

KANSAS DENTAL BOARD

July 2011

Landon State Office Building, 900 SW Jackson St., Ste 564S, Topeka, KS 66612-1572

Phone 785-296-6400 ~ Fax 785-296-3116

Email: info@dental.state.ks.us Visit our website at www.kansas.gov/kdb/

...Our mission is to protect the public

Glenn Hemberger, DDS, 3rd Dist, Pres

Denise Maus, RDH

Charles Squire, DDS, 4th District

Richard Darnall, DDS at large, Vice Pres

Roger Stevens, DDS, at large

Jim Showalter, Public Member

Susan Rodgers, RDH, Sec.

Michael Milford, DDS, 1st Dist

2nd district, vacant

Betty Wright, Exec. Dir., Melissa Graham, Admin. Officer, Vanda Collins, Senior Admin. Assistant

Board meetings: Aug 5, Nov 4, 2011 Landon State Office Bldg, Topeka

Statistics July 7, 2011

Total Dentists	2121	Total Hygienists	2461	Level I Sedation Permits	157	Extended Care I Permits	44
Active	1864	Active	2242	Level II	29	Extended Care II Permits	83
Practicing in KS	1449	Practicing in KS	1820	Level III	49		

SEDATION PERMITS REQUIRED FOR ORAL SEDATION

If you are performing oral sedations on your patients without a Level I sedation permit, you must cease until you have applied for and received a sedation permit. If you need to apply, download the sedation permit application that applies to your license number on the website www.kansas.gov/kdb/.

BOARD ELECTIONS AND CHANGES

At the February 11, 2011 board meeting, new board officers were elected. Dr. Glenn Hemberger is president, Dr. Richard Darnall is vice-president, and Susan Rodgers, RDH is the secretary. We appreciate the outgoing officers for your work last year. This April, Dr Richelle Roy resigned from her position on the board. We thank her for her time on the board and wish her well. As yet, we have not received an appointment for her replacement.

NEW APPOINTEE TO THE BOARD

On May 13, 2011 Governor Brownback appointed Dr. Charles Squire, DDS to the board. He has maintained a private practice in periodontics in Wichita since 1974. He is a 1968 dental graduate of UMKC. He has served in leadership positions in many dental professional organizations. He is active in several dental UMKC programs, and is currently serving as President of the Dental Lifeline Network-Kansas that administers the Kansas Donated Dental Services Program. For fun, he enjoys sailing, power boating, reading, classical music, an old Corvette and his two Schnauzers.

LEGISLATION OF 2011

The dental practice act had several revisions in the legislative session this year. The greatest change was placed in the lengthy health bill that addresses several agencies, HB 2182. You can find the dental changes on pages 753 – 755 at the following site from the June 9, 2011 Kansas Register – http://www.kssos.org/pubs/register/2011/Vol_30_No_23_June_9_2011_p_715-856.pdf.

One major change was the passing of HB2241, a bill proposed by Comfort Dental. The new legislation allows dental franchises in Kansas. If you have a “dental office administrative services” company that is not owned by a Kansas dentist, or any entity that is not a professional corporation or LLC composed of Kansas dentists, the company must register with the board. To assure public safety the agreements must not compromise the professional judgment of the dentist. KSA 65-1424 revision in part is below:

(1) “Proprietor” means any person who:

(a) employs dentists or dental hygienists in the operation of a dental office.; or

(2) “Dental franchisor” means any person or entity, pursuant to a written agreement, who provides a licensed dentist any dental practice management consulting services, which may include marketing or advertising services, signage or branding consulting, or places in possession of a licensed dentist such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation. A person or entity is not a dental franchisor if the agreement with the dentist:

(A) Permits the person or entity to interfere with the professional judgment of the dentist; or

(B) contains terms that would constitute a violation of the dental practices act, rules and regulations adopted by the board, any orders and directives issued by the board or any other applicable law.

A new section of the law requires registration with the board of dental office administrative services companies if they are not dentists, professional corporations, or professional LLCs. The registration form is on the website under “applications and forms.”

New Sec. 96. (a) Any person who is not licensed as a dentist under the dental practices act, or any entity that is not a professional corporation or limited liability company composed of dentists which enter into an agreement with a dentist to provide dental office administrative services shall register with the Kansas dental board.

