

# THE ROOT

YOUR SOURCE FOR DENTAL LEGISLATION, REGULATION, AND ADVOCACY | February 8-12, 2021

## Capitol Chatter

Governor Abbott recently gave his “State of the State” address, in which he listed 5 emergency items for immediate action by the 87th Legislature. Legislators can vote on them within the first 60 days of the session. According to an article in the Texas Tribune, the 5 items include: “expanding broadband internet access, punishing local governments that ‘defund the police’ as he defines it, changing the bail system, ensuring what he described as ‘election integrity’ and providing civil liability protections for businesses that were open during the pandemic.”<sup>1</sup> However, mentioning these issues in his speech is not binding on the legislature. The governor must file proclamations with the legislature to make it official, and that will be where we learn the specifics and scope of what constitutes an emergency under each item.

Governor Abbott also released his budget priorities for the 2022-2023 biennium. Highlights from the governor’s budget include: ensuring access to COVID-19 vaccines and monoclonal antibody therapeutics; ensuring healthcare access for Texans with preexisting conditions; ensuring compliance with the Federal Foster Care lawsuit; providing law enforcement access to training; providing additional body cameras for peace officers; enhancing capitol security; reforming our flawed bail program; ensuring election integrity; addressing learning loss due to COVID-19; creating a broad foundation for civics knowledge; and attracting jobs to Texas.<sup>2</sup>

In a historic vote, the Senate approved a fundamental rule change that ends the minority party’s ability to block legislation it unanimously opposes. In an 18-13 vote, senators lowered the threshold needed to bring legislation to the Senate floor. Previously, the Senate followed the 3/5th rule, requiring 19 votes to bring legislation. This move,

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## Legislatively Speaking

The world’s slowest mammal is the three-toed sloth. It moves at a maximum of 10 feet per minute, making it the slowest animal ever. But here is an interesting thing about the sloth: sloths use their leisurely pace as an evolutionary advantage that is the key to their survival.

Even though the legislature is starting off exceptionally slow this session, this deliberate, slow pace may in fact be a necessary part of the overall legislative process. Just as the sloth’s slow pace allows it to survive and thrive, needing much less resources than almost all other animals, the Texas legislature’s slow starting pace gives lawmakers much-needed time to create and renew relationships that will carry them through the last weeks of the session, when tempers can flare, and the workload gets heavy. These relationships are essential for lawmakers to conduct the business of Texas—helping them connect and bridge gaps across differences.



## Capitol Chatter *Cont'd.*

strongly supported by Lt. Gov. Dan Patrick, allows the Republican majority to decide which bills are brought for consideration without input from Senate Democrats. This procedural change is the climax to the contentious debate between the parties over ultimate control of the upper chamber.<sup>3</sup>

In the House, Speaker Phelan announced House committees. Representative James Frank (R–Wichita Falls) will again chair House Human Services, and Representative Tom Oliverson (R–Houston) will again chair House Insurance. There is a new chair for House Public Health—Representative Stephanie Klick (R–Fort Worth). TDA reviewed committee assignments and is pleased with them. TDA is hearing that House committees may not start meeting until March.

## Breaking News

### Teledentistry Bill Filed

In January, Senate Health and Human Services Committee Vice-Chair Senator Charles Perry (R–Lubbock) filed teledentistry legislation, SB 488. On February 9, 2021, House Public Health Committee Vice Chair Representative Bobby Guerra (D–Mission) filed his version of teledentistry legislation, HB 1742.

Technological advancements have changed how health care, including dental care, may safely be delivered to patients. Teledentistry would be especially helpful right now during the COVID-19 pandemic, in which dentistry is significantly disrupted by limiting in-person interactions between dentists and patients.

It is critically important that patients receive the same standard of care they would receive in an in-person setting. The standards of care should apply equally across the board, and dental business entities should adhere to them and not be given special exceptions.

TDA has been working on teledentistry legislation for over 3 years, and will continue efforts with both bill authors to ensure that teledentistry aligns dentistry with telehealth and telemedicine, upholds the current standard of care in dentistry, and emphasizes dentist oversight, supervision, and delegation.

