

Oklahoma Senate Committee on Appropriations

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2015-16 Performance Report

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Oklahoma Board of Dentistry

AGENCY MISSION STATEMENT:

It is the duty of the Oklahoma Board of Dentistry to protect the public safety by ensuring the safe and legal practice of dentistry in the State of Oklahoma through the enforcement of the Oklahoma Dental Practices act and other State laws.

LEAD ADMINISTRATOR:

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GOVERNANCE:

The Board of Dentistry is a Constitutional Agency that was created at Statehood in the original Oklahoma Constitution in 1907 and was one of the first four State agencies. Prior to Statehood it was the Oklahoma Territorial Dental Board from 1891-1906.

The Executive Director is hired by the Board of Dentistry. The previous Director served for 35 years, the current Director Susan Rogers has been the Director for approximately 3 ½ years.

The Board is made of 11 people, 8 dentists, 1 hygienist and 2 laypersons. The 8 dentists are elected by district and serve three-year terms with a maximum term limit of 9 years. The hygienist is elected statewide from all the hygienists and serves a three-year term with a maximum of 9 years. The two laypersons are appointed by the Governor and by statute, may not be related to a dentist or hygienist. The Board members elect a president, vice-president, 2<sup>nd</sup> Vice-President and Secretary on a yearly basis.

Current Members of the Board:

Board President: Dr. James Sparks, Oklahoma City  
Board Vice President: Dr. Trent Yadon, Woodward  
Board 2<sup>nd</sup> Vice President: Stanley Crawford, Grove  
Board Secretary: Dr. Jeffrey Nelson, Kingston  
Member: Dr. Jim Gore, Pryor  
Member: Dr. Michael Howl, Tulsa  
Member: Dr. Lisa Nowlin, Elk City  
Member: Dr. Wavel Wells, Lawton  
Member: Angela Craig, RDH, Edmond  
Member: Chief Phil Cotton (retired), Norman  
Member: Loretta K. Roberts, Esq. Broken Arrow

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#### Committees and Subgroups:

1. Hygiene Committee – members are appointed by the Board and the elected Hygiene Board Member also serves. The committee has regular meetings in between the Board Meetings and makes recommendations to the Board regarding hygiene related issues.
2. Anesthesia Committee and Inspectors – members are appointed by the Board. All members are licensed dentists and/or specialists and have a current anesthesia permit issued by the Board. This group is currently reviewing the anesthesia rules to bring them up to date and in compliance with current American Dental Association standards. This group also works with the agency investigators and Director to complete in office inspections of new and current anesthesia providers. Each year there are approximately 1-4 deaths related to a dental procedure and at least half of these are related to anesthesia. This area continues to grow as more dentists are using various forms of anesthesia for patient comfort.

#### GOVERNANCE ACCOUNTABILITY:

There is no statutory attendance policy for Board members currently. All Board Members attend regularly.

Oklahoma is recognized nationally as a leader in Dental Boards. Two current Board members serve as elected members of a national dental examination board and a previous Oklahoma Board President serves as the national coordination for the Western Regional Examination Board, the required national test to obtain a dental license in Oklahoma and accepted in approximately 40 other states. The Director and Board members regularly do presentations and serve on committees for the National Association of Dental Boards.

#### MODERNIZATION EFFORTS:

The State Board of Dentistry historically had a secretary and part-time employees until they hired the first full-time executive director in 1975. Linda Campbell served as the Executive Director until 2010 when she retired after 35 years of service.

Historically this agency has not kept up with technology, primarily due to shortage of funds. Susan Rogers, Esq. was hired as the executive director in mid-year 2011.

#### **Computers, Databases and Online Renewal (2012-2015)**

Previous to 2012, the Boards database existed on a large rolodex file card system and a very old word processing program no longer in use. None of the computers were networked and all of the computers had different word programs. The Board had received bids to create a database of approximately \$25,000.00 which was not fiscally possible at the time. The previous website was privately hosted and after the new technology law passed in 2011, the previous hosting organization disappeared and there was no access to the then existing website for over a year.

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Between 2012 and 2014, the Board has worked with OMES to bring all the computers and systems up to date. The Current Director has acted as the General Counsel for the agency which has been able to save approximately \$70,000 to \$80,000 a year versus a monthly contracted Assistant Attorney General and outside private counsel. Private counsel is maintained on contract on an as needed basis in cases of ethical conflicts.

