

From: [Sunset Advisory Commission](#)
To: [Dawn Roberson](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Monday, June 27, 2016 1:28:19 PM

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Monday, June 27, 2016 1:20 PM
To: Sunset Advisory Commission
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: STATE BOARD DENTAL EXAMINERS SBDE

First Name: Boyd

Last Name: Shepherd, D.D.S., J.D.

Title:

Organization you are affiliated with:

Email: boyd@legaldental.com

City: Houston

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or
Opposed:

Response to 1.1

I support Recommendation 1.1; however, regardless of the board's size, a dentist majority must be maintained.

Response to 1.2:

I support Recommendation 1.2, to allow the Board's statutory advisory groups to expire and direct the Board to establish clearer processes for stakeholder input in the Board's rules.

Response to 1.3:

I support Recommendation 1.3, that the use and role of board members at informal settlement conferences should be clarified.

Response to 2.1:

I do not support Recommendation 2.1, as it would be unwise to discontinue the board's dental assistant certificate programs from a public safety viewpoint.

Response to 3.1:

I support Recommendation 3.1, to authorize the Board to conduct inspections of dentists administering parenteral anesthesia in office settings.

Response to 3.2:

I support Recommendation 3.2, to direct the Board to revise rules to ensure dentists with one or more anesthesia permits maintain related written emergency management plans.

Response to 4.1:

I support recommendation 4.1, to require the Board to monitor licensees for adverse licensure actions.

Response to 4.2:

I support recommendation 4.2, to authorize the board to deny applications to renew a license if an applicant is not compliant with a board order.

Response to 4.3:

I support recommendation 4.3, to authorize the board to require evaluations of licensees suspected of being impaired and require confidentiality for information relating to the evaluation and participation in treatment programs.

Response to 4.4: I support recommendation 4.4, to remove unnecessary qualifications required of applicants for licensure or registration.

Response to 4.5:

I support recommendation 4.5, to direct the board to make data on the board's enforcement activity information publicly available on its website.

Response to 4.6:

I support recommendation 4.6, to direct the board to stagger registration and certificate renewals.

Response to 5.1:

I support recommendation 5.1, to continue the State Board of Dental Examiners for 12 years.

Any Alternative or New Recommendations on This Agency:

The Honorable Larry Gonzales, Chair
Texas Sunset Advisory Commission

Re: Sunset Review of the Texas State Board of Dental Examiners, Alternative or New Recommendations on This Agency [Written Statement of Public Testimony, June 23, 2016]

My name is Boyd W. Shepherd, D.D.S., J.D. I am a licensed Texas dentist, having graduated from the UT School of Dentistry-Houston and became licensed in 1988, as well as a licensed Texas attorney, having graduated from South Texas College of Law and became licensed to practice law in 1994. I'm member of the Greater Houston Dental Society, the Texas Dental Association, and the American Dental Association.

The highlight of my career is that I have been faculty at the UT School of Dentistry in Houston since 2007. As an Associate Clinical Professor, I the director of several courses including courses in Ethics, Practice Management, Communications, and Law and Regulations. I'm vice-chair of the UTSD Houston Admissions Committee, and I am also the co-director of the UTSD Houston Professional Resource Center.

As an attorney, I've been representing Texas dentists before the State Dental Board of Dental Examiners since 1994. I am proud to say that I have an excellent working relationship with the Dental Board and the Dental Board's staff. Over the past 20 years, I have converted my experiences of representing doctors and handling cases before the Dental Board not only into a distinct expertise, but also into a valuable curriculum for the dental students, dental hygiene students, and dental assisting students attending my courses and CE presentations.

It is with this unique background and perspective that I offer the following public commentary, specifically as to Issue 1 of the Sunset Staff Report, "Unusually Large Dental Board Inappropriately Focuses on Issues Unrelated to Public Safety":

It is my opinion that public safety has more to do with licensee compliance than actual Dental Board size. Likewise, compliance has to do with enforcement and education, and compliance is dependent on both. Enforcement is typically after the problem or violation has manifested itself, whereas education deals with prevention of problems and violations.

So, with a focus on education as a measure of prevention, please reference Texas Administrative Code, Title 22, Chapter 104, Rule 104.1. This rule provision of the Dental Board is the continuing education requirements for

Texas dental licensees.

First, as you can see, currently, there is virtually no focus on education with respect to the law that regulates a dentist's license, nor with regard to ethics and professionalism. There is merely a mention of ethics as a side note to a provision that dentists "may" take up to 4 hours in the subject area of risk management, which "may" include ethics. But there is no requirement of any dental CE in ethics.

Second, in order to educate dentists regarding the law that regulates their licenses, currently there is the Jurisprudence Assessment. This "assessment" method is financially good for the Board, and it is easier to monitor, as it is online, and it is much more efficient for the licensees to access and utilize. However, this method teaches nothing with regard to the law that regulates their licenses, as licensees merely have to rotate through all of the answer choices until the correct answer is chosen without ever having to learn or know anything in order to "pass" or complete the assessment requirement. Therefore, compliance naturally suffers as a result of the lack of knowledge that this jurisprudence assessment enables. The result is obvious: less education equals more enforcement; more enforcement equals an increase in the Dental Board's caseload; and, an increased caseload also increases the cost to the same public that the Dental Board is trying to protect.

Perhaps the turnover rate of the TSBDE Staff, as mentioned in the Sunset Staff Report, is from the stress of an increased caseload riddled with licensee noncompliance on simple issues that could be resolved by an increased focus on continuing education requirements, specifically in the areas of ethics, professionalism, and jurisprudence. Behind every law or rule violation, most likely there is a bad decision in dealing with an ethical dilemma. How can we expect the TSBDE to manage their caseload in an efficient manner without ensuring that licensees are properly and consistently educated as to the law that regulates their license? There is a reasonable expectation that human nature will contribute to the attrition of compliance in the face of relaxed compliance requirements.

Therefore, I ask that Sunset Commission and Texas State Dental Board, regardless of the size of the Dental Board which is ultimately determined, to examine the issues of compliance relative to an education perspective, and to observe that perhaps over the long haul, an increase in requiring continued education in ethics, professionalism, and jurisprudence with effective means of ensuring accountability for the knowledge of the law that regulates their licenses will go a very long way in obtaining compliance levels that the Dental Board our legislature would like to see.

Most importantly, perhaps this focus on education will result in increasing not only rule and law compliance for licensure, but also the standard of care in treatment, ethics, professionalism, and therefore achieving the full range of public safety that our citizens deserve.

My Comment Will Be Made Public: I agree