

State Board of Dental Examiners NEWSLETTER

AUGUST 1995

VOL. 1

James L. Bolton, DDS, President
Hadley Hall, DDS, Secretary
Sheryl Beltrane, DDS
Pat Blackwell
Jerry T. Burley
Tammy Fisher, RDH
Cornelius Henry, DDS
James Kennedy, DDS
H. Grant Lappin

Michael Nogueira
David Olson, DDS
Miro Pavelka, DDS, MSD
Felipe Reyna
Ronald Smith, DDS
Kent Starr, DDS
Marcia Waugh
Gail Wilks, RDH
Joe Zayas, DDS

PRESIDENT'S COLUMN

James L. Bolton, D.D.S.

The statement, "The Board is Back," has brought sighs of relief and rejoicing in some quarters while at the same time bringing fears of "Oh no, here we go again" in others.

I am pleased that I have this opportunity to give you my viewpoint regarding the new Board of Dental Examiners. I have had the dubious honor of being the President of the Board when it was sunsetted in May of 1993 and the pleasure of being elected President of the new reinstated Board. I want to commend Governor Bush and his appointments staff for their excellent job in appointing a group of well-qualified and highly-motivated people to the Board. However, the thanks and recognition do not stop at the Governor's Office. My sincere thanks and appreciation to all of those members of the Texas Legislature for all of the time and effort they expended during the 74th Legislative Session on behalf of dentistry and on the political process of getting a new Board appointed.

One-third of the members were appointed from the public sector. I have been extremely pleased after four meetings and numerous committee meetings with the genuine interest and congeniality of our public members. These members are Pat Blackwell, Jerry Burley, Grant Lappin, Mike Nogueira, Felipe Reyna, and Marcia Waugh. My appreciation of their willingness to serve on a technical board certainly has increased.

Hygienists have not been on the Board for very long. Presently, I could not be more pleased with the dental hygiene representatives on

our Board. Tammy Fisher and Gail Wilks have been team players from the start and have been working hard to get the Board up and running again.

The dentists on the Board bring a good mix of enthusiasm, knowledge, and abilities. They are Sheryl Beltrane, Hadley Hall, Cornelius Henry, James Kennedy, David Olson, Miro Pavelka, Ronald Smith, Kent Starr, and Joe David Zayas. At our first Board Meeting, Hadley Hall was elected as Secretary of the Board and chair of the Enforcement Committee. Sheryl Beltrane was appointed as chair of the Credentials Review Committee, James Kennedy as chair of the Administration Committee, David Olson as chair of the Examination Committee, Miro Pavelka as chair of the Legislative Committee, and Ron Smith as chair of the Continuing Education Committee.

I would also like to take this opportunity to commend the staff at the agency for their loyalty and dedicated work during the interim between August 94 and February 95. In particular, I want to acknowledge the efforts of the new Executive Director, Douglas Beran, General Counsel, Jeffry Hill, and Director of Enforcement, Santos Serna, as they have assisted me and the newly-appointed members in bringing the SBDE out of sunset.

This first year promises to be extremely busy considering the mandates of SB 18 including continuing education, credentialing, new rules, hiring new personnel, plus a backlog of enforcement cases. Your support and understanding are certainly appreciated, especially during this start-up time. It has been and is an honor to serve our great state and profession.

**STATE BOARD OF DENTAL
EXAMINERS MEMBERS
APPOINTED**

On February 2, 1995, Governor Bush signed SB18, which recreated the State Board of Dental Examiners. The following 10 dentists, 2 dental hygienists, and 6 public members were appointed and confirmed by the Senate on February 8:

For terms to expire on 2-1-1997:

James L. Bolton, DDS, Borger
Cornelius O. Henry, Jr., DDS, Tyler
James W. Kennedy, DDS, Houston
Gail Wilks, RDH, Longview
H. Grant Lappin, public member, Houston
Marcia Waugh, public member, El Paso

For terms to expire on 2-1-1999:

J. Hadley Hall, DDS, Abilene
Miro A. Pavelka, Jr., DDS, MSD, Dallas
Kent T. Starr, DDS, Waco
Felipe Reyna, public member, Lorena
Sheryl Ann Beltrane, DDS, San Antonio
Jerry T. Burley, public member, Houston

For terms to expire on 2-1-2001:

Patricia Blackwell, public member, Midland
Tammy Fisher, RDH, Bedford
Michael Nogueira, public member, Rancho Viejo
David O. Olson, DDS, Bridge City
Ronald G. Smith, DDS, Lubbock
Joe David Zayas, DDS, Rancho Viejo

**DENTAL HYGIENE ADVISORY
COMMITTEE MEMBERS
APPOINTED**

On April 6, 1995, Governor Bush appointed 3 dental hygienists and 2 public members to serve on the Dental Hygiene Advisory Committee.