In late 2012, the Board was able to work with OMES and ok.gov to create a new website that has been extremely helpful. During 2013 through 2014, the board staff hand entered over 11,000 licensee and permit holders information to build the current database. Each dentist and hygienist has approximately 33 sections of information that was also hand entered for a total of approximately 33,000 sections of information. Needless to say this has been an incredible task by our staff. That information was uplinked to ok.gov's online renewal system allowing for the first year of dental board online renewals in 2013.

Also in the 2013-2014 fiscal year, changes in our dental statutes amended the requirements of who is required to register as a dental assistant. The law went into effect in July and the Board had approximately 2,000 new permit holders that had to be hand entered onto the database. After the Tulsa incident, a large number of individuals that had previously had an assistant permit at one time then didn't renew for years and continued to work illegally, decided they needed to get their permits updated. One person had worked illegally as an assistant for over 20 years without renewing their permit. The Board allowed for immunity for everyone to come into compliance, however they did have to pay late fees or retake classes which makes that fiscal year an anomaly.

The online renewal system has greatly helped with efficiency; however we are still working with OMES and ok.gov to correct ongoing issues with the system. We estimate that our most recent renewals that ended in December of 2014, the Boards second year of online renewal availability, had approximately 75% plus of the license holders that renewed online. The 75% is figured out of the renewals that were able to renew online as there are still two categories of permit holders not able to renew online that must download the form from the website and send it in.

The website and the online system have cut daily phone calls from approximately 120 per day to between 30-60 per day. Many questions are sent through the website and answered by email. Prior to 2012 everything was sent by regular mail. The new technology has allowed for approximately \$10,000 to \$20,000 of savings in mail and printing costs yearly compared to past years. However, the cost for the computer systems has greatly increased from approximately \$3,000 per year to approximately \$8,000 for basic services exclusive of any new computers, programs or other equipment. Additionally, any changes to the online system also cost fees usually estimated between \$5,000 and \$20,000 per year as requested. Currently, the Board has a lengthy list of needed updates to our online system as we utilize it to record and maintain continuing education for the dentists and hygienists. We estimate the costs to correct the issues to be around \$40,000.

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In early 2013, the CFO for the Board, a 33 year employee retired and the Board outsourced finance to shared services. The cost for this is approximately \$7,500 per year. Outsourcing finance has been difficult at times since the Board is assigned a different person for each function and we are constantly have people rotated. Until the first week of April of this year, the agency Director did not have any computer access or ability to access or view the Boards accounts. With recent changes, hopefully these issues will be corrected. The Board also outsources payroll and portions of human resources at the cost of approximately \$3,000 per year.

During the 2013-2014 fiscal year we moved into a state owned building with the Pharmacy Board and the Veterinary Board. As a result we have been able to share space and equipment with both Boards. We have been able to save approximately 1/3 to 1/2 of the costs of the printer/copier lease through our ability to share. All three agencies share a board room which has allowed for a larger space at a lesser cost. The Board of Dentistry and the Board of Veterinary Medicine are also able to share an employee which has been helpful in savings as well. All three agencies have CLEET certified police officers as investigators that are able to complete state required training together.

#### CORE MISSION:

The Board is the regulatory agency for the practice of dentistry and/or unlicensed illegal practice. The Board licenses and disciplines dentists, hygienists, dental assistants and dental lab permit holders. Currently we have approximately 10,971 licensees and permit holders. Each of those license and permit holders have a yearly renewal of their license processed by staff. In addition we process over 1200 dental assistant expanded duty function certificates per year in addition to interns, resident and fellow applications. Additionally, the new law from 2013 required that a background check be completed on each new licensee or permit holder. The Board has approximately 300-400 new applicants per year.

Administrative license cases are overseen by a three person board member panel that includes the president upon the Boards receipt of a complaint. The panel directs staff and assists in these investigations. If the panel believes a licensee has potentially committed a violation of the Dental Practice Act, the matter is referred to the remainder of the Board for a full hearing or for approval of a recommended agreed order.

In concert with the Governor's goal of reducing prescription drug related deaths, in 2012, the Board requested legislation for background checks of licensees and also requires any dentist to notify the Board within 24 hours of discovering that someone has forged a prescription in their name or is missing drugs. This year, the majority of our cases are forged prescriptions and stolen drugs by staff. Each case is being investigated and whenever possible charges are presented to the local district attorneys for prosecution. Historically, when a doctor or dentist has had someone in their office forging prescriptions and/or embezzling, they did not report it for fear of embarrassment. The staff would simply move to a different dental or medical office and do the same thing. We are hoping to stop some of this cycle and along with the background checks cut down on the number of

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prescription drugs on the street and overdose deaths. Additionally, local police departments are requesting assistance with cases as they are overloaded and do not like working doctor related cases.

