



# The Gatekeeper

*The Voice of General Dentistry*

December 2009

## Dear Connie,

Here is the latest advocacy news from the Texas Academy of General Dentistry.

## TSBDE Meeting: New Rules Adopted

The Texas State Board of Dental Examiners met on November 20, 2009, to take up and consider several rules including proposals for the enactment of recently passed state laws.



The Board took final action on a number of rules. Of greatest interest, were rules expanding the scope of work that can be performed by dental assistants, as well as rules for the implementation of an informal process for handling minor rules violations. Both issues were the result of legislation supported by TAGD in the last legislative session.

### Dental Assistant Duties

Under the new rules, a dental assistant working under general supervision may provide interim treatment of minor emergency conditions that cause pain or discomfort to the patient if treatment is considered reversible and doesn't require cutting hard and soft tissue. In such cases, the dentist must believe the assistant has been properly trained to provide the treatment, must delegate the procedure orally or in writing before the dental assistant performs the procedure, retains responsibility for the procedure, and must schedule a follow-up appointment with the patient within a reasonable time.

The rules also state that dental assistants with at least two years of experience who have complete required coursework will be able to

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### Election Season



Filing for the March 2 primaries has started and runs through January 4.

Offices on the ballot this year, include: Governor, Lieutenant Governor, all seats in the United States House of Representatives, about half of the Texas Senate and all seats in the Texas House, and all other major statewide offices.

receive certificates to perform coronal polishing and/or apply pit and fissure sealants under direct supervision. Eight hours of education are required to obtain each certificate. As a result, a dental assistant wishing to obtain certificates for both applying sealants and coronal polishing will need to take a total of 16 hours of approved training. Previously, only dental assistants working for Medicaid providers or practicing in underserved areas were eligible for certification to apply sealants.

To renew a certificate, a dental assistant must complete six (6) hours of continuing education annually. A dental assistant holding two or more certificates must complete twelve (12) hours of continuing education each year to renew all of the certificates held by the assistant.

Certifications requiring continuing education include: radiology, applying pit and fissure sealants, and coronal polishing. There are no continuing education requirements for assistants holding certification for nitrous oxide.

The rules also added requirements to the dental assistant radiology certificate holders regarding registration display, address changes and registration fee payments.

**\*\*\*Note:** Under *general supervision*, it is not necessary for the dentist who employs or is in charge of the dental assistant and responsible for supervising their services to physically be in the office at the time the assistant is providing services (i.e. minor emergency treatment or radiology).

In cases requiring *direct supervision* (i.e. applying sealants and doing coronal polishing), the supervising dentist is not required to be in the treatment room but must be in the office.

### Informal Administrative Penalty Procedures

In addition, the board approved implementation of an alternative informal system providing an option for administrative penalties rather than more formal proceedings in cases where a minor violation does not impact patient care. The standard schedule of penalties for administrative violations ranges from \$250 - \$500. For example, failing to display registration in a dental office would be a \$250 penalty while it would be \$500 for failure to provide records to a patient. A penalty assessed under this process may not exceed \$1,000 for each violation and may not exceed \$3,000 in a calendar year. The Board will still make information regarding these penalties available to the public. It is hoped that instituting this process will speed up resolution of minor violations and allow the enforcement staff to dedicate more resources to dealing with more serious alleged violations.

### Other Rules:

Reflecting changes in state law, the board also adopted rules to increase the terms of state board members to no more than two consecutive full six years terms (as compared to only one term), as well as a number of non-substantive administrative changes.

The general election will be on November 2.

### TAGD to Offer Advocacy Training on January 23



On January 23, TAGD will be offering a special advocacy training program for academy leaders from 8:30 - 10:30 AM at the Adolphus Hotel in Dallas.

If you have an interest in becoming more involved with TAGD's work on public policy issues and would like to attend, please contact Sandy Frizzell at [sandy@tagd.org](mailto:sandy@tagd.org).

#### TAGD Legislative Committee

**Dr. David Tillman**  
*Fort Worth, Chair*

**Dr. Mark Peppard**  
*Austin*

**Dr. Ron Theiss**  
*Nacogdoches*

**Dr. Dan McCauley**  
*Mt. Pleasant*

**Dr. Craig Armstrong**  
*Houston*

**Dr. Marko Alanis**  
*Edinburg*

The rules will go into effect 20 days after publication in the *Texas Register* later this month. A more detailed analysis of the rules will be published in a future issue of *GP* and a copy of the complete text of the rules is available on the SBDE web site at [www.tsbde.state.tx.us](http://www.tsbde.state.tx.us).

## TAGD Member Hosts Fundraiser



Dr. Dan McCauley, President; Connie Sonnier, Executive Director; Dr. David Roberts; and Dr. Bryan Moore pose with Governor Rick Perry.

TAGD member Dr. David Roberts hosted a well-attended fund raiser in his Dallas home for Governor Rick Perry on December 2. Among the attendees were TAGD President Dr. Dan McCauley, Legislative Chair Dr. David Tillman and Executive Director Connie Sonnier.

TAGD does not have a political action committee or endorse candidates. Attendees went on their own accord and did not officially represent the organization.

## House Interim Charges Issued

House Speaker Joe Straus recently announced interim committee charges, which are issues that will be studied by committees resulting in possible legislation to be considered next legislative session in January 2011.



While none of the charges explicitly deal with dentistry, there are a number of general health care related studies. Senate interim charges are expected to be issued by Lt. Governor David Dewhurst in the near future. TAGD's legislative committee will review each of these topics to determine the academy's level of interest and what topics will be monitored as proposals are discussed in the coming months.

## Red Flags Rule Delayed

As of October 29, the Federal Trade Commission (FTC) delayed implementation of its controversial "Red Flags Rule," until June 1, 2010.



The "Red Flags Rule" would require all businesses classified as "creditors" to develop a written plan for detecting identity theft. As currently written, a "creditor" is defined as any business that provides a service before billing a customer. This would include any dental office that bills patients for post-insurance remainders.

While the enforcement has been placed on hold until June, the U.S. House of Representatives unanimously passed a resolution, H.R. 3763, that would exempt any healthcare practice with 20 or fewer employees. The resolution has been awaiting a hearing in the Senate Committee on Banking, Housing, and Urban Affairs since October. Visit <http://capwiz.com/agd/home/> for more information on the Red Flags Rule and other Federal issues tracked by AGD.

## Advocacy Fund Committee Named

Dr. Dan McCauley has appointed Dr. Craig Armstrong, of Houston, to chair an ad hoc committee developing guidelines for a fund to support TAGD's advocacy efforts. Other members serving on the committee include Drs. John Chandler, Roberto Diaz, Jacquelyn Vo, and David Roberts.

The committee hopes to complete its work in time for the new advocacy fund to be launched early next year.

## Other State Board Developments...

In other developments, an ad hoc Board committee drafting new anesthesia rules met on November 19 to continue its work of rewriting rules. The committee is expected to meet again prior to the January Board meeting at which point it may present proposed rules to be published for public comment.

For the 2008-2009 fiscal year, which ended October 1, the SBDE received a total of 1170 complaints - an increase of 224 complaints over the previous fiscal year. At the same time, the average number of days to complete an investigation is about 120 days, which is less than half the time it has taken in the past. In time, the SBDE's goal is to reduce the average investigation time to 90 day and to adopt more consistent rules for the procedural handling of cases.

The November 20 meeting was convened by newly appointed chair Dr. William Purifoy, and attended by Joy Sparks, recently named

general counsel at the TSBDE.

The next SBDE meeting is tentatively scheduled for January 15.  
Board committees will meet the day before the meeting.

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