(b) (1) The registration shall include the company name, contact information and responsible person of such person or entity along with the address and licensed dentist practice owner names for which administrative services are being provided.

(2) Any person or entity registered under this section shall provide updated information to the Kansas dental board within 30 days of any changes to the information provided in paragraph (1). Any person or entity required to register pursuant to this section shall have 30 days from the execution of any contract or agreement with a dentist or professional corporation or limited liability company to complete the registration.

(c) Any such person or entity required to register pursuant to this section operating under a contract or agreement executed prior to the effective date of this section shall be subject to the provisions of this section and shall have 30 days from the effective date of this section to complete the registration. A copy of all contracts or agreements providing for dental office administrative services shall be maintained by the registered dental office administrative services company and shall be subject to inspection during regular business hours at any time by the Kansas dental board.

New Sec. 97. (a) As used in this section, “licensed dentist” means a dentist licensed under the dental practices act.

(b) No person who is a licensed dentist or any entity that is not a professional corporation or limited liability company owned by a licensed dentist shall enter into or continue to maintain a contract or agreement with a licensed dentist in which such contract or agreement allows or provides for the following functions to be controlled by any person or entity other than a licensed dentist pursuant to this section:

(1) Providing dental treatment to patients;

(2) the decision to accept individual patients for treatment;

(3) the direction or delegation of all professional dental services;

(4) the ownership of dental charts or patient records;

(5) except as provided in subsection (d), the ownership of dental equipment or dental materials; and

(6) the supervision of clinical dental staff.

(c) It shall not be a violation of this section for a person or entity to act on behalf of a licensed dentist to perform or arrange for others to perform office administrative services including, but not limited to:

(1) Purchasing, billing or tax preparation;

(2) compliance or quality assurance programs;

(3) legal advice or representation; and

(4) payroll, advertising, training, recruiting, recordkeeping, programming or other similar functions under the direction or with the consent or approval of a licensed dentist or professional corporation or limited liability company owned by a licensed dentist.

(d) Nothing in this section shall prohibit a licensed dentist, professional corporation or limited liability company owned by a licensed dentist from entering into real estate lease, equipment lease or lease purchase agreement or bona fide sale of dental equipment or material secured by a chattel mortgage or retain title agreements with equipment manufacturers, landlords, lending institutions, leasing companies, dental franchisors or persons or entities providing dental office administrative services or similar commercial financing transactions.

(e) No contract or provision in any such agreement shall require either party to indemnify the other party for negligence, intentional acts or omissions that constitute a violation of K.S.A. 65-1422 et seq., and amendments thereto.

Additionally a general hospital in a county with a population of less than 50,000 may employ a dentist:

Nothing in this section shall prohibit a licensed dentist from practicing dentistry as an employee of a general hospital defined in K.S.A. 65-425, and amendments thereto, in a county with population of less than 50,000.

Two bills were proposed regarding dental hygienists, and neither passed. The board supported SB 132; this bill was the KDA’s proposal to create an ECP III hygienist. After 18 hours of training the ECP III would be able to prescribe fluoride, chlorhexidine, antibiotics and anti fungal as directed by a standing order from sponsoring dentist; extract deciduous teeth that are partially exfoliated with class 4 mobility; smooth a sharp tooth with a slow speed dental handpiece; remove decay using hand instruments; and place temporary fillings under general supervision. The midlevel hygienist bill HB 2280/SB 192, proposed a registered dental practitioner and was sponsored by Kansas Action for Children, KAMU and the Kansas Health Consumer coalition. The registered dental practitioner would be licensed dental hygienist with an additional 18 months of education. They would be able to do pulpotomies, extractions of primary teeth, diagnosis of oral disease, cavity preparation and a large list of dental procedures under general supervision. Neither bill was passed this session and may be considered again in 2012.

DISCIPLINARY ACTIONS

February 11, 2011 Board Meeting

Ronald E. Gier, DDS – Case 10-46, 08-143, 08-157, 09-135. Fine \$4000 and license is restricted in that he shall not perform endodontic treatment on any tooth with multiple canals until further order of the Board. There were multiple cases of substandard root canals.

Jane Grove, DDS – Case 08-118. This order is a five year probation that mirrors the Missouri Dental Board Order for “violation of a professional trust or confidence in that Licensee billed a third party and collected reimbursement for services not provided” for Missouri patients.

