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[Sunset Advisory Commission](#)

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I, Karen Sitton, am very concerned about the recommendations made in the April 2016 Sunset Advisory Commission Report regarding Dental Assistants and appreciate the opportunity to address my concerns. As a member of a professional organization, I strongly disagree with your opening statement on Issue 2: *state regulation of dental assistants is unnecessary to ensure public protection and is an inefficient use of resources*. Abolishing registration and certificates for Dental Assistants will adversely affect the dental consumer as well as the dental profession.

In the first bullet or point, under Findings, the report states "*Complaints involving patient care and safety and resulting enforcement actions attach to the responsible dentist and not the dental assistant.*" As evidence in other states, specifically Dr. Harrington's case in Tulsa, OK, the Dental Assistants who were employed by Dr. Harrington; two Dental Assistants were held accountable and subjected to fines and imprisonment. *One of the greatest deterrents to unethical and sloppy work habits is the consequence of your actions*. The current Jurisprudence portions of the RDA course emphasize that Dental Assistants must learn the laws and rules and follow them because consequences do happen. The TSBDE (Board) has indeed followed through with sanctions against Dental Assistants who have been found committing these violations. So yes, Dental Assistants are accountable for their actions, not just the supervising dentist and Texas does offer additional avenues of recourse to patients who receive substandard care by sanctioning Dental Assistants.

Second bullet or point states that "*the opportunity for Dental Assistants to cause serious patient harm is minimal.*" Dental Assistants perform very important duties which could cause serious patient harm, such as disinfection of an operatory to prevent cross contamination, sterilization of instruments which would stop the next patient from contracting a serious disease or infection. These functions are performed totally unsupervised. Dental assistants are also unsupervised when exposing radiographs (X-rays). Dental assistants demonstrate radiation safety so that patients are not exposed unnecessarily,—as educated Dental Assistants understand that radiation exposure is cumulative. These and many more duties represent significant areas that could cause serious patient harm. Again, the Tulsa, OK incident was very serious and did cause serious patient harm when several patients contracted HIV or Hepatitis due to improper sterilization techniques and inadequate disinfection practices.

In this same bullet or point, another statement given is that "*dental assistants have no direct role in the administration of anesthesia*". This 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. Several states require that Dental Assistants take additional training, as they should, to learn how to properly monitor a patient who is under anesthesia. An uneducated Dental Assistant cannot be expected to recognize signs and symptoms that indicate that a patient is in distress or to have the knowledge of how to respond.

Your final statement in this bullet or point *that Dental Assistants cannot act independently and are therefore unlikely to injure patients* is very questionable, because the dentist is not in the sterilization area, providing direct supervision of the Dental Assistant's technique in preventing disease transmission; cleaning, packaging or operating the autoclave, not to mention the unloading and storage of instruments to maintain sterility. Frankly, the dentist is too busy caring for other patients in another

operator to oversee that these tasks are done according to proper protocol. In essence, the Dental Assistant is providing indirect patient protection by following CDC and OSHA guidelines.

The third bullet or point states that *"the board receives very few complaints against dental assistants, suggesting a lower risk of harm compared to other related regulatory programs."* The FY 2015 Complaints & Disciplinary Actions Information listed Registered Dental Assistants had 41 complaints vs. 21 about Registered Dental Hygienists. This statement is confusing. In addition to this table, I noted that many sanctions are given to Dental Assistants at most every Board meeting. Such as: at the August 2013 meeting 29 sanctions were handled involving Dental Assistants, at the February 28th and May 9th, 2014 Board meetings, 21 sanctions against Dental Assistants were handled; at the August 8, 2014 Board meeting, 15 sanctions involving Dental Assistants were also handled. This represents a significant number of sanctions at each Board meeting that involve Dental Assistants. Within this bullet your report states that *dental assistant violations involved professional conduct or unlicensed practice violations*, which are a definite public protection issue. For example, RDA#34207 was cleaning patients' teeth with an ultrasonic device on several patients and performed coronal polishing without a Coronal Polishing (CP) certificate and also removed cement from a temporary filling for a patient. If registration and CP certificate were discontinued, what authority could be exercised to sanction, punish and prevent this type of violation to a person or persons?

The fourth Bullet or point addresses regulatory gaps which undermine the promise of public safety. Though it is true that Dental Assistants can take X-rays for up to one year without registering with the board, we believe that the intent of this law (statue) Sec 265.005 (l) was written so that the inexperienced Dental Assistant has the opportunity to be trained. That Dental Assistant must come into compliance and obtain registration before reaching the first anniversary of the date of employment (whether twelve months are spent with one employer or more). After being employed by one dentist and receiving some training, the Dental Assistant could no longer be considered inexperienced. This exemption was included in the statute for those dentists who prefer to employ inexperienced Dental Assistants. It really would not make sense for a dentist to hire an inexperienced employee and train her/him every 11 months. Perhaps this loophole should be addressed rather than be exploited. Unfortunately, it would be the newly trained Dental Assistant who gets the short end of this loophole.

