

THE ROOT

YOUR SOURCE FOR DENTAL LEGISLATION, REGULATION, AND ADVOCACY | November 2020

Capitol Chatter

The 2020 general election results are mostly in and while a majority of the attention has been on the presidential race, which has yet to be decided at the time of this writing, TDA has been very active and involved in state legislative races (Texas Senate/Texas House). The Texas Legislature controls much of what dentists do in their practices every day. The lawmakers in the Texas House and Texas Senate make decisions that impact dentists and dental patients. TDA and DENPAC work daily to elect lawmakers who support dentistry.

In the Texas House, Democrats hoped to seize control of the majority but failed to do so. At the time of this writing, the split in the Texas House remains what it was the day before the election—83 Republicans and 67 Democrats. One Republican incumbent, Sarah Davis (R–Houston) lost her bid for reelection and one Democrat incumbent, Gina Calanni (D–Houston) did as well. Several other House races are so close that they have yet to be determined at the time of this writing (including 2 that will be recounted), but the House will remain in Republican control.

Also, members of the Texas House of Representatives must elect a new speaker. Now that the general election has occurred and the majority of the chamber is known, House members are actively pursuing the speaker seat and/or supporting a colleague they believe will win. Representative Dade Phelan (R–Beaumont) recently announced during a press conference that he has enough House votes to be elected speaker.^{1,2} But, nothing is official until the House votes. Representative Richard Raymond (D–Laredo) called for a one-day special session in December for the House to elect the new speaker.



However, that would require current House Speaker Dennis Bonnen to step down before the Legislature convenes on January 12, 2021 and that is unlikely.³

In the Texas Senate, one incumbent lost, Pete Flores (R–San Antonio), which puts the balance in that chamber at 18 Republicans and 13 Democrats. Although Republicans retain the majority, the loss of one additional seat is significant as Senate rules require 3/5^{ths} of the chamber to bring a bill to the floor. Republicans must now have one democrat for legislation to reach the floor.

For a full list of results, go to www.tda.org/denpac/publications.

References

1. 'The race is over' Rep. Dade Phelan says he has enough support to become speaker of the Texas House. KXAN. November 4, 2020.
2. State Rep. Dade Phelan says he has votes to become speaker of Texas House. Texas Tribune. November 4, 2020.
3. Now that Chair Phelan is presumptive speaker, Rep. Richard Raymond Proposes a one day special session to elect presiding officer in December. Quorum Report. November 5, 2020.



What is two weeks of dentistry worth?

This Spring, TDA worked directly with Governor Abbott and his team to reopen dental practices a full two weeks earlier than the initial plan.

Think about what those two weeks meant to you, your patients, your staff, and your community. **The dollar amount is high. But the human value is incalculable.**

And it wasn't free. TDA advocacy and DENPAC made it possible.

DENPAC allows the dental profession to have a unified front and direct contact with key decisionmakers. But it only works with contributions from Texas dentists. Think of what might happen if we didn't have the support of DENPAC members. And **imagine how much more we could do with your help.**

You can contribute to DENPAC on the TDA website; through the mail; on your dues statement, which will arrive later this month; or through easy monthly debits.

To learn more about DENPAC, go to tda.org/denpac. To support DENPAC directly, go to tda.org/denpac/membership.



Controlled Substance Continuing Education (CE) Opportunities

TDA recently entered an exciting partnership with the UTHealth School of Dentistry at Houston's PACE Center to bring virtual CE opportunities to member dentists.

Dr Art Jeske will teach a series of 6 live-interactive webinars combining all dentists' controlled substance CE requirements into a single 4-hour course. The TSBDE will count the 2 hours of CE required for DEA permit holders towards the 4 hours of CE required for all dentists providing direct patient care starting January 1, 2021.^{4,5}

Register Now for January 22, 2021 Course

Controlled Substances and Texas Dentists: Ethically Prescribe, Monitor and Apply Standards of Care to Successfully Manage Pain

Live, Interactive Webinar

Date and Time: January 22, 2021 from 8:30 AM to 12:45 PM

Course Fee: \$180 dentist or allied dental personnel

Registration: go.uth.edu/PrescribingJanuaryTDA

Remember: Dentists may also count the 4 hours toward the 24 hours of CE required for biennial license renewal.

