



March 2022

### **A Message from Our Presiding Officer, Dr. David Yu, DDS, MS**

One of the primary charges of The Texas State Board of Dental Examiners is to enforce the rules of the practice of dentistry based on the accepted minimum standards of care. We at the board take this responsibility very seriously but we also temper this with the confidence we have in our profession and our fellow practitioners. It is impossible to regulate every aspect of our practice, every procedure, and every interaction with patients. Nor is it the board's responsibility to define and micromanage every standard of care by creating endless rules. We base the standard of care on what "a reasonable and prudent dentist would do under the same or similar circumstances." Your peers on the Dental Review Panel help us determine whether the standard of care was met based on best practices in consideration of scientific evidence. Dental board members review these reports and evidence in each case. For example, isolation is a widely accepted standard of care for endodontic procedures, but no board rule exists for such. In this example we see the opposing forces that rule the board, weighing scientific evidence against legislative action and the trust we have in the practitioners of our shared profession.

Many of our rules contain the phrase, "a reasonable and prudent dentist," which is meant to be a legal shorthand for evaluating how a practitioner should act given scientific evidence and best practices. This is similar to the medical board's "generally accepted standard of care" within 22 TAC §190.8 that states standard of care is not and should not be specifically defined by board rules but the board considers what is generally accepted in each case. The board respects the purposeful autonomy of each license holder. It is incumbent upon each one of us to practice reasonably and prudently within the board rules and beyond the generally accepted minimal standard of care.

As you review the rules of maintaining your license, the board rules are a legal template for your practice, but those rules do not encompass the entirety of how you conduct your practice relating to the generally accepted standard of care. To protect the public, the dental board demands a high standard from our dental professionals to protect the public while offering trust for individual providers to engage in their practice as any reasonable and prudent dentist would.

I know that my fellow board members and myself take rule creation very seriously. We know the power that our words have especially when written into law. We appreciate the suggestions and consider all feedback from the Texas dental community. Thank you for your support and patience as we help write the future of the practice of dentistry in Texas.

In Service,

David H. Yu, DDS, MS

# Reminder

Prior to prescribing or dispensing opioids, benzodiazepines, barbiturates, or carisoprodol, a dentist must access the patient's prescription drug history through the Texas Pharmacy Board's Prescription Monitoring Program (PMP) pursuant to board rule [111.3](#).

Additionally, a yearly self-query through PMP must be done pursuant to board rule [111.2](#).



## Fiscal Year 2021 PMP Data

QUARTER 2



### 8,457,526

Controlled substances dispensed, as reported to the Texas Prescription Monitoring Program (PMP) in FY2021 - Q2

### TOP 15 CONTROLLED SUBSTANCES DISPENSED

Controlled Substance	NUMBER OF Rx
HYDROCODONE	1,097,372
TRAMADOL	895,666
DEXTROAMPHETAMINE	758,053
CODEINE	694,044
ALPRAZOLAM	687,725
ZOLPIDEM	534,617
CLONAZEPAM	447,946
METHYLPHENIDATE	385,424
TESTOSTERONE	341,566
LORAZEPAM	321,354
AMPHETAMINE	311,767
PHENTERMINE	293,782
PREGABALIN	289,828
OXYCODONE	215,112
DIAZEPAM	154,743

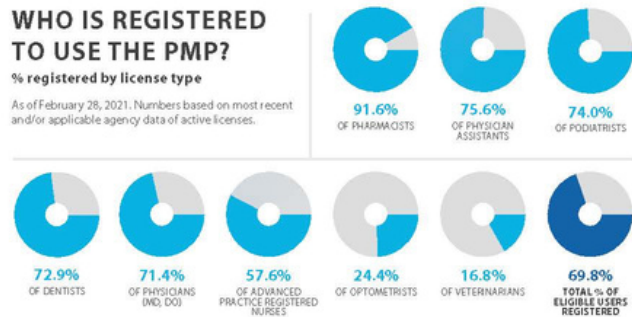


[txpmp.org](http://txpmp.org)

### WHO IS REGISTERED TO USE THE PMP?

% registered by license type

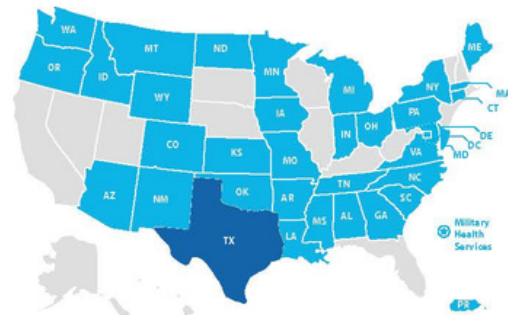
As of February 28, 2021. Numbers based on most recent and/or applicable agency data of active licenses.



