

TEXAS STATE BOARD OF DENTAL EXAMINERS

PRESENTATION TO

HOUSE COMMITTEE ON PUBLIC HEALTH

The Honorable Lois Kolkhorst, Chair

February 20, 2013

TEXAS STATE BOARD OF DENTAL EXAMINERS

Appearing for the State Board of Dental Examiners

Presenters:

Mr. Glenn Parker

Executive Director

Possible Resource Witnesses:

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TEXAS STATE BOARD OF DENTAL EXAMINERS

Who We Are and What We Do

The Texas State Board of Dental Examiners (agency #504) is the agency that regulates the practice of dentistry in Texas. We license or register dentists, dental hygienists, most dental assistants, dental laboratories and mobile dental clinics. We investigate and resolve jurisdictional complaints against our licensees and take disciplinary action as appropriate.

The Board/Agency also assists other agencies in the investigation of Medicaid fraud and other criminal complaints against our licensees by the Department of State Health Services, the Office of the Inspector General, the Office of the Attorney General and various law enforcement agencies.

Mission

The mission of the State Board of Dental Examiners is to safeguard the dental health of Texans by developing and maintaining programs to:

- Ensure that only qualified persons are licensed to provide dental care; and
- Ensure that violators of laws and rules regulating the practice of dentistry are sanctioned as appropriate.

Board Composition

The TSBDE (the Board) is composed of 15 members: 8 Dentists, 2 Dental Hygienists and 5 Public Members. Members are appointed by the Governor and serve six-year terms. The Governor also appoints the board's presiding officer. A complete turnover of board members has occurred since 2005 with the exception of one board member, who is the immediate past board president. The current presiding officer is Dr. Rodolfo (Rudy) Ramos, a practicing dentist in Houston who was named board president by Governor Perry in December, 2012.

Agency Composition

The Agency is authorized to employ 36 FTEs and has 36 FTEs as of February 20, 2013. One of the FTE slots is used to employ an information technology person who helps provide IT support for several Health Professions Council (HPC) agencies. The Dental Board staff is currently divided into 5 primary departments:

- Executive (1 FTE)
- Administration and Finance (5 FTEs, including one HPC IT support position)
- Licensing (9 FTEs)
- Enforcement (14.5 FTEs)
- Legal (6.5 FTEs)

Funding

The TSBDE is required by statute to generate sufficient funds each year to cover all costs, both direct and indirect. In addition, the General Appropriations Act historically has required the Dental Board to generate annual revenue far in excess of what is needed to cover all agency direct and indirect costs. As a result, the Texas State Board of Dental Examiners covers all of its expenses through its licensing fees and is a net revenue producer for the state. The agency generates excess revenues in the range of \$6 - \$7 million dollars each fiscal year if one considers the \$200 professional fee as agency revenue. If the \$200 professional fee is excluded from calculations, then the agency generates excess revenue in the range of \$3 - \$4 million dollars each year. The funds, though collected from Dental Board licensees, are used to fund unrelated General Revenue expenditures throughout the state budget.

Recent Review by Public Health Committee

The Dental Board was the subject of a thorough interim review by the House Committee on Public Health during the spring and summer of 2012. A day-long hearing was held on April 11, 2012 at which extensive public testimony was given by the President of the Dental Board, Dental Board staff, members of the Texas Dental Association, individual dentists, public interest groups and other stakeholders. Testimony addressed issues related to the Dental Board operations for approximately the past 10-12 years. The Committee subsequently released its Interim Report in December, 2012. The report included the following recommendations for the Dental Board:

1. The Texas State Board of Dental Examiners should implement an appeals process.

2. The Legislature should allow the Texas State Dental Board to retain a greater percentage of their licensing fees as other legislative oversight boards, with performance measures in place to insure proper expenditure.
3. The Texas State Board of Dental Examiners should improve its website to allow greater transparency to the general public.
4. The Legislature should allow the Texas State Board of Dental Examiners authority to register and monitor non-dentist owned and run clinics, especially those owned by dentists from out of state.

The Texas State Board of Dental Examiners is appreciative for the support offered by the House Committee on Public Health and looks forward to continuing to work closely with the committee on public health issues as they relate to the delivery of dental care in Texas.

