

Howard H. Hunt Jr., DDS  
President, TAPD



## Texas Academy of Pediatric Dentistry

A Chapter of:



AMERICA'S PEDIATRIC DENTISTS  
THE BIG AUTHORITY ON LITTLE TEETH.

June 8, 2016

TO: Sunset Advisory Commission Members  
FROM: The Texas Academy of Pediatric Dentistry  
RE: The Texas State Board of Dental Examiners

Dear Chairman Gonzales and Members of the Sunset Advisory Commission,

I am the current president of the Texas Academy of Pediatric Dentistry (TAPD), a member organization made up of pediatric dentists across Texas. As the leader in children's oral health in Texas, the TAPD strives to ensure safe and optimal oral healthcare for all children through its advocacy, education resources, research, and community based programs. We are the "*Big Authority on Little Teeth*."

The main purpose of TAPD's advocacy efforts is to assist in creating policy that will continue to enhance and improve the quality, safety, and oral health of the children of Texas. With that in mind, I would like to take the opportunity to provide you with TAPD's comments on the Sunset Advisory Commission Staff ("Staff") Report on the Texas State Board of Dental Examiners (TSBDE or "the Board"). For the sake of brevity, I have only included comments on those of most importance to TAPD members.

**Staff Recommendation 1.1** – Reduce the size of the Board from 15 to 9 members and adjust its composition to consist of four dentists, two dental hygienists, and three public members.

TAPD Response to Recommendation 1.1 – TAPD does not support this recommendation.

TAPD understands the Staff's view of the Board. It has been a difficult decade for the TSBDE, and the caseload that occurred over the years was difficult to handle, even for 15 board members. With the fairly new expert panels, the Board has finally gotten some relief from the overwhelming caseload of complaints. There is no doubt that the result of HB 3201 (83<sup>rd</sup> Regular Session) has made the Board more efficient, which makes the Staff's recommendation to reduce the number of Board members understandable. However, TAPD does not believe that the

5414 27<sup>th</sup> \* Lubbock, Texas \* 79407 \* [www.tapd.org](http://www.tapd.org)

reduction will serve to truly protect the dental patients of Texas, particularly the pediatric patients. In our mind, a reduction will reduce the amount of expertise needed not just for case resolution but for rulemaking as well. Similar to the Texas Legislature, the Board's diversity in expertise allows for better discussion and rulemaking. Reducing the size of the Board will undeniably reduce the various experience, expertise, and particularly the specialty training that the Board currently has. It is the difference in specialties and practice experience that helps the Board create rules that will best benefit the citizens of Texas as well as the practice of dentistry.

Currently, the Board contains the following specialists: one oral surgeon, one periodontist, one dental anesthesiologist, and one pediatric dentist. Those specialists coupled with four general dentists and two dental hygienists all are crucial to keeping a broad view of the practice of dentistry and the safety of dental patients. As specialists in treating children, pediatric dentists always think of how a regulation or case result will affect all of the children of Texas. This viewpoint and experience is important when devising or reviewing regulations. The same can be said of other dental specialties and their respective expertise. By reducing the number of dentist members to only four, the result will be less specialty representation on the Board, and TAPD believes that this will remove the robust, crucial experience and specialty expertise that exists on the Board now. Taking into account the specialty nature of children's oral healthcare, and because we are the only group that is trained specifically in the needs of children, the TAPD believes a pediatric dentist should consistently remain on the Board.

We are aware of the case *North Carolina State Board of Dental Examiners v. FTC* that recently was decided in the U.S. Supreme Court, and we know that this could affect your view of whether dentists should be the majority of members on the TSBDE. However, TAPD believes that the Texas State Legislature already provides the active oversight discussed in the Supreme Court's majority opinion. The TSBDE is under review during each legislative session, both through the House Appropriations and Senate Finance committees, and by the House Public Health and Senate Health and Human Services committees. The TSBDE is also reviewed during every interim by the aforementioned committees. Plus, every public citizen and Texas Legislator has the ability to influence decisions on proposed regulation during the public comments period after a rule is published in the Texas Register. Finally, the Board members are appointed by our Governor and approved by the Texas Senate, which adds additional oversight to the Board members' actions. Together, these offer ample active oversight by the sovereign State of Texas.

Further, we ask that you take into account a few possible problems created by such a large reduction of dentists on the Board. First, because most dentists practice daily on patients and run their own dental practices, they have particular knowledge of the direct effect of the regulations that the TSBDE passes, both on their patients and their businesses. Second, having such a slim number of dentists can give a certain sect of dental practices potentially more power over rulemaking at the Board level. Finally, a reduction could possibly introduce too much political and lobbyist influence on and within the Board, which would not be good for the State of Texas.

TAPD believes in the good intentions of the Board, and we believe that the State Legislature has, and will continue, to provide the ongoing active supervision of the Board, even with a majority of dentists on the Board. TAPD urges you to keep the TSBDE members to 15. If the Sunset

Commission and Legislature consider reduction as imperative, TAPD suggests reducing the number by only two members, one dentist and one public member.

**Staff Recommendation 1.2** – Allow the Board’s statutory advisory groups to expire and direct the board to establish clearer processes for stakeholder input in rule.

TAPD Response to Recommendation 1.2 – TAPD is neutral on this recommendation.

We believe the advisory groups do provide beneficial insight helpful to the Board, particularly the dental hygiene advisory group, but that input could also come from specially called stakeholder workgroups or ad-hoc committees when needed.