May 6, 2011 Board Meeting

Dennis Jones, DDS - Case 10-100. Fined \$1000 and must complete 8 hours of CE on record keeping and diagnosis or treatment planning. The Licensee had failed to properly document and treat a large abscess.

BOARD UPDATES

At the February 2011 meeting, the board reviewed their position on Botox and derma filler injections, due to many calls the board office receives from dentists who want to offer these services. The policy remains the same - the use of Botox is limited to the practice of dentistry and the practice of dentistry is defined in the Kansas Dental Practices Act.

We are working on a regulation that will require that all licensees have a minimum BLS for the health care provider as a part of the renewal process. This is a revision of KAR 71-4-1 and the public hearing will be at 9:00 a.m. at the Nov. 4 board meeting, Rm 108, Landon State Office Bdg, 900 SW Jackson, Topeka.

INVESTIGATIVE COMMITTEE MEETING REPORT From 4/1/2011-6/30/2011

65 – CASES ARE BEING INVESTIGATED - 41 FOR THIS TIME PERIOD

ORDERS IN EFFECT, REFERRALS TO HAPN AND ATTORNEY CASES PENDING

23 - MONITORED BY M. GRAHAM:

13 With Board Orders
5 Waiting for proof of Compliance
3 Referred to HAPN
2 On hold for outcome of another case
23 TOTAL

32 - WITH BOARD ATTORNEY:

17 cases referred for discipline
15 Whitening cases – Cease and Desist Letters sent
32 Total

120 TOTAL CASES STILL IN PROCESS

TRACKING OF CLOSED CASES

13 Letters of concern
1 – recordkeeping & additions to the record
1 – clearly record who provided treatment
2 – assuring patient safety & sterilization
1 – advertising
1 – protocol on patient allergies, sensitivities & updating health histories
1 – recordkeeping, prescribing
1 – treatment choice
1 – placing dental implants
1 – recordkeeping, consent form
1 – assistants doing careful chart review
1 – review advertising for potential violations
1 – repeated problems with fixed prosthodontics
1 Letter of Instruction
1 – staff administering nitrous
7 Applicant case
5 – closed with HAPN brochure
1 – closed – previous malpractice case
1 – closed
2 Letters of reprimand
2 – CE audits
2 Completed Disciplinary Order

- 10 No Action – no violations found
 - 1 – behavior toward patient
 - 1 – advertising
 - 1 – name of practice
 - 1 – reporting to school
 - 4 – advertising corrected
 - 2 – reopen if reapplies

Total closed - 35 Cases

FAQs

What procedures can an assistant perform under direct supervision? An assistant can not remove enamel, do an extraction, cement a permanent crown, or adjust a permanent crown once placed. An assistant can place a restoration, polish teeth, take probe depths, take x-rays and final impressions. However, these procedures can only be performed under direct supervision, this means the dentist is in the office and checks the assistant's work. (1) An assistant may administer and monitor nitrous oxide or oxygen, or both, if they are current in CPR and have completed a nitrous oxide course approved by the dental board.

When a dentist or hygienist is an employee, are they responsible for compliance with the dental practice act? A dental professional who is working as an employee will be held responsible by the board for any violations of the dental practice act at their practice location. If sanitation requirements are not being met, insurance claims submitted fraudulently, or insurance co-pays are routinely written off, these are violations of the Dental Practice Act. The employee dentist is liable for these violations and cannot use the "defense" of being an employee of a clinic, hospital or another dentist.

Is it a violation if the phonebook or internet advertises a general dentist as a specialist? Yes, the board receives these types of complaints continually. The Investigative Committee directs the dentist to send a letter to "fix" the mistake. If the dentist continues to allow their practice to be mischaracterized as a specialty, they may be disciplined. If you have hired a company to enhance your internet advertising, you need to tell them that you must review the ad, prior to publication, for possible violations of the Dental Practices Act violations; for example, claims of superiority or misleading statements about your dental practice.

IF YOU WANT TO GET OUR NEWSLETTER BY EMAIL - SEND YOUR EMAIL CONTACT TO:

vanda@dental.ks.gov. The newsletter will come titled as "kdb-news" to your email address.

For information on help with drug addiction, disability, or mental issues that may be affecting your practice - call HAPN- 913-236-7575

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