From Q1 of FY2021 to Q2 of FY2021, the number of registrants increased by **4,070**.

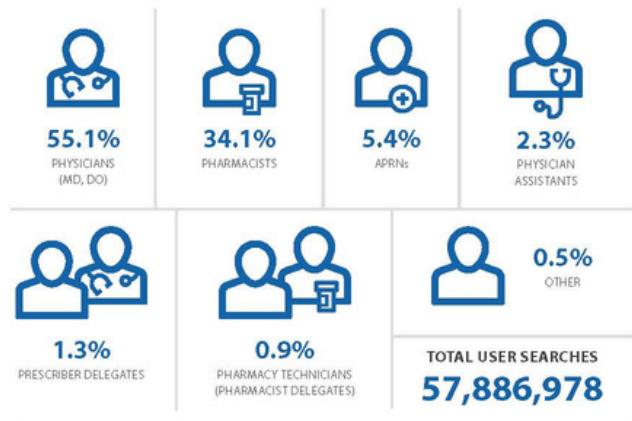
### PARTNER STATES

Texas partners with 36 other states/entities to share data via the PMP Interconnect.



### WHO USES THE TEXAS PMP?

% of user searches by license type

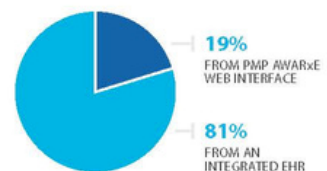


### INTEGRATED ACCESS

Integration allows providers immediate access to the PMP through their EHR.

### 46,740,832

SEARCHES FROM AN INTEGRATED EHR



# Electronic Prescribing Waiver

Effective January 1, 2021, Texas Health and Safety Code § 481.0755 requires that prescriptions for controlled substances be issued electronically, except in limited circumstances, or unless a waiver has been granted by the appropriate agency. A dentist may apply for a waiver from the electronic prescribing requirement by submitting a waiver request to the TSBDE and providing required information.

Please visit <https://tsbde.texas.gov/e-prescribing-waiver/> for additional information.

The waiver form is available here: [Electronic Prescribing Waiver Form](#)

Once approved, waivers will be issued for a period of one year and verification of an approved waiver will be displayed on the TSBDE website. Dentists may apply for a subsequent waiver no more than 30 days before an active waiver expires. Once your application has been approved, you will find your name listed on the Approved Electronic Prescribing Waivers link.

<https://tsbde.texas.gov/e-prescribing-waiver/>

TSBDE will not send you a paper copy of this waiver; pharmacies refer to the TSBDE website to verify a prescriber's waiver status. [Approved Electronic Prescribing Waivers link:](#)

<https://tsbde.texas.gov/e-prescribing-waiver/>

Please contact [waivers@tsbde.texas.gov](mailto:waivers@tsbde.texas.gov), if you have any questions or need assistance.

## Open Positions on the Anesthesia Advisory Committee

The Texas State Board of Dental Examiners is accepting applications for two new Anesthesia Advisory Committee members. The term will begin in December 2022. Pursuant to rule 100.12, the committee will require a periodontist and a pediatric dentist, with either a level 2 (no higher) sedation permit or level 3 (no higher) sedation permit. For more information or to send your completed applications, please email Wendy Richardson at [wrichardson@tsbde.texas.gov](mailto:wrichardson@tsbde.texas.gov).

[Anesthesia Advisory Committee Application Form](#)

# **FRAUD ALERT**

## **AND AWARENESS**

Some stakeholders have received fraudulent calls or emails purporting to be from the Texas State Board of Dental Examiners (TSBDE). If you suspect any telephone call or correspondence from our agency is fraudulent, please notify us by emailing [licensinghelp@tsbde.texas.gov](mailto:licensinghelp@tsbde.texas.gov).