Additional Dates:

- March 26, 2021—Live-Interactive Webinar 8:30 AM
<http://go.uth.edu/PrescribingMarchTDA>
- April 16, 2021—In-person & Live-Interactive Webinar | 8:30 AM
<http://go.uth.edu/PrescribingAprilTDA>
- May 21, 2021—Live-Interactive Webinar | 8:30 AM
<http://go.uth.edu/PrescribingMayTDA>
- July 9, 2021—In-person & Live-Interactive Webinar | 8:30 AM
<http://go.uth.edu/PrescribingJulyTDA>
- August 20, 2021—Live-Interactive Webinar | 8:30 AM
<http://go.uth.edu/PrescribingAugustTDA>

References

4. 22 Texas Administrative Code §104.1(2)(B), Requirement
5. 22 Texas Administrative Code §111.1(b), Additional Continuing Education Required

Mandatory Electronic Prescribing of Controlled Substances

Beginning January 1, 2021, all prescriptions for controlled substances (CII-CV) must be done electronically. TDA knows that many dentists are not significant controlled substance prescribers, and continues efforts with the dental board to create a limited-waiver process for dentists prescribing fewer than 25 controlled substance prescriptions in a year. The draft rule was published in the Texas Register for the 30-day public comment period on November 6, 2020. The state board will consider the rule for final adoption at its December meeting.

TDAid for Medicaid

TDA Advocating for Medicaid Dentists to Access Operating Room Time

Since the summer, TDA has worked with the Health and Human Services Commission (HHSC) to address dentists' complaints about being denied access to operation rooms (OR) at Medicaid hospitals and ambulatory surgical centers (ASCs) for their surgical dental cases. The Texas Academy of Pediatric Dentistry have been instrumental in supporting TDA's efforts by submitting examples of OR denials to HHSC.

At TDA's request, HHSC conducted a survey of Medicaid hospitals and ASCs over the summer that yielded expected results—as of July 2020, 82 of 113 facilities were still scheduling dental cases as they had done prior to COVID-19. The remaining 31 facilities had decreased the number of cases they were scheduling, and a few facilities reported that they no longer schedule dental cases.

TDA continues its work with HHSC to help dentists gain access to operating rooms in both Medicaid hospitals and ASCs. HHSC agreed to reissue a notice sent to Medicaid medical managed care organizations (MCOs) and dental maintenance organizations in July reminding them to coordinate patient care for patients needing medically necessary dental treatment performed in an operating room under deep sedation/general anesthesia. HHSC continues to monitor network

adequacy for patients needing to receive dental care in a Medicaid hospital or ASC and agreed to continue internal communications about this concerning issue.

TDA encourages Medicaid participating dentists facing denials or severe limitations to operating room access at Medicaid hospitals or ASCs to submit a complaint to HHSC at HPM_Complaints@hhsc.state.tx.us and copy TDA Senior Policy Manager Diane Rhodes: drhodes@tda.org. Concurrently, TDA is exploring all additional available advocacy options including legislative options and options with stakeholder groups.

State Board Buzz

Newly Adopted Rules

The following rules were adopted by the Texas State Board of Dental Examiners (TSBDE) and became effective October 1, 2020. Instead of creating a separate sedation/anesthesia permit jurisprudence examination, the dental board plans to update the jurisprudence assessment required for dentist licensure to include a section on sedation/anesthesia for dentist renewing a sedation/anesthesia permit(s). The TSBDE does not anticipate having the integrated jurisprudence examination available until December 2020.

