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June 28, 2016

Dear Sunset Commission,

Thank you for your very lengthy day on Thursday to hear from the different agencies. In particular, thank you for listening to the Dental Board's representatives.

I wanted to take advantage of your offer to make one additional statement to you. I will cover the three major concerns. Board member's conduct and board size, registration of dental assistants, and dental anesthesia safety.

Issue One:

I would ask that you not judge the whole board based on the action of a few members. The majority of the board unquestionably have public safety as their number one objective and have sacrificed family, occupation, financially, and pleasure to serve the citizens of Texas for that purpose.

We need a reasonable number of dentists on the board. The responsibilities of the board are very time consuming. We need workers with the knowledge base to carry out the tasks. Fewer dentist members would put an unreasonable workload on men and women that are serving in a volunteer and uncompensated position. Failure to be able to hear cases in the Informal Settlement process in a timely and conversant manner will force more cases to go to SOAH which is taxing on the staff, more expensive for the citizens of Texas, and delays resolution of cases which is frustrating for respondents and complainants alike.

Finally, it should be noted that with regard to our function as a board, there was no criticism of the board during public comment time of the Sunset Commission hearing from the citizens of Texas. Also, at our quarterly board meetings during public comment time, which is open to all people, there is little or no criticism regarding the board being too lenient or too harsh in the licensing, investigative, or enforcement duties of our agency.

I am committed as our board presiding officer to make sure the health, safety, and welfare of the public is our chief concern and motive. I will do this through training, admonition, and leadership.

Issue Two:

We need to insure the citizens of Texas are protected by registering our dental assistants. This is the entry level into the dental workforce. Most of these assistants are trained on the job. They play a critical role in public safety especially in the areas of radiography, infection control and nitrous oxide monitoring.

Registration would insure that they have a basis of knowledge that is consistent from office to office and which can be built upon on the job. Failure to empower these individuals to be motivated to serve in this capacity would create a crisis with regard to access to care in Texas.

We are committed to make this registration process simpler and clearer without sacrificing the product.

Issue Three:

One death for any reason in a dental office is too many. Although having inherent danger, dental anesthesia is being delivered safely. It should be noted that the 100 cases cited in the Sunset Report over a five year period were not necessarily complaints by citizens of Texas. Many cases were the practitioners reporting that a problem had occurred during a procedure when anesthesia was being delivered. 41 involved deaths but only 13 of these cases were shown to have an element of the delivery that was below the standard of care. Some of these elements were unrelated to the patient's death such as record keeping. Appropriate action to the best of our judgment was taken on all these cases.

There are 12,000 anesthesia permit holders in Texas. If each of these permit holders performed just one sedation per day in a 200 day year over this five year period then 12,000,000 sedations would have been performed. Therefore, the risk would be 1 in 1,000,000.

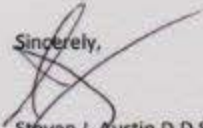
Rules are always in need of improving but the rules in place, if followed, create a safe delivery. For example, rule 110.5, for moderate sedation, contains 30 "must" statements that if followed creates an environment for safety when anesthesia is delivered. Failure to follow these rules, result in discipline by the board up to revocation of permit or dental license.

Finally, dental anesthesia allows access to dental services to the very young, the elderly, and the disabled which may otherwise be very difficult, impossible, or inhumane. Unreasonable roadblocks to this delivery modality will hurt these citizens of Texas.

Can it be done safer? Always! Is that our responsibility? Definitely! We are committed to do that very thing.

Thank you for allowing me to address these three issues. I am available to you or your staff as a resource.

Sincerely,



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Presiding Officer
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APR 25 2016

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April 25, 2016

Dear Sunset Committee,

I must admit that I was taken aback by the evaluation of the Board in the Sunset Staff Report at the first reading. The primary reason for my initial reaction is twofold. First, I have been an appointee for the last eight years. I have been through all five Executive Directors and five General Counsels. There is only one department head that is still employed from when I came on to the board. I have also served under four different presiding officers. However, I believe the staff is stronger, more cohesive, more creative, and productive than it has ever been. I feel that it is poised to meet and exceed performance standards more than ever before. Second, I believe the current board members are hardworking public servants that do have public safety foremost in their minds. Therefore, now my reaction to the report is that it contains constructive criticism that will help us make a course correction to better serve and protect the public. I feel that we have an Executive Director and staff as well as a board that can make that happen.