TEXAS STATE BOARD OF DENTAL EXAMINERS

Revenue, Expenditures and FTE Information (2004 – 2013)

Description	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Est.
General Revenue Appropriations	\$1,665,900	\$1,737,900	\$1,429,541	\$1,435,561	\$1,783,156	\$1,749,475	\$2,699,845	\$2,220,878	\$2,140,683	\$2,138,236
Appropriated Receipts Estimated	\$8,700	\$8,700	\$200,000	\$200,000	\$72,000	\$72,000	\$72,000	\$72,000	\$367,794	\$258,547
Total Appropriations	\$1,674,600	\$1,746,600	\$1,629,541	\$1,635,561	\$1,855,156	\$1,821,475	\$2,771,845	\$2,292,878	\$2,508,477	\$2,396,783
Add'l Overhead	\$459,959	\$459,466	\$453,868	\$471,759	\$532,860	\$534,110	\$491,218	\$374,753	\$354,728	\$365,000
Total Appropriations and Overheads	\$2,134,559	\$2,206,066	\$2,083,409	\$2,107,320	\$2,388,016	\$2,355,585	\$3,263,063	\$2,667,631	\$2,863,205	\$2,761,783
Total Revenue	*	*	*	*	*	*	*	\$8,724,695	\$9,198,123	\$9,571,000
Net to General Revenue	*	*	*	*	*	*	*	\$6,057,064	\$6,334,918	\$6,809,217
% of Revenue to Agency vs GR	*	*	*	*	*	*	*	31% & 69%	31% & 69%	29% & 71%
\$200 Professional Fee Revenue	*	*	*	*	*	*	*	\$2,742,400	\$2,924,000	\$3,008,000
Net To GR W/O \$200 Professional Fee	*	*	*	*	*	*	*	\$3,314,664	\$3,410,918	\$3,801,217
% of Revenue to Agency vs GR	*	*	*	*	*	*	*	45% & 55%	46% & 54%	42% & 58%
FTEs Authorized	25	25	29	29	37	37	37	37	36	36

- Information is not readily available for these years at this time.

TEXAS STATE BOARD OF DENTAL EXAMINERS

Comparison of GR Appropriations to Revenues Collected (2011)

HPC COMPARISON OF ANNUAL GR APPROPRIATIONS VS REVENUE**			
Agency Name	FY 2011 Estimated Total Revenue Collected*	FY 2011 GR Appropriations (per Bill)	Appropriations as % of Revenue Collected
Physical Therapy & Occupational Therapy	\$ 4,199,844	\$ 930,177	22.15%
Texas State Board of Dental Examiners	\$ 8,944,497	\$ 2,220,878	24.83%***
Texas State Board of Chiropractic Examiners	\$ 2,352,859	\$ 627,211	26.66%
Texas Optometry Board	\$ 1,565,013	\$ 428,987	27.41%
Texas Medical Board	\$ 33,077,289	\$ 10,939,738	33.07%
Texas State Board of Examiners of Psychologists	\$ 2,212,149	\$ 838,005	37.88%
Texas State Board of Veterinary Medical Examiners	\$ 2,637,539*	\$ 1,002,315	38.00%
Texas State Board of Podiatric Medical Examiners	\$ 485,391	\$ 239,692	49.38%
Texas Funeral Services Commission	\$ 1,559,138	\$ 843,173	54.08%
Texas State Board of Pharmacy	\$ 8,798,248	\$ 5,004,136	56.88%
Texas Board of Nursing	\$ 14,227,1414	\$ 9,537,396	67.04%

*Includes \$200 Professional Fee for Applicable Agencies

** **SOURCE:** Health Professions Council Annual Report for FY 2011, Appendix B

*** An increase to 35% would cover all five exceptional items requested by the Dental Board for the 2014-2015 biennium.

TEXAS STATE BOARD OF DENTAL EXAMINERS

Licensing Information (2004 – 2013)

Total # of Licensees By Licensee Type	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Estimated
Dentists	14,209	14,558	14,958	15,389	15,950	16,542	17,312	15,106*	14,948	15,500
Dental Hygienists	10,400	10,781	11,168	11,607	12,080	12,565	13,009	11,600	11,617	12,000
Dental Assistants	0	1,166	6,026	16,507	21,747	26,426	26,756	32,110	28,106	33,000
Dental Laboratories	1,102	1,105	1,085	1,087	1,083	1,073	1,064	1,037	825	900
Total # of Active Licensees	25,711	27,610	33,237	44,590	50,860	56,606	58,141	59,853	55,496	61,400

*FY 2004 – 2010 counts include retired licensees. FY 2011 – 2013 counts do not include retired licensees.

Total # of New Licenses Issued	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Estimated
Dentists	456	459	560	546	675	740	967	1,023	956	1,000
Dental Hygienists	474	466	465	548	564	579	563	520	666	600
Dental Assistants	0	1,166	3,915	10,877	5,728	4,734	4,940	7,093	7,022	7,000
Dental Laboratories	70	56	49	58	59	57	50	48	45	40
Total # of New Licenses Issued	1,000	2,147	4,989	12,029	7,026	6,110	6,520	8,684	8,689	8,640

Total # of Licenses Renewed	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Estimated
Dentists	11,778	11,988	12,328	12,709	12,840	13,360	13,811	14,202	15,133	15,250
Dental Hygienists	8,899	9,154	9,503	9,915	10,065	10,657	10,798	10,821	11,801	12,250
Dental Assistants	0	1,085	4,210	16,823	19,543	20,920	24,420	26,730	32,299	33,000
Dental Laboratories	974	964	976	953	962	956	828	873	765	825
Total # of Lic. Renewed	21,651	23,191	27,017	40,400	43,410	45,893	49,857	52,626	59,998	61,325