## 2021 Legislative Issue Briefs

Check out our Issue Briefs! Want to know what is happening in the “big pink building” and how it impacts your dental practice? On February 10, 2021, TDA released our official legislative issues briefs. To download a copy, visit [tda.org](http://tda.org), login, and select Advocacy > TDA Legislative Day > Download Issue Briefs.

## TDA Virtual Legislative Day



Click here to register now! Registration closes at NOON on Monday, February 15th



### Capital Appointments

All dentists participating in TDA’s virtual Legislative Day will be responsible for scheduling their own appointments with legislators. Participants will receive an email on February 17th that includes all other registrants in their legislative districts. Please use that email chain to coordinate with your fellow members and assign one person to act as a delegate of your group. That delegate will contact your lawmaker to schedule a virtual meeting for the group. Register for Legislative Day by noon on Monday, February 15th here: <https://www.tda.org/advocacy/legislative/tda-legislative-day>. Have questions, contact Staci Rives at [srives@tda.org](mailto:srives@tda.org) or 512-443-3675 ext. 123.

## On the Horizon



Funding for the Texas State Board of Dental Examiners (TSBDE) will be discussed in the Senate Finance Committee on February 18, 2021. TDA is submitting written testimony supporting a strong, effective dental board to protect the public and regulate the dental profession.

## Regulatory Reminder



### **Dentists Cannot Administer the COVID-19 Vaccine**

The TSBDE's current position is that it is not within a dentist's scope of practice to administer the COVID-19 vaccine, or any vaccine. There was early confusion about this within the Texas Department of State Health Services (DSHS), and the agency was allowing dentists to register as vaccine providers in DSHS Immunization Portal. That error has been corrected.

As TDA publicized many times, it is not within a dentist's scope of practice to administer vaccines, unless Governor Abbott issues an emergency authorization or the TSBDE changes its position. Dentists administering the COVID-19 vaccine can face licensure sanction by the TSBDE. The TSBDE will discuss dentists administering the COVID-19 vaccine during its March meeting.

## TDA Perks Supplies Helps Members During COVID-19 Supply Shortages

TDA has heard from members about supply shortages for gloves, alcohol, and syringes. All items are in demand right now during the national COVID-19 vaccine push.

According to TDA Perks Supplies, the global supply for gloves remains strained and manufacturers continue facing production constraints. While production has increased considerably in recent weeks, global demand for gloves remains at unprecedentedly high levels due to increased usage among healthcare providers as well as non-healthcare sectors.

TDA Perks Supplies recently obtained access to larger numbers of certain brand-name gloves and removed the weekly limits of 10 boxes of gloves per office on many different types of gloves. TDA Perks Supplies is cautiously optimistic that it will continue being able to offer certain gloves without box limitations.

TDA Perks Supplies has plenty of alcohol in stock, and although certain types of syringes are in shortage, TDA Perks Supplies has syringes in stock, depending on what a dentist is specifically looking for.

TDA Perks Supplies has not increased and will not increase margins on gloves, or any product that is supply constrained due to the pandemic. TDA Perks Supplies will continue aggressively working to obtain the products TDA members need for their dental practices.

[Click here to visit TDA Perks Supplies.](#)

## Update: E-Prescribing Waiver

### Newly Adopted Rules

Dentists must electronically prescribe **all controlled substances (CII–CV)** unless they have a TSBDE-issued e-prescribing waiver. To date, the dental board has processed and approved over 1,663 waiver applications, and the average wait time is 3-5 business days.

Dentist applicants must check the TSBDE's Approved Electronic Prescribing Waiver list (<https://tsbde.texas.gov/e-prescribing-waiver/>) to see if their application has been processed and approved.

**Applicants will not receive a follow-up email or letter.** If you do not see your name on the approved waiver list 5 business days after submitting your waiver application, you should contact [waivers@tsbde.texas.gov](mailto:waivers@tsbde.texas.gov) with your name and license number. The TSBDE instructs pharmacies to check the approved waiver list. In the future, dentists will receive a notification letter from the TSBDE upon waiver approval, and the dentist's waiver status will also be available on their publicly available practitioner profile.