You may also visit the Consumer Protection section of the Texas Office of the Attorney General to learn about common scams and how to report scammers here:

<http://ow.ly/nasU50xxDFG>

### **Fraudulent Phone Calls**

TSBDE urges you to be on the lookout for unexpected scam phone calls from anyone claiming to be from our office. A caller from the TSBDE office will ALWAYS:

- Introduce himself or herself as a TSBDE employee.
- Be able to verify specific details on prior notices or historical account information.
- Explain your licensing or compliance fees.
- Encourage you to call the telephone number(s) on our website if you have any questions about the process: TSBDE Agency Contacts

### **A caller from the TSBDE office will NEVER:**

- Threaten to bring in local police, FBI, immigration officers or other law-enforcement to have you arrested for not paying.
- Pressure you to make a payment.
- Ask for personal information not directly related to an agency transaction.
- Ask for money outside of routine transactions made through Texas.gov or our secure vendors.
- Ask for bank account information.

If you are unsure that the person calling you is from the TSBDE office, please hang up and call the appropriate number on our website: [TSBDE Agency Contacts](#).

### **Spoofed Emails / Recent Phishing Attempts**

Cybercriminals have attempted to send spoofed (impersonated) emails — appearing to be from the TSBDE office. Our office, like other companies and government agencies, has unfortunately been the subject of a number of recent email fraud attacks, including:

- Spoofed emails claiming to be from our office but using a domain not associated with the agency, urging recipients to click on a “secure message” but the attachment is malicious, intended to steal usernames and passwords. Emails should come from someone with a TSBDE domain: [jsmith@tsbde.texas.gov](mailto:jsmith@tsbde.texas.gov).

# FRAUD ALERT

## **Spoofed Emails / Recent Phishing Attempts continued**

- Spoofed emails purporting to be from our office but using a fake agency email domain telling recipients to click on an attachment and sign in to receive a message. The attachment contains a fraudulent link designed to steal your log-in credentials.
- Spoofed emails purporting to be from an authorized TSBDE email service but using a comcast.net email domain. The attached PDF instructs users to click on a "View Information" link which is designed to steal login credentials.

Please be advised that as a licensee of TSBDE, some of your practice information is published to the public. Be wary of this when someone claims to be from TSBDE. To see what information is available, you may visit: <https://tsbde.texas.gov/resources/public-license-search/>.

## **Phone Scam Attempts**

August 2020: Two licensees have reported that a person called them purporting to be from TSBDE pressuring them about TSBDE investigations and requesting money. TSBDE will never pressure you for money over the phone. If you owe licensing or other fees to TSBDE, we have official channels to collect that money and will work with you if you have any questions.

These cybercriminals are putting your information at risk and trying to damage good customer relationships. That is why we are expanding our efforts to fight fraud and keep you safe and secure.

If you are suspicious about an email or phone call that claims to be from the TSBDE office, follow these tips:

Question whether the information should be requested via email or telephone.

Be wary of links and attachments. Consider the context of the email, look for red flags such as poor grammar and/or sentence structure, and when in doubt– don't click. Use an email spam filter and up-to-date virus software and avoid public Wi-Fi. When suspicious, do not respond to the original email. Use independent sources to verify sender details and establish a new channel of communication to confirm with the sender.

**If you suspect any communication from our agency is fraudulent, please notify us by emailing [licensinghelp@tsbde.texas.gov](mailto:licensinghelp@tsbde.texas.gov).**

## Did you know ?

The following can be completed via your online licensing account portal:

- Renew your dental, dental hygiene, registered dental assistant license
- Update your address
- Submit your designation of records request (dentists only)
- Request for a verification of licensure - letter of good standing, from Texas to be sent to another state or organization (a fee is required)
- Submit your request for a name change (legal documentation required)
- and request for a duplicate license (a fee is required)

You may still print your e-renewal certificate for no fee at <https://tsbde.texas.gov/printcert/>.

Be sure you are not on a hand held device; you will need to be on a desktop or laptop. Also, if you have a pop up blocker enabled it will need to be turned off.

All of the above requires a registration to the Online Licensing System for Texas (<https://vo.licensing.hpc.texas.gov/>). If you have registered but have not accessed your account since 2011 or longer, you will need to re-register.