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Complaints and Disciplinary Actions Information (2004 – 2013)

Complaints Information	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Estimated
Complaints Received	1,110	1,320	1,089	981	1,087	1,101	1,222	1,238	1,115	1200
Less: Non-Jurisdictional	(211)	(186)	(180)	(137)	(142)	(121)	(140)	(136)	(139)	(150)
Jurisdictional Complaints	899	1,134	909	844	945	980	1,082	1,102	976	1,050
Complaints Resolved	1,096	1,235	956	818	674	712	982	996	887	900
# of SOAH Hearings	**	**	**	**	**	2	66	45	64	55

Disciplinary Information	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013 Estimated
# of Licenses Revoked	15	20	0	0	4	1	6	12	8	10
Suspended- Down Time	11	5	0	6	0	0	3	7	3	6
Suspended-No Down Time	48	75	45	43	36	17	53	63	47	60
Surrendered	0	17	7	2	5	6	12	19	16	15
Other Discipline	207	130	72	38	35	42	116	85	148	89
Cases Resolved with Discipline	281	247	125	89	80	66	190	186	222	180
% of Complaints Resolved With Discipline	25.64%	20.00%	13.60%	10.88%	11.87%	9.27%	19.35%	18.67%	25.03%	20.00%
Avg. Days to Resolve	468.1	358.3	371.6	308.1	444.9	435.9	431.8	409.51	429.40	420

Case Aging as of 8/31/12	In Legal	Enforcement Committee	Under Investigation	Total by FY	% by FY
FY 2008	1	0	0	1	0.08%
FY 2009	3	9	2	14	1.14%
FY 2010	38	11	4	53	4.31%
FY 2011	151	164	61	376	30.54%
FY 2012	76	360	351	787	63.93%
Totals	269	544	418	1,231	100.00%

TEXAS STATE BOARD OF DENTAL EXAMINERS

Current Workload Trends and Issues

1. **Continuing increase in number of licensees**: The number of board licensees/registrants has more than doubled in the past 10 years, from fewer than 26,000 in 2004 to an estimated 61,400 by the end of FY 2013. The increase is due primarily to the continuing increase in the number of dental assistants that the agency licenses each year. Agency staffing has not kept pace and more licensing department employees are needed to handle the current licensing workload.
2. **Continuing backlog in number of open complaints**: The agency had 1,231 unresolved jurisdictional complaints as of August 31, 2012. The agency cannot work down the backlog or significantly reduce the average complaint resolution time with the current number of investigators and attorneys. The agency also needs a second staff dentist to help review standard of care cases. It also would be helpful to be able to pay consulting dentists a small fee to review standard of care cases for the board.
3. **More FTEs needed**: The agency needs more employees throughout all departments to adequately meet needs in Licensing, Enforcement and Administration. While the number of licensees increased by 139% from 2004 through 2013, the number of agency authorized FTEs increased by only by only 44%, from 25 to 36. Staffing needs to be increased to at least 51 FTEs.
4. **More than half of agency revenue is used for other General Revenue Fund purposes**: The agency collects far more money each year from its licensees than is appropriated back to the agency for operations and overhead. The excess fees collected by the agency are used to support GR expenditures in other areas of the state budget. The agency operates on either 31%

or 46% of revenues collected, depending on whether one includes or excludes the \$200 professional fee collected from each dentist at renewal. The agency could easily fund all requested exceptional items out of existing excess funds collected by the agency if allowed to use the revenue for the purposes for which the fees were originally intended and assessed.

5. **Dental Medicaid Fraud**: There has been a significant amount of news recently concerning allegations of Medicaid fraud perpetrated by dentists. The Dental Board works with OIG and OAG to assist them in their investigations of those complaints but the Dental Board is not the primary agency that resolves Medicaid fraud issues. The Dental Board does follow up on successful prosecution of fraud cases by the OIG and OAG by revoking the licenses of the dentists involved or by taking other appropriate disciplinary action.

6. **The corporate ownership of dental clinics**: The Dental Practice Act restricts the ownership of dental clinics to dentists. In addition, only licensed dentists are allowed to make decisions regarding the treatment plan for dental patients. There are increasing concerns that Dental Service Organizations (DSOs) owned in whole or in part by non-dentists are asserting an increasing degree of control over treatment and billing issues. Senate Bill 151 (filed by Senator Nelson) would require the Board to register DSOs and the clinics with which they have a business arrangement. An additional appropriation based on a fiscal note would be needed to implement the provisions of the bill. In addition, the agency eventually may need to develop a program whereby it can establish who owns each dental practice in the state and which dentists work in each location of each practice.

END OF PRESENTATION