

April 22, 2016

Sunset Advisory Commission  
P.O. Box 13066  
Austin, TX 78711  
Email: sunset@sunset.Texas.gov

Re: Sunset Advisory Commission recommendations of the Texas State Board of Dental Examiners

Dear Sunset Commission members,

As a professional dental assistant, I would like to thank you for the opportunity to respond to the Sunset Advisory Commission recommendations made in April 2016, specifically regarding Issue 2 about the state regulation of dental assistants. After carefully reading the Full Staff Report, I believe that a change in statute to discontinue the board's dental assistant certificate programs would compromise patient protection. The primary problem appears to be that the State Board of Dental Examiners is over burdened with the processing of many dental licenses and certificates, however I firmly believe that discontinuing regulation of dental assistants will not solve the problem, because the problem is not the certificates, as these programs have proven to safeguard the public safety of Texas citizens. Perhaps a better plan could be to work together to find viable solutions to the real problem without compromising patient safety. I would appreciate your consideration of some possible solutions that I have researched for the good of all Texas citizens and the dental profession. These dental assistant certificates allow the Board to achieve their primary goal of public protection by issuing registration and monitoring licensees who have been placed on probation.

I would like to begin by presenting reasons why the state of Texas should keep all the current dental assistant certificates in place, because with each certificate issued, patient protection improves.

**FINDINGS: (Sunset Report) Dentists are ultimately responsible for patient care and safety.**

Texas and several other states hold dental assistants accountable for their actions, as evidenced by the amount of sanctions that are imposed. In 2013 and 2014 I attended many TSBDE meetings and there were an average of 20-30 sanctions imposed on dental assistants alone, many involved felony offences and some involved practicing dentistry without a license (Dr. Nelson, license#16592 who allowed his assistant to administer anesthesia and suture a patient following tooth extractions), (RDA#69576 who practiced dentistry without a license), (RDA#34207 practiced dentistry without a license by using an ultrasonic device on several patients, and removed cement from a temporary filling for a patient). Without the current certifications in place, there would be no opportunity for the state to make those who violate laws accountable and to reprimand these offenders. Texas does offer avenues of recourse to patients who receive substandard care through these certificate programs.

**FINDINGS: (Sunset Report) The opportunity for dental assistants to cause serious patient harm is minimal. Dental assistants are limited to performing low risk tasks.**

The U.S. Bureau of Labor Statistics lists typical duties of a dental assistant that include preparing patients and the work area for treatments/procedures, expose/process dental x-rays, sterilize dental instruments, etc. All of these tasks could cause serious harm to a patient if not done properly including radiation exposure, disease transmission from improper use of sterilizer, or cross contamination if treatment rooms and equipment are not properly disinfected. The dental assistants who were employed by Dr. Harrington in Tulsa, OK are perfect examples of how, either directly or indirectly, improper infection control procedures exposed over 7000 patients to HIV and hepatitis. Countless public health measures to protect against the spread of infectious diseases have been instituted in the U.S. including the CDC. The CDC recognizes that infection control in dental settings is different and has published recommendations directed specifically toward dentistry including their newest one, a checklist for infection prevention for dental settings in 2016.

**FINDINGS: (Sunset Report) Dental assistants have no direct role in the administration of anesthesia**

This statement is true, however dental assistants have a very direct role in monitoring anesthesia in dental offices that utilize Nitrous Oxide and those that utilize oral or IV sedation. More and more states are requiring dental assistants to take additional training (as they should) to learn how to properly monitor a patient who is under anesthesia. Many courses or programs are available that train dental assistants to recognize signs and symptoms of a patient's condition so she can alert the doctor of potential problems. So yes, my continual training played a direct role in the monitoring of anesthesia.

**FINDINGS: (Sunset Report) Dental assistants do not have to submit documentation of continuing education courses. Continuing Education could be better enforced by the employing dentist without state regulation**

I disagree with these statements because on the TSBDE renewal form for dental assistants there are directions under the heading Documenting Continuing Education (CE) Hours and Credits that state "Dental Assistants should keep records on all CE completed for a period of three years." Additionally under the heading Submitting Proof of Completed CE Courses, it states that "Dental Assistants are not required to send proof of CE until notified by the Board." Those statements on the renewal form indicate that the Board does indeed require CE and how it should be documented. The Texas Occupations Code Sec 265.007 (a), (b), (c) specifically states that dental assistants holding certificates must obtain CE annually.