# BOARD MEETING FEBRUARY 18, 2022

## Proposed Rules

Rule 108.7 Minimum Standard of Care, General

[link to rule](#)

Rule 108.16 Teledentistry

[link to rule](#)

## Adopted Rules

Rule 107.204 Remedial Plans

[link to rule](#)

## Human Trafficking Prevention Training Required!

### REMINDER

Beginning October 1, 2021, all initial applicants must complete a human trafficking prevention course that is approved by the Texas Health and Human Services Commission (HHSC) as a prerequisite for licensure or registration. The course must also be taken prior to renewing a license or registration.

Board staff is aware that some licensees are taking human trafficking prevention courses that are not approved by HHSC. Please ensure that the course is approved by HHSC before submitting your course completion certificate. Courses not approved by HHSC will not be accepted to fulfill this requirement. Information is available on the [TSBDE website](#).

The applicable rules are sections 101.1, 103.1, 104.1, 114.6, and 114.12 of the Texas Administrative Code.

**You may find the rules here.**

## Rule Reminders

Board rules §108.7 (Minimum Standard of Care) and §108.8 (Records) are the baselines that all practices must adhere to. Below are summaries of both rules. To see the full rules, please visit the Laws & Rules page on the board website [here](#).

### **§108.7 Minimum Standard of Care**

- Conduct your practice in a manner consistent with that of a reasonable and prudent dentist under the same or similar circumstances.
- Maintain patient records that meet the requirements in §108.8.
- Maintain and review an initial medical history (including, but not limited to, known allergies to drugs, serious illness, current medications, previous hospitalizations and significant surgery, and a review of the physiologic systems obtained by patient history) and perform a limited physical evaluation for all dental patients (including, but not limited to, blood pressure and pulse/heart rate).
- Obtain and review an updated medical history and limited physical evaluation when a reasonable and prudent dentist would do so under the same or similar circumstances. At a minimum, a medical history and limited physical evaluation should be obtained and reviewed at the initial appointment and updated annually.
- For office emergencies, dentists shall maintain a positive pressure breathing apparatus (including oxygen), emergency equipment and drugs, and provide staff training in emergency procedures.
- Complete a current course in basic cardiopulmonary resuscitation given or approved by either the American Heart Association or the American Red Cross.
- Maintain written informed consent for all treatment plans and procedures where a reasonable possibility of complications exist.
- Other provisions of this rule include requirements pertaining to infection control, drug inventory, self-report of death or hospitalization, abandonment, practice closure, and prescribing or administering Halcion.

The information expressed in the newsletter is created or compiled by agency staff. It does not reflect the official position of the board or its members, and it should not be construed as legal advice.

## **Rule Reminders Cont'd.**

### **§108.8 Records**

- Records shall be kept a minimum of five years from the last date of treatment. If a patient was under 18 years of age when last treated, the records shall be maintained until the patient reaches age 21 or for five years from the date of last treatment, whichever is longer.
- Records must include: the patient's name, date of visit, reason for visit, vitals, medical history/limited physical, findings and charting of clinical and radiographic oral examination, documentation of tactile and visual examination of hard and soft tissues, diagnoses, treatment recommendations and options, treatment provided, medications and dosages, complications, written informed consent, controlled substances requirements, and confirmable identification of the provider.
- A dentist who leaves a location or practice shall maintain all dental records belonging to him or her, make a written transfer of records to the succeeding dentist, or make a written agreement for the maintenance of records. A dentist who enters into a written transfer of records agreement or records maintenance agreement shall notify the board within 15 days of the agreement.
- Dental records shall be made available for inspection and reproduction on demand of board employees.
- Copies of dental records shall be made available to the patient within 30 days upon request.

# Anesthesia Information

Reminder, pursuant to 22 Tex. Admin. Code § 110.13 Sedation and Anesthesia, Required Preoperative Checklist for Administration of Nitrous Oxide and Levels 1, 2, 3, and 4 Sedation/Anesthesia: a dentist administering nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia must create, maintain, and include in the patient's dental records a document titled "preoperative sedation/anesthesia checklist." The checklist must be completed prior to commencing a procedure for which the dentist will administer nitrous oxide or Level 1, 2, 3, or 4 sedation/anesthesia. The checklist may be paper or electronic.

Pursuant to 22 Tex. Admin. Code § 110.18, TSBDE is conducting sedation and anesthesia compliance inspections. Failure to allow the inspection to take place may result in suspension in one or more of your permits.