For terms to expire on 2-1-1997:

Gloria Zacek, RDH, Houston
Joe Lowery, public member, Lufkin

For terms to expire on 2-1-1999:

Lisa Cooper, RDH, Coppell
Bea Wohleb, public member, Temple

For terms to expire on 2-1-2001:

Lana Crawford, RDH, Carrollton

The SBDE appointed Dr. Paul Stubbs, Austin, to serve on the DHAC as the dentist committee member. Dr. Stubbs' term will expire on 2-1-2001.

Since its appointment on April 6, the Dental Hygiene Advisory Committee met on May 11, and appointed Gloria Zacek, RDH to serve as its chairperson. The Committee also met on June 30 and July 21 and discussed the procedures defining criteria for licensure by credentials for dental hygienists. The Dental Hygiene Advisory Committee plans to submit its recommendations to the Board at the September 22 Board meeting. In addition, the DHAC met with the Credentials Review Committee and will be participating with the Continuing Education Committee and the Examination Committee to offer input in developing criteria that affects licensure requirements for dental hygienists.

(NOTE: Should you require additional information or have questions regarding licensure requirements for dental hygienists, please contact the SBDE's Licensing and Examination Division at 512-463-6400.)

**DENTAL LABORATORY
CERTIFICATION COUNCIL
MEMBERS APPOINTED**

At its March 8 Board Meeting, the SBDE appointed Lester Eisenbeck, Austin, Danny Diebel, Austin, and Milton Pokladnik, Dallas, to serve two-year terms on the Dental Laboratory Certification Council.

The Dental Laboratory Certification Council met on July 8 and elected Lester Eisenbeck to serve as its Chairperson and Milton Pokladnik to serve as its Secretary. The Council also discussed several issues regarding registration of labs, the renewal process, the complaint process, and the new legislation that was passed during the 74th Legislative Session that directly affects laboratories.

(NOTE: Should you have questions regarding dental laboratory registration, please contact the SBDE's Licensing and Examination Division at 512-463-6400.)

LEGISLATIVE REPORT

SB 18, legislation which recreated the Dental Board, includes several revisions to the Dental Practice Act and transitional language to reestablish the agency. In summary, the bill addresses the size and composition of the Board; SBDE training requirements; continuing education requirements; licensure by credentials for dental hygienist and dentists; examination requirements; fee requirements; licensing of foreign and/or non-accredited dentists and dental hygienist; advertising guidelines; administrative proceedings; administrative penalties including investigations and disciplinary actions; consumer information; composition and functions of the Dental Hygiene Advisory Committee, and composition and functions of the Dental Laboratory Certification Council.

Other legislation amending the Dental Practice Act includes:

SB 378, effective 6-8-95 to 12-1-95:

Licensing of Foreign Trained Dentists; relating to the licensing of graduates of foreign or non-accredited dental schools to practice dentistry [Article 4545a, Sec. 2].

HB 856, effective 5-9-95: Oral and Maxillofacial Surgery; relating to the scope of practice of a dentist performing oral and maxillofacial surgery [Article 4548b].

SB 1084, effective 6-13-95: Dental Technicians and Laboratories: Regulation of Acts and Services; relating to the regulation of dental laboratories [Article 4551f, Sec 5, Sec 6, Sec 8, Sec 9].

HB 2021, effective 6-8-95: Employment of Dentist; relating to the certification of certain health organizations to contract with or employ certain health practitioners [Article 4551n(a)].

HB 2898, effective 9-1-95: Inspection of Dental X-ray Equipment; relating to the inspection and maintenance of dental X-ray equipment [Article 4551o].

For a copy of the Texas Dental Practice Act or the SBDE Rules and Regulations, please send a written request along with a fee of \$10.00 (each)

to: State Board of Dental Examiners
333 Guadalupe, Tower 3, Suite 800
Austin, Texas 78701

BOARD ADOPTS NEW RULE

At the May 12 Board Meeting, the Board adopted Rule 102.1 which outlines agency fees. This rule was published in the Texas Register in March and a public hearing was held to receive comments on the new rule.