**FINDINGS: (Sunset Report) Other states do not provide a clear model for regulating dental assistants.....**

**18 states do not regulate dental assistants at all.**

The national trend has been to increase the regulation of dental assistants. While it is true that, by my count, there are 17 states that do not issue credentials to dental assistants, it is not entirely accurate to say that these states "do not regulate dental assistants at all." In many of these states, there are statutes and/or rules and regulations setting forth minimum requirements that dental assistants must meet before they can perform specific functions. For example, Illinois does not issue credentials to dental assistants, but has established in regulation a set of education, examination and work experience requirements that a dental assistant must meet before a dentist may delegate coronal polishing, coronal scaling, application of sealants, monitoring patients under nitrous oxide or sedation, and placing, carving and finishing amalgam restorations. In another example, Connecticut statute requires that dental assistants pass a radiography examination from the Dental Assisting National Board, Inc. (DANB) before performing radiography procedures. In all, 15 of the 17 states that do not issue credentials to dental assistants do have some type of requirements for dental assistants established by statute or regulation; in at least eight of these states, the state dental board or another state agency is actively involved in approving courses or exams that meet the requirements. Therefore, the number of states that lay the full burden of dental assistant oversight on the shoulders of the dentist without any statutory or regulatory guidance is only two. Please see attachment of State Credentialing of Dental Assistants by the Dental Assisting National Board. In Title 16. Dental Board of California Department of Consumer Affairs, under statement overview, it states "The Board's highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are issuing licenses to eligible applicants, investigating complaints against licensees, disciplining licensees for violating the Dental Practice Act (DPA), monitoring licensees whose license has been placed on probation, and managing the Diversion Program for licensees."

**FINDINGS: (Sunset Report) Board resources would be of better use supporting higher risk professional licenses**

I agree that Board resources could be better served, but deregulation of dental assistants is not the answer. All dental health care members pose risks to patient protection and safety. Investigating possible solutions to the problem of processing applications would better serve the health and safety of the public. The TSBDE has just recently, 2016, required the applicant to complete their own background checks, which should significantly reduce the TSBDE staff time in completing the application process, thus decreasing the work load of staff. Please see suggested solutions below.

**FINDINGS: (Sunset Report) Dental assistants are not subject to background checks before licensure**

I do not understand this statement because since the inception of the Registration of Dental Assistants in Texas, the application asked specific background questions directly on the application in 2006. I was under the impression that

TSBDE does do background checks on every applicant, which is where we often see the Board issuing probations to dental assistants with questionable felonies or misdemeanors that could pose possible threats to patients. In fact the TSBDE now requires each applicant to pay a fee and have background checks with the National Practitioner Data Bank (NPDB) self-Query report and the American Association of Dental Boards (AADB) Clearinghouse Self-Query Report.

Again, the primary problem appears to be that the Texas State Board of Dental Examiners is over burdened with the processing of many dental licenses and certificates, however I firmly believe that discontinuing regulation of dental assistants will not solve the problem, because the problem is not the certificates, as these programs have proven to safeguard the public safety of Texas citizens. I would like to help find a viable solution to the problem and not compromise patient safety. The original law that was passed in legislature over 10 years ago proved to congress that regulation of dental assistants is necessary to protect the public health, safety, or welfare of Texas citizens. To discontinue these certificates would be a giant leap backwards. Below I have listed possible solutions to explore to solve the problem without compromising patient safety.


#### **SOLUTIONS TO EXPLORE:**

The burden of processing 50,000 renewals and new applications with limited staff and funds is the problem, not the certificates. These certificates are providing public protection with every one that is issued. Some ideas that might be explored as possible solutions are:

1) Combining the certificates on one document, similar to what the Oklahoma Board of Dentistry does. They list every available certificate with a "Yes" or "No" if the individual holds one or more certificates on one paper certificate, thus reducing the volume of certificates issued and probably reducing Board time and resources.

2) To increase the funding allotted to the TSBDE, perhaps during peak times of renewals of all licenses to accommodate additional personnel to handle the work load, usually when students graduate from dental or dental hygiene school.

3) The Board has very recently (less than 4 months ago) shifted the burden of performing background checks to the applicant, so it probably is too early to see how this will decrease the burden of processing applications, but I feel that this will significantly improve the TSBDE burden and lighten the workload .

4) Another state (CA) has gone to an electronic process called Breeze.  This program is a new online licensing and enforcement system. Within this system, several services are offered, such as: verifying a professional license, filing a consumer complaint, submit a license application, renew a license or even change an address or name. California processes approximately 54,000 dental assistant registrations, very similar to Texas.

Again, I thank you for allowing me the opportunity to voice my opinion. Please let me know if there is anything I can do to help solve this problem as I am ready and willing, because together I feel confident that we can help protect the public collectively and utilize resources more efficiently.

Sincerely,

*Ronda V. Lane*

Ronda V. Lane, BS, CDA, RDA, FADAA