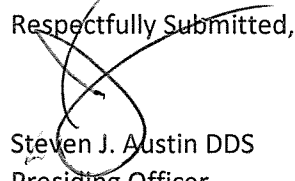
With this in mind I would like to make the following response...

1. We accept the challenge that anesthesia safety is a growing concern with the public, the governor and the legislature. The public has demanded that dentistry be done in a comfortable setting especially for many surgical procedures. There has been a great increase in the number of dentists providing these services with relatively few bad outcomes. Nevertheless, we view one negative outcome as too many and want to put safeguards in place that will make this part of dentistry as safe as possible. The adoption of rules regarding inspections and safety protocol will be a priority.
2. I believe the current board size is necessary for carrying out the function of the board. The seven dental members allow for a diversity of geographic, demographic, and practice styles. This diversity is critical in the discussions involving rule making, standard of care issues, and strategic planning. This diversity is a safety net even in the process of signing off on board sanctions to make sure they are fair and equitable to both the complainant and the respondent. There are a growing number of informal settlement conferences which require board member attendance. These settlements require a day of preparation and a day of attendance plus travel. This would be a burden on a small board. It would be very expensive to the state to have to depend more on paid staff or consultants. Currently four board members examine for WREB. Even though the staff no longer administers the exam, board members are needed to fill roles as graders for the exam and participate in the formulation of the exam and operation of the Western Regional Examining Board. For all these tasks, I believe the added cost of a full slate of board members is minimal compare to the production of these members.

3. We believe that dental assistants are a critical part of delivery of care to the public. Radiology safety, infection control, and nitrous oxide monitoring are three of many public safety roles that they perform. Not only are they the dentist's right hand but they are a confidante to our patients that are critical to helping us provide comfortable and save care. The different credentialing elements provided by our board help give our staff a cost effective degree of training and impetus for continuing training. It provides a means of screening a potential employee for criminal activity. It also helps track these employees as they might move from office to office. The revenue received from this credentialing self-funds the action of the board. The cost to the individual office is much lower than the training and credentialing we might have to attain in the private setting. This credentialing also give this large number of Texans a sense of pride that they are a part of professional delivery of care to the public.
4. Patient advocacy and patient care go hand in hand. We want to keep ourselves at arm's length from the stakeholder. We want to take advantage of their insight and perspective but most stakeholders are not primarily representing the public but the providers. I view the board as the public's stakeholders. A majority of our contact with the public comes from those who bring a complaint to the board. Our role as board members is to represent the public as we evaluate these complaints. Through board member training, advice from our legal staff, and my leadership as presiding officer I pledge to keep public safety and public interest as a priority.
5. The hygienist and the dental lab professionals are a critical part of the dental team. Currently the dental hygienists are well represented on the board. I believe their number should remain at two. The dental lab professionals are a hidden element in the delivery of care but directly reflect the quality of prostheses that the public receives. I agree that between the two hygienist represented on the board plus stakeholder meetings representing hygiene interest, and also stakeholder meetings representing lab professionals, the staff and board would have better direct contact with both parties and better coordinate patient care and safety.
6. With regard to Issue Four, dealing with licensing and regulatory functions, I believe changes would be generated by the executive director and legal staff. We have stability in these positions and my intention is to empower them to do their job to bring rule and policy changes that the board will thoughtfully consider and adopt. Those items that need statutory changes, we would request that those elements be considered thoughtfully by the legislature.

I would request patience as we address these issues. Our intention is to address them thoughtfully, methodically, and respectfully. Our intention will be to be fair and honest in our dealings and to keep an eye on our primary goal, public safety.

Respectfully Submitted,


Steven J. Austin DDS
Presiding Officer
Texas State Board of Dental Examiners