**Staff Recommendation 1.3** – Clarify the use and role of Board members at informal settlement conferences.

TAPD Response to Recommendation 1.3 – TAPD partially supports this recommendation.

Expert panels have become crucial and invaluable to case resolution before the TSBDE. TAPD fully supports the continued use of the panels. The expert opinions given on cases before the Board should weigh heavily at any informal settlement conferences (ISCs). However, other dental opinions from Board members should not be disregarded. TAPD believes it is important for a dentist and/or a dental hygienist (as the case may be) to preside at ISCs because of their technical training.

**Staff Recommendation 2.1** – Discontinue the Board’s dental assistant certificate program.

TAPD Response to Recommendation 2.1 – TAPD does not fully support the Staff’s recommendation.

In the past, TAPD has worked closely with legislators to expand dental assistants’ abilities within the dental office. Coronal polishing has been particularly important for pediatric dentists to delegate to their assistants. In working last session to broaden the places for dental assistants to become certified in coronal polishing, TAPD and the TSBDE agreed that streamlining the dental assistant certification program would be very beneficial to the efficacy of the TSBDE. We agree with Staff’s recommendation to make the Board more efficient with regard to the dental assistant certification program, but we believe entirely removing the regulation of dental assistants would contradict with the corresponding training and continuing education required for dentists and dental hygienists.

Along those lines, TAPD is concerned that should dental assistant registrations and/or certifications be revoked, some dentists will not require their dental assistants to maintain continuing education (CE). Dental assistants provide care to all patient types, and the practice of dentistry changes with new products and procedures. It is in the best interest of our citizens to ensure that dental assistants receive continual CE. One example of the importance of CE to dental assistants comes from a pediatric dentist who provides care for autistic children. Her assistants attended a CE designed for them that focused on creating positive experiences with

autistic patients. They returned from the CE with a new skill set, more patience, and the confidence to better serve the unique needs of these patients that they did not have prior to the CE. And while the Staff believes it is in the best interest of the dentist to ensure this type of training, TAPD also believes that the State should have a vested interest in the continued training of dental assistants.

As an alternative, TAPD suggests that dental assistants use a simple “check the box” registration system for their licenses or certifications with the Board. This will streamline the process for the Board while maintaining the Board’s ability to regulate dental assistants. It will also ensure that dental assistants continue to receive the appropriate training in the same way dentists and dental hygienists are required.

**Staff Recommendation 3.1** – Authorize the Board to conduct inspections of dentists administering parenteral anesthesia in office settings.

TAPD Response to Recommendation 3.1 – TAPD supports this recommendation with further suggestions.

TAPD is truly saddened by the recent deaths in dental offices. While we do not know the full details of them, we do know that some have been sedation related. In their 24 to 36 months of residency, pediatric dentists are specifically trained how to correctly identify pediatric sedation candidates, calculate appropriate dosages, and safely administer anesthesia to children. Unfortunately, some dentists have gone against the specific guidelines set forth by the American Academy of Pediatric Dentistry, and/or other specialty guidelines, which has led to poor outcomes. With this in mind, TAPD wants to support ways to ensure that children are protected, whether through inspections, further training, or otherwise.

TAPD has been involved in the ongoing anesthesia workgroup that the Board organized in April. The focus of that workgroup is to determine the best way inspections will work for sedation permittees. TAPD’s representative to that workgroup, Dr. Kelly Gonzales of Georgetown, has submitted TAPD’s thoughts and suggestions on inspections, which I have attached to this letter. In sum, while TAPD does not have the data to support that inspections will increase patient safety, we believe the potential exists. We believe that if provider and/or office inspections save even one child’s life, then we should have them. However, to truly keep the children of Texas safe, TAPD believes that more should be done.

TAPD believes that providers, whether dental or medical, who provide in office sedations should be properly trained in drug administration and medical emergency procedures. This training should be hands-on interactive training tailored to each level of sedation so that providers are trained accordingly for the level of sedation that he or she is administering. The training should end in an examination based on their level of sedation, and providers administering anesthesia should be required to attend these interactive courses on a regular basis. TAPD also suggests that all providers who administer anesthesia to children under the age of 12 receive special pediatric training, such as Pediatric Advanced Life Support (PALS), and such training be noted on the sedation certificate.

Ultimately, TAPD wants to keep the children of Texas safe. Whether it is through office inspections, provider inspections, sedation emergency training classes, or any combination, we will work with you, other legislators, and stakeholders to help keep our little Texans healthy and safe.

**Staff Recommendation 3.2** – Direct the Board to revise rules to ensure dentists with one or more anesthesia permits maintain related written emergency management plans.

TAPD Response to Recommendation 3.2 – TAPD supports this recommendation.

The Staff's recommendation is very fundamental for the practice of dentistry, so much so that TAPD members are already creating some standard written emergency plans that we can share among our membership. TAPD will work with TDA and other dental organizations to create the best emergency plans for each level of anesthesia permit.

**Staff Recommendations 4.1 thru 4.6** – TAPD supports each of these recommendations and does not have any further comments regarding them.

**Staff Recommendations 5.1 and 5.2** – TAPD supports the continuing of the TSBDE for another 12 years and updating the conflict of interest provisions.

Thank you for your time and for taking TAPD's views in consideration. We look forward to the opportunity to speak with you personally.

With kindest regards,

Howard H. Hunt Jr., DDS  
President, Texas Academy of Pediatric Dentistry  
Diplomate, American Board of Pediatric Dentistry