 PM.

Dean Manning, D.D.S.
Secretary/Treasurer
Louisiana State Board of Dentistry