Rule 102.1, Licensing and Examination Fees

(a) Any person desiring to obtain a license to practice dentistry, dental hygiene and operate a dental laboratory in the State of Texas shall pay the following fees:

- (1) dental examination fee: \$150.00
- (2) dental hygiene examination fee: \$70.00
- (3) dental laboratory application fee: \$100.00
- (4) dental licensure by credentials application fee: \$200.00
- (5) dental hygiene licensure by credentials application fee: \$150.00

(b) Any person licensed to practice dentistry, dental hygiene and operate a dental laboratory in the State of Texas shall pay the following annual renewal fees:

- (1) dentists: \$60.00
 - (2) dental hygienists: \$36.00
 - (3) dental laboratory: \$100.00
- (c) The peer assistance fee for dentists shall be \$5.00
- (d) The peer assistance fee for dental hygienists shall be \$2.00
- (e) A duplicate license fee shall be \$15.00
- (f) A duplicate renewal certificate fee shall be \$15.00
- (g) The administrative fee to reactivate a retired license shall be \$250.00.

ENFORCEMENT DIVISION

The Enforcement Division currently has investigators in the Dallas and Houston areas and is in the process of interviewing for investigator positions in the San Antonio and Austin areas.

ENFORCEMENT REPORT

Enforcement activities accomplished during March 1 through June 30, 1995, include:

- Complaints received: 111
- Investigations completed: 82
- Cases reviewed: 92

- Cases closed/resolved 87
- Settlement Conferences held 25

“Most frequently asked question”

Q: *Can a dental assistant polish teeth?*

A: *NO.* Only a licensed dentist or licensed dental hygienist can perform this procedure [Article 4551e-1(b)(2)(A) and (B)].

DISCIPLINARY ACTIONS

As of August 1, 1995, the Board at its regularly scheduled meetings rendered disciplinary actions on the following:

Respondent: Anna Maria Garcia, DDS

Findings: Patient records were below minimum standard of care in that there was no diagnosis recorded and radiographs were inadequate. Endodontic procedures were below minimum standard of care.

Discipline: 3 year suspension, all probated; 20 hours of CE for 3 years.

Respondent: David L. Hayes, DDS

Findings: Self prescribing of Tylenol with Codeine and Valium.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program.

Respondent: Monte B. Miller, DDS

Findings: Self prescribing Vicodin.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program; surrender DPS and DEA schedules II, IIN, III, IIIN.

Respondent: Christopher Nelson, DDS

Findings: Habitual self abuse of alcohol.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program.

Respondent: Thomas M. Ramey, DDS

Findings: Self prescribing Vicodin.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program; surrender DPS and DEA schedules II, IIN, III, IIIN.

Respondent: James A. Moreland, DDS

Findings: Failure to maintain a centralized

inventory of Controlled Substances in the office; failure to properly annotate in patient records the dispensing, administering, and prescribing of Controlled Substances; failure to maintain dental office in a sanitary condition; committed a violation during a period of probation.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program; 45 hours of CE within 2 years; unannounced office visits.

Respondent: Kenneth P. Kuhlman, DDS

Finding: Self abuse of nitrous oxide.

Discipline: 3 year suspension, all probated; participate in the Peer Assistance Program.

Respondent: Mary C. Keeling, DDS

Finding: Self prescribing Vicodin; prescribing Controlled Substances for non-dental purposes; failure to maintain adequate dental treatment records; committed a violation during a period of probation; violated terms and conditions of probation.

Discipline: Additional 5 year suspension, all probated; participate in the Peer Assistance Program; 50 hours of CE within 1 year; surrender DPS and DEA schedules II, IIN, III, IIIN, and take and pass the jurisprudence examination.

Respondent: D. Grover Gunn, DDS

Findings: Failure to properly annotate in patient records the dispensing, administering, and prescribing of Controlled Substances; failure to maintain adequate dental treatment records; committed a violation during a period of probation.

Discipline: 5 year suspension, all probated; participate in the Peer Assistance Program; 45 hours of CE within 2 years; take and pass the jurisprudence examination.

(Note: Should you have questions or require additional information, please contact the SBDE's Enforcement Division at 512-463-6400.)

LICENSING AND EXAMINATION DIVISION

Several methods are available to obtain a license to practice dentistry and dental hygiene in Texas. Information packets on each of the licensure methods are available by contacting the SBDE's

Licensing and Examination Division at 512-463-6400. Dental laboratory registration forms also are available by contacting the SBDE's Licensing and Examination Division.

Examination: Information on the required Western Regional Board examination (WREB) may be obtained from WREB at 602-944-3315. All WREB exam results used for licensure in Texas must have been taken since January 1, 1994, when Texas became a member of WREB.