Pursuant to 22 Tex. Admin. Code § 110.18, regardless of issue date, all Level 2, 3, and 4 permit holders will be subject to at least one inspection prior to September 1, 2022. All Level 2, 3, and 4 permit holders who received their initial permit after March 1, 2018, must be inspected within a year of receiving their permit.

Pursuant to 22 Tex. Admin. Code § 110.14 Sedation and Anesthesia, Emergency Preparedness Policies and Procedures: all permit holders, including nitrous oxide/oxygen inhalation sedation permit holders, must develop written emergency preparedness policies and procedures specific to the permit holder's practice setting that establishes a plan for the management of medical emergencies in each practice setting in which the dentist administers sedation/anesthesia. Make note from this rule the requirements of specific protocols, staff training log, emergency drug log, equipment readiness log, individual staff roles and responsibilities, and review requirements.

Texas dentists who hold a Level 2, 3, and 4 sedation permit, please ensure you have a current work address, phone number, and email on file with TSBDE. If you need to update your information, you may email the following information to [anesthesiainfo@tsbde.texas.gov](mailto:anesthesiainfo@tsbde.texas.gov).

1. Full Name
2. Dental License Number
3. Work Address
4. Email
5. Phone Number
6. Indicate if your work address is your mailing address

# Anesthesia Information

## Reminder

**Pursuant to 22 Tex. Admin. Code § 110.18 regarding the  
Inactive and Exempt-location Status:**

### **Inactive status:**

Permit holder may forego an inspection if they submit a notarized, Board-issued affidavit that they will not administer levels 2, 3, or 4 sedation/anesthesia until first notifying the Board in writing that they wish to resume those activities. A permit holder must complete a compliance/Tier 1 inspection prior to resuming the administration of sedation/anesthesia at the inactive permit level. The permit holder must comply with continuing education and any other permit requirements during this time. During the period of inactive status, a permit holder may not delegate any inactive-status level of sedation/anesthesia to a certified registered nurse anesthetist or any other dental or medical professional except a dentist with a permit issued by the Board for the procedure being performed or a physician anesthesiologist licensed by the Texas Medical Board. If the permit holder is later found to have administered or delegated the administration of level 2, 3, or 4 sedation/anesthesia while in inactive status, the Board shall pursue revocation of their dental license.

### **Exempt-location status:**

The Board shall not inspect a level 2, 3, or 4 permit holder who provides those services exclusively in a state-licensed hospital or state-licensed ambulatory surgery center. The permit holder must attest to that fact with a notarized, Board-issued affidavit and may not provide those services at a non-exempt location until first notifying the Board in writing and successfully completing a compliance/Tier 1 inspection. During the period of exempt-location status, a permit holder may not delegate the administration of any level of sedation/anesthesia to a dental or medical professional outside a state-licensed hospital or state-licensed ambulatory surgery center. If they are later found to have administered or delegated the administration of level 2, 3, or 4 sedation/anesthesia in a non-exempt location, the Board shall pursue revocation of their dental license.

## **The TSBDE answers your questions**

### **Can I prescribe or dispense a drug for sedation without a level sedation permit?**

No. Dentists prescribing medications for sedation below MRD must have a Level 1 Minimal Sedation permit. Minimal sedation is defined as a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. You must have at least a Level 1 sedation permit to prescribe or dispense these medications to your patients and shall not exceed the maximum recommended doses under board rules §110.1 and §110.4.

### **What are the new requirements when sedating patients?**

- 1) Pre-Operative Checklist: For all sedation levels including nitrous, a pre-op checklist must be completed prior to sedating a patient pursuant to board rule §110.13.
- 2) PMP Query: Prior to prescribing or dispensing certain medications, such as opioids or benzodiazepines, you must access the patient's prescription drug history through the Texas Pharmacy Board's Prescription Monitoring Program (PMP) pursuant to board rule §111.3. Additionally, a yearly self-query through PMP must be done pursuant to board rule §111.2.
- 3) Electronic prescriptions of all controlled substances are required pursuant to Texas Health and Safety Code § 481.0755. Dentists can apply for waivers in certain circumstances pursuant to board rule §111.5, see the TSBDE website.
- 4) Emergency preparedness: written policies and procedures must be reviewed and updated at least annually along with drug logs, staff training, and equipment readiness pursuant to board rule §110.14.
- 5) Inspections of all Level 2, 3, and 4 sedation permit holders are being held pursuant to board rule §110.18. New Level 2-4 permit holders must be inspected within a year of receiving their permit.
- 6) If you sedate high risk patients (board rule §110.16) or pediatric patients (board rule §110.17), you must have the respective certification.