Continuing in this same bullet or point, but in the next paragraph, the report states *"dental assistants do not have to submit documentation of continuing education courses to renew certificates, and the board does not audit compliance."* If this statement is true, then why does the Dental Assistant Renewal Form specifically state under heading Documenting CE Hours and Credits that Dental Assistants should keep records on all CE completed for a period of three years? Under the Submitting Proof of Completed CE Courses, it states that Dental Assistants are not required to send proof of CE until notified by the Board. These two directions would indicate that the Board has the authority and could ask the Dental Assistant to submit documentation of Continuing Education (CE). Collectively, Dental Assistants are under the impression that the Board does in deed audit Dental Assistants' compliance to the CE requirements as they do for other dental professionals based upon these directions from the Board. The final sentence within this section stated *"Continuing Education could be better enforced by the employing dentist without state regulation."* Unfortunately, this does not happen in too many dental offices. Some dentists do not even keep up with or take the required CE and many dentists *only* support employee CE because of federal or state regulations. Furthermore, many Dental Assistants are practicing dentistry without a license (PDWL) as instructed and delegated by the employer dentist, performing procedures which are listed, by statute, as requiring a Board issued dental license.

Under your 5th bullet or point, you state the *Board resources would be of better use supporting higher risk professional licenses*. A new rule has eliminated much of the staff time. Dental assistants making application for Registration must now provide the Board with two sources of background checks at the applicant's expense. This now saves time and money for the Board. Regarding the last sentence, would it not be safe to assume that the greater number of Dental Assistant applications would require more time? Since dentists and hygienists apply only after graduation, it seems reasonable to assume that staff member schedules could be adjusted to meet that need. The last part of the statement refers to dentists and dental hygienists who have *"a greater potential to cause patient harm"*. I wish to assert that disease transmission and radiation overexposure represent *"great potential to cause patient harm."* And, all dental health care members pose risks to patient protection and safety.

The 6th bullet or point has been negated by action of the Board. By requiring candidates to enclose two specific background checks, at the candidates' expense, with the application, the Board has effectively reduced staff time and Board expense. I was under the impression that the Texas State Board of Dental Examiners (TSBDE) does do background checks on every Dental Assistant applicant even before this rule change. Fortunately, they were able to disallow Registration to those who commit felonies and misdemeanors.

Rebutting statements made in the 7th bullet or point. It has been my experience that the dedicated, professional, passionate Dental Assistant employed by an "educated" and forward-looking dentist has no problem with the fees, the time and the effort involved in obtaining and maintaining Registration. Sadly, there are dentists whose "education" does not include the benefit of paying a living wage to valuable employees. Also, there are dentists who do value their dental team and are willing to pay for their Dental Assistants' continued education.

In this bullet or point you also state that other states do not offer a clear model for regulating Dental Assistants. This is not true as 68% of the other states do regulate Dental Assistants. Also, the trend is growing in the other 32% states to enact statutes which regulate Dental Assistants. The Dental Assistant National Board (DANB) is a resource for this information.

The Dental Assistant National Board does, indeed, provide a recognized credential, Certified Dental Assistant (CDA), a registered trademark not to be confused with any other credential. DANB is a testing facility, not an educational facility. As with the American Dental Association (ADA), through their CODA program (Commission on Dental Accreditation), DANB offers approval and certifies collegiate based Dental Assistant programs. These programs are inspected regularly to assure that the program maintains DANB requirements of instructors, facilities and curriculum. After completion of these programs, in any state, the candidate qualifies to take the DANB test for certification.

Graduation from one of these approved schools is a long and expensive process. From 1987 to 1989, personally, I waited two (2) years to challenge the DANB Exam which had a total of 300 questions with a third of it pertaining to Radiology and Radiation Safety. Unfortunately, there are currently a total of 714 CDA's in Texas. This would provide a distinct problem for the number of dentists, within the total number of 12,000 licensed dentists in Texas, who prefer to have an educated Dental Assistant and recognize the value of that ongoing education.

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.

It is inconceivable to me that the Budget Committee would be excited about losing \$1,500,000.00 in income based on the rationale presented in this April 2016 Sunset Advisory Commission Report. My recommendation, for a lesser impact on budget funds, would be to hire more legal staff to deal with the backlog of complaints of dentists. This would keep Texas from returning to the dark ages of unqualified Dental Assistants, and, would provide greater protection, dental safety, and health safety to the citizens of Texas. Again, I appreciate the opportunity to voice my opinion.

Respectfully submitted,

Karen E. Sitton, RDA