

Response to Sunset Commission's Review of the Texas State Board of Dental Examiners

The Sunset Commission report is concerned with dental anesthesia issues in the dental office. Texas laws allows anesthesia in a hospital or surgery center for dental procedures to a child with medical insurance. With Medicaid, CHIP and the ACA coverage required for children, anesthesia issues in the dental office should be minimal. One must question why there are anesthesia issues with children in the dental office. Could it be that many of the dental offices where these anesthesia issues occur are operated by dental management companies and other entities not wholly owned, operated or maintained by licensed dentists?

The "Joint Staff Report on the Corporate Practice of Dentistry in the Medicaid Program" released by U.S. Senators Baucus and Grassley focuses on dental management companies. The investigation found a failure to meet quality and compliance standards, including unnecessary treatment on children; improper administration of anesthesia; providing care without proper consent; and overcharging the Medicaid program.

According to the report, the dental management companies have placed control of their operations in the hands of corporate investors and the result is a system that "places profits above patient care." The report emphasized that States that do not allow the "corporate practice of dentistry" should actively enforce their laws. Texas is one of twenty two States which do not allow the "corporate practice of dentistry". The U.S. Fifth Circuit Court of Appeals has upheld rulings that these dental management companies are practicing dentistry in Texas without a license. Yet there is no enforcement by any State Agency against such practice.

Currently, the Dental Board has no authority over these dental management companies. The Sunset Commission Report chastised dentist Board Members for time spent attempting to pass rules and regulations to protect the citizens of Texas from these dental management companies. One dental management company, owned by a Canadian Teacher's pension plan, is attempting to "capture" State dental boards by placing dentist members on the dental boards. The Texas Dental Board will soon have two dentist Board Members who work with this pension plan. In past years, the Dental Board would have disciplined any dentist working with a dental management company as "aiding and abetting" the illegal practice of dentistry. Dentists have filed complaints with the Dental Board regarding this matter and they remain unanswered. Such conflicts of interest continue to remain hidden and undisclosed.

In summary, the names of every person who dies or is abused by these questionable dental management companies should be tattooed on every State lawmaker who fails to address the dental management companies because of lobbyist contributions. The same can be said for State employees who fear push-back from Lawmakers. Texas has strict laws and great case law against the "corporate practice of dentistry". Yet, Texas remains the "Sanctuary State" for these dental management companies. This should not be.

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