

November 16, 2012

Mr. Aaron Washburn
Executive Director
Texas Dental Association
1946 S IH 35, Suite 400
Austin, Texas 78704

Dear Mr. Washburn:

As Texas dentists whose practices serve communities across Texas, we write you today to express our concern with testimony presented by Dr. Richard Black on behalf of the Texas Dental Association during the October 15th hearing of the Texas House Public Health Committee. Dentists throughout Texas strongly disagree with the opinions that Dr. Black presented as fact, and we are therefore concerned that any unsubstantiated statements or action could be divisive to our State's dental community.

Among the troubling statements made by Dr. Black during the course of his testimony and in his oral responses to lawmakers' questions are the following:

- “[N]on-dentist owned entities...provide patient care [and] are overseeing the practice of dentistry.” (emphasis added)
- Reading from his own April 2012 testimony: “companies consider themselves owners of the entire dental practice and may be improperly or illegally interfering with the professional judgment of the dentists”. (emphasis added)
- “[Y]oung people are coming out of school and going to work for a lot of these non-dental entities and we're concerned about them. [W]e're concerned that there may be a conflict of interest. We don't know that for sure, but – you know – why don't we level the playing field a little bit?” (emphasis added)

As one might expect, the Committee Members pressed Dr. Black for evidence that would substantiate his accusations. Rather than offer any, Dr. Black instead called for legislation that would impose additional regulations and restrict dentists' access to non-clinical administrative support services.

For more than 30 years, Texas dentists have utilized non-clinical administrative support services – and we have never experienced what Dr. Black alleges to be fact. Like the medical support services provided to physicians for decades, dental support services include facility maintenance, supply procurement, scheduling support, as well as accounting and marketing services. Contracting for such non-clinical administrative services enables dentists like us to devote more time to the delivery of high-quality, cost-effective dental care to patients and spend less time on administrative duties. In addition, contracting with DSOs enables us to benefit from their economies of scale and bring state-of-the-art technology to our patients and communities, thereby improving patient access, safety, outcomes and convenience.

Not only are Dr. Black's allegations unsubstantiated, the legislation he seeks is unnecessary. Based on the attached detailed legal review by the past-Chair of the Texas State Bar's Health Law Section, Elizabeth Rogers, legislation targeting dental service organizations is not warranted because the Texas State Board of Dental Examiners (TSBDE) already has extensive existing authority to prevent interference with our practices.

We are further concerned about Dr. Black's testimony because it was a significant departure from the focus of the hearing – fraud within the Medicaid dental program and solutions to strengthen the program. Although the hundreds of dentists who contract for administrative support services from TCDSO members perform little or no Medicaid dental care, we strongly oppose the fraud that was perpetrated by bad actors on Texas Medicaid and believe it is essential that action be taken to safeguard the program and the communities it serves.

That is why we are concerned that the legislation Dr. Black seeks is a thinly-veiled deflection from the real issues confronting the Legislature: ensuring future Medicaid fraud does not happen and that TSBDE fully and energetically carries out its already extensive authority. Indeed, imposition of the unneeded regulations called for by Dr. Black would do nothing to strengthen Texas Medicaid. Instead, it would simply serve an anti-competitive objective: restricting hundreds of dentists' access to administrative support services, thereby both raising the cost and reducing the availability of dental care in Texas.

As you know, Texas currently ranks among the bottom 8 States in the nation in the number of dentists per 10,000 residents, according to Kaiser State Health Facts. Additionally, nearly 20 percent of our residents live in the 115 Texas counties that are Dental Health Professional Shortage Areas and the 46 Texas counties, which have no dentists whatsoever. Just as troubling, our State's underserved dental care areas are increasing as the overall population of Texas expands.

We see no justification for further limiting the availability of dental care in Texas or raising its cost by imposing the unnecessary legislation and regulations proposed by Dr. Black. Instead, we see a unique opportunity for us to work together to help public officials curb Medicaid fraud and ensure wide access to affordable, high-quality dental care. As a result and as practicing Texas dentists, we ask you to clarify the position of the TDA to your membership, the Texas dental community, and the Texas Legislature.

Through our combined energies, our dedication to the delivery of quality dental care, and our mutual support for the full exercise by TSBDE of its authority, we can all increase our fellow residents' access to the high-quality, cost-effective dental care they need and deserve.

Thank you,

Dr. David Anderson, Frisco
Dr. Crystal Aspiras, San Antonio
Dr. Mark Barnett, Carrollton
Dr. Geoffrey Barnum, Burleson
Dr. Jeff Beal, San Antonio
Dr. Marvin Berlin, McKinney
Dr. Roger Brandon, San Antonio
Dr. Eric Braunlin, Mansfield
Dr. Karol Brown, Dallas
Dr. Dale Burgdorf, Dallas
Dr. Rose Cantu, Spring
Dr. Linda Cha, Forney
Dr. Thomas Chandler, White Settlement
Dr. Gayle Clapner, Fort Worth
Dr. David Cunningham, Arlington
Dr. Trumon D. Davis, Denton
Dr. Jacob Dent, Sugar Land
Dr. Christopher Devlin, Pearland
Dr. George Devore, Mansfield
Dr. Baha Duraini, Dallas
Dr. Dan Ellis, League City
Dr. Sherry Flusche, Lake Worth
Dr. John Garza, Spring
Dr. Edgardo Gonzalez III, San Antonio
Dr. H.T. Green, Jr., Stone Ridge
Dr. David Griffin, Fort Worth
Dr. Michael Hardcastle, Coppell
Dr. Brian K. Hatch, Wylie and Frisco

Dr. Misty Hawkins, Forth Worth
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Dr. Sandra Horner, North Richland Hills
Dr. Ashley Housley, Round Rock
Dr. David Jones, Austin
Dr. Rosa Joy, Plano
Dr. Sogini Mathew, Wylie
Dr. Sean McLuen, San Antonio
Dr. Michael McNeil, Austin
Dr. Melvin McPhail, Garland
Dr. Amy Mohr, Cypress
Dr. Christian Nino, Houston
Dr. Tatsuo Nishino, Missouri City
Dr. William Parrott, Coppell
Dr. Mitra Partow-Soroushi, Plano
Dr. Benjamin Poest, Pflugerville
Dr. Richard Ramirez, Plano
Dr. Richard Reinitz, Pearland
Dr. Justin Rich, San Antonio
Dr. Randy Richardson, Lewisville
Dr. Karen Robertson-Street, Coppell
Dr. G. Scott Sauer, Frisco
Dr. Bryan D. Schelin, Frisco
Dr. John Sengson, Plano
Dr. Neelufar Shirvani, Richmond
Dr. Melody Stampe, Wylie
Dr. Charles Stetler, Wylie
Dr. Gladys Stigger, Cedar Hill
Dr. Scott Summerlin, Fort Worth
Dr. Precious Thompson, San Antonio
Dr. Caroline T. Tran, Wylie
Dr. Tommy Urbanowicz, Willis
Dr. Cameron Wallace, Katy
Dr. Gary Wilson, Duncanville
Dr. Estera Zanca, Allen

cc: Dr. Kathleen O'Loughlin, American Dental Association
The Hon. Lois Kohlkorst and Members of the House Public Health Committee
The Hon. Jane Nelson and Members of the Senate Health and Human Services Committee