Credentials: Licensure by credentials currently is available for dentists. The credentialing program for dental hygienists currently is being developed and will be implemented by late fall, 1995. General requirements for all credentialing include continuous practice for 5 years prior to application to the SBDE, licensure in at least one other state or jurisdiction, and no prior or pending disciplinary action.

Specialty Exams: The SBDE elected to have the Northeast Regional Board (NERB) administer specialty examinations for Texas applicants. The Western Regional Board (WREB) will administratively coordinate specialty examinations with NERB for Texas applicants.

Foreign-educated dentists: All foreign educated dentists with 5 years of dental practice in another jurisdiction may qualify for a Texas bench examination followed by the WREB examination. All candidates for the bench exam must have first passed National Boards, Parts I and II, available from the ADA at 1-800-621-8099.

DENTAL LABORATORY UPDATE

Commercial dental laboratories doing business in Texas must have valid registrations issued by the SBDE. In-house laboratories are exempt from registration requirements.

Dentists without in-house laboratories must do business with registered commercial dental laboratories.

Registered commercial dental laboratories may do business only with dentists currently licensed in Texas or legally engaged in the practice of dentistry in another jurisdiction (e.g. state).

All dental laboratory applications must be reviewed by the Dental Laboratory Certification Council and approved by the Board.

Article 4551f, of the Dental Practice Act, provides civil and criminal penalties for:

- *commercial dental laboratories operating without valid registrations
- *commercial dental laboratories doing business with the general public or with dentists not legally engaged in the practice of dentistry
- *dentists doing business with laboratories that do not have valid registrations

(NOTE: Should you have questions regarding licensure requirements for dentists and dental hygienists or registration requirements for laboratories, please contact the SBDE's Licensing and Examination Division at 512-463-6400.)

LEGAL DIVISION

DENTURISM

A recent spate of activity by persons who wish to practice denturism in Texas has given rise to a number of questions from dentists and others concerning whether Texas law permits the practice of "Denturism" and whether the SBDE will address violations if such practice is illegal.

The Dental Practice Act, Tex. Rev. Civ. Stat. Anno. art. 4551a (Vernon Supp. 1995), defines the practice of dentistry. In pertinent parts, the act provides as follows:

"Any person shall be regarded as practicing dentistry within the meaning of this chapter:

- (3) *"Any person who shall offer or undertake in any manner to prescribe or make, or cause to be made, an impression of any portion of the human mouth, teeth, gums, or jaws, for the purpose of diagnosing, prescribing, treating, or aiding in the diagnosing, prescribing or treating, in any physical condition of the human mouth, teeth, gums or jaws, or for the purpose of constructing or aiding in the construction of any dental appliance, denture, dental bridge, false teeth, dental plate or plates of false teeth, or any*

substitute for human teeth."

(5) "Any person, firm, group, association, or corporation who shall offer or undertake to fit, adjust, repair, or substitute in the human mouth or directly related and adjacent masticatory structures any dental appliance, structure, prosthesis, or denture, or who shall aid or cause to be fitted, adjusted, repaired, or substituted in the human mouth or directly related and adjacent masticatory structures any dental appliance, structure, prosthesis, or denture."

(6) "Who makes, fabricates, processes, constructs, produces, reproduces, duplicates, repairs, relines, or fixes any full or partial denture, any fixed or removable dental bridge or appliance, or any dental plate or plates or false teeth, any artificial dental restoration or any substitute or corrective device or appliance for the human teeth, gums, jaws, mouth, alveolar process, or any part thereof for another....without a written prescription or work-order therefor signed by the dentist legally engaged in the practice of dentistry in this state or in the jurisdiction where such dentist maintains his dental office and who prescribed and ordered same."

It appears that the range of services included within the definition of practicing dentistry in Texas is inclusive of all the services denturists propose to provide. Any person who provides all or part of such services without proper dentist licensure with the Board of Dental Examiners is violating the law in Texas. One is not exempt from the law merely because he or she has assumed the title "denturist" or has been "certified" by any denturist association.

The State Board of Dental Examiners is charged by the legislature with the responsibility to enforce the Dental Practice Act, which includes initiating procedures against those who practice dentistry without a license. In the past, the Board has pursued individuals in the State of Texas who have practiced "denturism" when those persons were not licensed as dentists or properly registered as dental labs. The Board will continue to pursue those individuals when such practice becomes known to it, either by referring the matter to the Office of the Attorney General, or to the District Attorney in the county where the violation occurs.