The agency investigators are CLEET certified State police officers. Approximately 90% of the cases we work are drug related. Approximately 80% of the cases we work have potential criminal charges. The issues we have regularly include: drug related crimes, forged prescriptions, sexual battery, insurance fraud, medicaid fraud, fatality investigations and unauthorized illegal practice. A large number of our cases are not dentists, but dental assistants, dental labs and office staff. Our investigators regularly work with local law enforcement agencies, the U.S. Drug Enforcement Agency (DEA) and the Oklahoma Bureau of Narcotics (OBN) each of which have oversight on Dentists that have prescription drug licenses.

During 2014, the Board received approximately 115 complaints. Out of those 80 were closed and 32 had formal cases opened. The Board does not have jurisdiction for anything that is a fee dispute type case due to anti-trust laws and court rulings. Each year a large percentage of complaints are fee disputes. Board investigators worked and/or assisted other law enforcement agencies on approximately 23 criminal drug cases related to dental offices or licensee holders. Also during the 2014 year, the Board completed over 425 background investigations on renewal applications and 128 new applicant investigations.

The Board also oversees anesthesia permits and licenses for anesthesia use in dental offices as well as drug distribution permits for dentists. In late 2013, the Board hired a retired dentist to work on a part-time bases to oversee all the anesthesia inspections and licensing. Due to upgrades in our technology, we recently converted an administrative position to an investigator position to help us with the new cases and background checks.

The Dental Board statutes have not had an overall revision since approximately 1946. Dentistry as a practice is currently going through major changes nationwide due to a transition from sole-practitioners to corporate owned facilities, issues with hospitals, hospital privileges, insurance, obamacare and new technology. For the past year and a half, the Board and the Association have had approximately 9 committees made up of between 10 to 20 dentists and hygienists. Half of the members were appointed by the Board President and one half appointed by the Association President. These groups have gone through and attempted to update ½ of the dental practice act. This has been a tremendous amount of work on the part of many people and has resulted in Senate Bill 781 requested this year. In the next two years, these committees and new committees will also be convened to continue updating the other sections of the Statutes not covered this time until the project is completed.

PRIVATE ALTERNATIVES:

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The Board sits en banc as Administrative Judges in Administrative Court in any hearing of an alleged violation on a license or permit. If privatized, the outside costs of the expert witnesses to evaluate cases would potentially be extremely high as well as additional attorney fees. Legal issues would not be able to be resolved at the Administrative Court level and all would likely go to District Court. Currently, District Court is the oversight agency of the Board as the venue for appeal from any administrative action by the Board. There are no real private alternatives, nor has the Board been approached by anyone about privatizing functions.

#### Additional Information Regarding the Dental Board Budget and Revolving Funds

The medical boards in general are all targets for lawsuits. These Boards deal with high level professionals who are generally litigious by nature. Upon my arrival as the Director, the Dental Board had 3 lawsuits and 3 injunctions at District Court. Risk Management (our insurance) does not cover or pay anything until the order or settlement exceeds \$150,000. As a result, each lawsuit causes a Board to have a possibility of spending \$150,000 that should be budgeted. However, you cannot complete a purchase order and budget for something that has not happened or that you do not have a purchase order for. As a result, we have purposefully kept money in the revolving fund to prepare for costs associated with cases we are pursuing and lawsuits against us. Since 2011, I have been able to get 5 of the lawsuits and injunctions dismissed, however one remains and will likely result in some type of settlement agreement. One of those cases had an existing attorney and cost over \$80,000 to defend. That lawsuit was ridiculous and was based on an individual getting his license cancelled for non-payment and he sued the Board to the Supreme Court because he believed he had a right to his license even if he didn't renew or pay his renewal fee. He lost, we won but it still cost us \$80,000. Non-appropriated agencies have also not traditionally budgeted for unpaid sick and vacation leave for retiring employees. Between 2010 and 2012, three 33 year plus employees retired from the Board of Dentistry causing a shortfall in the agency's budget of approximately \$50,000. Most non-appropriated agencies work from a zero based budget system. The money collected this year that is in the revolving fund is what will be used for next year's budget. Each year our agencies budget is built from the ground up to include the basic expenses and anything additional is taken on a year to year basis. We have approximately 7% of the licensees and permit holders that do not renew each year.

I hope this information is helpful and informative to you about what we do. Please feel free to contact me on my cell phone or at the office if you have any questions or if I can assist you further.

Susan Rogers