Dentist applicants and those renewing a sedation/anesthesia permit(s) (levels N20-level 4) must take and pass an anesthesia jurisprudence examination as required by the Dental Practice Act.^{6,7}

Certain fees are being increased to match the agency changing to biennial renewals for dental licensure. The fee is corrected for the National Practitioner Data Bank and the Texas.gov internet portal. The peer assistance program fee is increased to the maximum amount allowed by Texas Health and Safety Code §467.0041, Peer Assistance Programs. The fee collected for the prescription monitoring program was reduced. A late fee was added to the nitrous oxide monitoring permit fee for dental assistants, and the fee was removed for a duplicate nitrous oxide monitoring certificate.⁸

State Board Buzz *Cont'd.*

The revised fee schedule may be found on tda.org > Advocacy > Texas State Board of Dental Examiners > TSBDE Rule Updates October 2020.

References

6. Texas Occupations Code §258.1551, Permit Qualifications
7. Texas Occupations Code §258.1552, Jurisprudence Examination
8. 22 Texas Administrative Code §102.1, Fees

Regulatory Reminder

Human Trafficking CE Requirements for the Dental Team

In 2019, the Texas Legislature passed HB 2059, requiring CE in human trafficking prevention for health care practitioners providing direct patient care. The requirement went into effect on September 1, 2020. The CE must be completed before a license or registration renewal. The requirements apply to dentists, dental hygienists, and registered dental assistants.

Dental professionals are among the 68,345 Texans working in the 10-health care-related professions regulated by the state who need to take this CE. The legislature recognized the important role that dentists, dental hygienists, and registered dental assistants can have in helping to identify and intervene in human trafficking. Dental professionals can make a difference—and save lives.

Courses taken to meet this requirement must be approved by HHSC's Executive Commissioner. Right now, there are 14 HHSC approved CE courses. For a list of available approved courses, go to <https://hhs.texas.gov/sites/default/files/documents/services/safety/human-trafficking/hhs-approved-human-trafficking-training.pdf>. Five of the 14 courses are free.

Remember to keep a copy of your CE certificate as proof you completed the required training, in the event you are audited for CE completion by the Texas State Board of Dental Examiners.

Important Dates

December 10, 2020

Texas State Board of Dental Examiners

Go to: <https://tsbde.texas.gov/board-and-committees/>

- Disciplinary Committee
9:00 AM to 10:00 AM
- Licensing Committee
10:00 AM to 12:30 PM
- Dental Practice Committee
12:30 PM to 2:00 PM
- Anesthesia Committee
2:00 Pm to 3:30 PM
- CE Review Committee
3:30 PM to 4:30 PM

December 11, 2020

Texas State Board of Dental Examiners

Board Meeting

8:30 AM

TDA SoundByte Podcast



The TDA SoundByte podcast will be back in December. Episode 7 will be a roundtable discussion with TDA's legislative council chair Dr Matt Roberts, public affairs director Jess Calvert, and senior policy manager Diane Rhodes, covering TDA's COVID-19 response and what is on deck for dentistry during the 87th Legislative Session.

(Cont'd. on next page)

TDA SoundByte Podcast *Cont'd.*

If you have not already done so, listen to the TDA SoundByte podcast, where we take “bytes” out of topics that are on Texas dentists’ minds.

Episode 1: The 86th Legislature

Episode 2: Patient Overpayments and Credit Balances: What Dentists Don’t Know Can Hurt Them

Episode 3: Dentists Using Botox and Dermalfillers: Not Every Dentist Can Use Them for Cosmetic Purposes

Episode 4: New Controlled Substance Regulations

Episode 5: The Truth About New Dental X-ray Equipment Regulations!

Episode 6: The Inside Scoop on State Board Anesthesia Inspections

The TDA SoundByte Podcast is available at tda.org > Publications & Media > TDA SoundByte Podcast, and on Apple Podcasts/iTunes, Spotify, Google Podcasts, Google Play Music, Stitcher, iHeartRadio, and other podcast apps.

Questions

If you have questions regarding legislative or regulatory issues, please contact TDA Senior Policy Manager Diane Rhodes at 512-443-3675 ext. 122 or drhodes@tda.org, or DENPAC Coordinator/Policy Analyst Staci Rives at 512-443-3675 ext. 123 or srives@tda.org.

SAVE *the* DATE

TDA Legislative Day

WEDNESDAY, FEBRUARY 17th, 2021

VIRTUAL | DETAILS TO COME