To be effective in this area, the Board must be

aware that individuals are practicing without a license. To that end, if you know that any person is practicing dentistry without a license in the State of Texas, bring it to the attention of the SBDE's Enforcement Division and an investigation will follow.

TEXAS PEER ASSISTANCE PROGRAM

The Texas Peer Assistance Program is a non-profit corporation, chartered and licensed by the State of Texas to provide counseling and referral to professional services for personal problems for dentists and dental hygienists. The program is funded by a portion of license fees and fines from disciplinary actions.

This service is available to individuals who may contact the Peer Assistance Program for themselves or for a colleague for whom they have concern. Cases that come to the attention of the State Board are also referred to the Peer Assistance Program.

For additional information, contact Mr. Bob Robinson, LCDC, CAS, NCAC II, Director of Peer Assistance Program, at 1-800-945-6203 ("Hope Line") or 1-512-451-9040.

SBDE STAFF PERSONNEL

At the July 21 Board Meeting, the Board reviewed and approved a new agency organizational chart with emphasis placed on the four primary functions of the State Board: legal counsel; enforcement; licensing and examination; administration, personnel and finance. The following personnel were approved by the Board to fill these key positions:

Douglas A. Beran, Ph.D., Executive Director
Mei Ling Clendennen, Executive Assistant
Jeffrey Hill, General Counsel
Santos Serna, Director of Enforcement
Sherri Sanders, Director of Licensing,
Examination
Carol McPherson, Director of Administration,
Finance and Personnel

CALENDAR OF EVENTS

Sept. 1	Juris Exam, Dallas
Sept. 21	Nitrous Exam, San Antonio
Sept. 21	Juris Exam, San Antonio
Sept. 22-23	Board Meeting, Austin
Sept. 22	DHAC Meeting, Austin
Oct. 12	Juris Exam, Dallas
Oct 12	Nitrous Exam, Dallas
Oct 19	Juris Exam, Houston
Oct 19	Nitrous Exam, Houston
Oct. 20-21	Settlement Conference, Austin
Oct 27	Credentials Comm., Austin
Nov. 3-4	Board Meeting, Austin
Nov. 3	DHAC Meeting, Austin
Nov. 15	Juris Exam, San Antonio
Nov. 15	Nitrous Exam, San Antonio
Dec. 15-16	Settlement Conference, Austin
Dec. 15	Juris Exam, Dallas
Dec. 15	Nitrous Exam, Dallas

PLEASE NOTE:

If you have questions regarding Jurisprudence or Nitrous Oxide examinations, contact the SBDE's Licensing and Examination Division.

If you have questions regarding Settlement Conferences, contact the SBDE's Enforcement Division.

For all other questions or inquiries, contact Mei Ling Clendennen at the SBDE office 512-463-6400.

REMINDERS

CHANGE OF ADDRESS

If your address changes, it is your responsibility to notify the Board office in writing within 60 days of the change. License renewal notices will continue to be sent to the address of record otherwise and you may experience a late license renewal requiring that a late penalty be paid.

LICENSE RETIREMENT

Legislation enacted during the 72nd Legislative Session allows a dentist or dental hygienist to place their license in a retired status. All fees are waived during this period and a licensee may not

engage in any activities that constitute the practice of dentistry or dental hygiene. Should a licensee desire to return to active practice, he or she must petition the Board for approval. An administrative fee of \$250 is charged with the request to reactivate.

Retirement Request forms may be obtained from the SBDE office.

VERIFICATIONS

If you require a letter of verification of your Texas licensure be sent to another State Board, a written request along with payment must be submitted to the the SBDE office. The cost for a verification letter is \$1.15. The cost for a verification letter with the state seal is \$5.75.

RADIOLOGY EXAMINATIONS

Texas dentists wishing to order radiology examinations for dental auxiliaries must submit a written request along with \$30.00 (per exam) to the SBDE office. Instructions for administering the exam will be included.

ANESTHESIA PERMITS

All Texas dentists administering Nitrous Oxide/Oxygen Inhalation Conscious Sedation, Parenteral Conscious Sedation or General Anesthesia must be permitted to do so. Sedation/Anesthesia Permit applications may be obtained from the SBDE office.

Should you require additional information, have questions, or need assistance, please contact our office at the following address:

STATE BOARD OF DENTAL
EXAMINERS
333 GUADALUPE, TOWER III,
SUITE 800
AUSTIN, TEXAS 78701

512-463-6400
FAX: 512-463-7452

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