### **I have a Level 3 sedation permit. Can I delegate a nurse anesthetist to sedate my patient?**

You can delegate a nurse anesthetist to sedate only up to your sedation permit level (see board rules §110.3, §110.4, §110.5, §110.6). Even though the nurse anesthetist is trained for deep/general anesthesia, board rules do not allow for higher level sedation than your permit allows. The use of general or deep anesthetic agents (see board rule §110.10) by a nurse anesthetist is prohibited unless the dentist has a sedation Level 4 permit. A medical or dental anesthesiologist can independently administer sedatives at a higher level.

**Did  
you  
know  
?**

Did you know that all licensees or registrants are required to hold a current BLS CPR certification, which includes a demonstration of skills and a written evaluation?

## RETIREMENT

Thinking about retiring? Among all other things that go with retirement, be sure to submit your retirement form to the board. Otherwise your license will expire and then cancel. Visit the board's website to obtain information on placing your dental or dental hygiene license on a retirement status.

<https://tsbde.texas.gov/licensing/dentists/dentist-retire-a-license/>.

## Renewal Certificates

Effective September 1, 2021, TSBDE will eliminate the printing and mailing out of renewal certificates.

A licensee/registrant now has the ability to generate a digital copy of their renewed certificate online. Renewal certificates will be available for printing 24-48 hours after the renewal application has been approved. TSBDE will continue to print duplicate requests for those who submit the duplicate request form along with the required fee. It is not required to print a color copy.


<https://tsbde.texas.gov/ecertificate/>

## Dental Review Panel applications

Interested in joining the Dental Review Panel? Everyone is encouraged to apply. We are especially in need of the following:

- Prosthodontists
- Periodontists
- Oral Surgeons
- Level 3 General Dentists
- Applicants with experience in full mouth rehabilitation

We are not accepting RDH applicants at this time. Please click [here](#) for details. Have questions? Email us at [tsbdereviewer@tsbde.texas.gov](mailto:tsbdereviewer@tsbde.texas.gov).



**The Mission of the  
Texas State Board of Dental  
Examiners is to protect the  
public health and safety and  
promote high quality  
and safe dental care by  
providing enforcement,  
licensing, peer assistance, and  
related information services to  
licensees and  
their patients**

**TSBDE will be closed on the following holiday: Memorial Day - May 30, 2022**

## What constitutes a patient hospitalization for the purposes of a self-report?

Pursuant to board rule 22 Tex. Admin. Code § 108.6(2), a dentist must submit a written report to the board when a hospitalization of a dental patient occurs as a possible consequence of receiving dental services from the reporting dentist, and it must be reported within 30 days of the hospitalization or such a time as the dentist becomes aware of or reasonably should have become aware of the hospitalization.

According to the rule, the term “hospitalization” is defined as an examination at a hospital or emergency medical facility that results in an in-patient admission for the purpose of treatment and/or monitoring. The board interprets “in-patient admission” to mean a full admission to the hospital or emergency medical facility and not a 23-hour observation status.

If a hospitalized patient subsequently dies, the dentist must also report the patient’s death within 72 hours of the death, or such time as the dentist becomes aware or reasonably should have become aware of the death.

## Attention Recent Graduates & Hiring Dental Offices

Dental and dental hygiene students who are not yet licensed by the TSBDE, may not treat patients outside of a clinical setting through a dental school or program. TSBDE has received reports that some dental offices are conducting “working interviews,” wherein the recent graduate treats a patient and has his/her work assessed as a prerequisite to employment. This is considered the unlicensed practice of dentistry if the recent graduate is not yet licensed. Please note that in accordance with sections 256.001 and 256.052 of the Dental Practice Act, a person may not practice dentistry or dental hygiene unless the person is licensed by TSBDE.

Practicing dentistry without a license is a third degree felony offense, and practicing dental hygiene without a license is Class A misdemeanor offense.

How are we doing? The Texas State Board of Dental Examiners asks that you provide us with feedback by completing the following survey. [Please click here.](#)  
Your response is appreciated.