According to the Texas State Board of Pharmacy (TSBP), dentists with TSBDE-issued waivers can use their own prescription forms to prescribe schedule III-V controlled substances. The TSBP is continuing the Official Prescription Form program for written Schedule II controlled substance prescriptions. Click here <https://www.pharmacy.texas.gov/PMP/CIIforms.asp> if you have a TSBDE-issued waiver and need to order Schedule II controlled substance paper prescription forms from the pharmacy board.

## Controlled Substance Continuing Education (CE) Opportunities

Updated TSBDE CE requirements for controlled substances apply to dentists holding a DEA registration and dentists providing direct patient care. TDA members can comply with those requirements by taking a CE course from TDA and UTHealth School of Dentistry at Houston.

Dr Art Jeske will teach a series of 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.<sup>4,5</sup>

### Register Now for March 26, 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:** March 26, 2021

8:30 AM to 12:45 PM

**Course Fee:** \$180

**Registration:** <http://go.uth.edu/PrescribingMarchTDA>

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

## Controlled Substance CE Opportunities *Cont'd.*

**“Controlled Substances and Texas Dentists: Ethically Prescribe, Monitor and Apply Standards of Care to Successfully Manage Pain” CE Course**  
**Additional Dates:**

**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>

## State Board Buzz

The dental board will consider 6 rule proposals during its March 12, 2021, meeting. TDA will let members know if the rules are adopted. Check the TSBDE webpage on [tda.org](http://tda.org) for updates. TDA reviewed the rules and submitted comments to the TSBDE for its consideration.

The proposed rules changes include: (1) amending the minimum standard of care regulation to mandate that dentists hold a level 1 sedation permit before prescribing or administering Halcion (triazolam) and that dentists should administer Halcion (triazolam) in the dentist’s office; (2) amending the record keeping rule to specify that the maximum cost a dentist can charge a patient for duplicating the patient’s CBCT scan is \$30.00; and amending the advertising rule to clarify that dental specialties are approved by the National Commission on Recognition of Dental Specialties and Certifying Boards and to add the recently recognized dental specialties of Oral Medicine, Dental Anesthesiology, and Orofacial Pain to the specialty advertising rule.

## TDAid for Medicaid



TDA confirmed through the Legislative Budget Board (LBB) that there are no proposed cuts to the Medicaid dental program, even though it appeared that way when comparing the current state budget to the proposed state budget in SB1 and HB1. Please remember that we are early in the budget process, and Senate Finance or House Appropriations could propose a Medicaid dental budget cut. TDA will continue watching the state budget very closely, and remains committed to protecting the Medicaid dental budget and reducing the administrative burdens placed on dentists participating in Medicaid managed care.

On February 12, 2021, TDA's Council on Public Health and Access to Care is hosting a stakeholder meeting of Medicaid dental experts to help TDA review preventive dental policy and preventive codes within the Texas Medicaid dental program. The group's collective goal is to ensure that the Medicaid dental program provides clients with access to a comprehensive set of dental benefits in a manner that best utilizes taxpayer funds. TDA will submit the group's evidenced-based review of Medicaid dental preventive services policy and D1000s codes to the Health and Human Services Commission (HHSC). HHSC is planning to review Medicaid dental preventive policy, because it has not undergone any recent updates.

## Bill Watch



March 12, 2021 is the bill filing deadline. TDA tracks and monitors all bills related to the dental profession. This issue of The Root provides TDA members with a list of all priority bills filled to date. Please remember this is not an exhaustive list of all bills currently tracked by the TDA. This list represents only priority legislative items. TDA's legislative team is currently tracking over 141 bills impacting dentistry. To access bills and their status, visit [tda.org](http://tda.org) and select Advocacy > Legislative > Real Time Bill Tracker.

## Stay On Track



### **SB 488 – Teledentistry**

**Caption:** Relating to the practice of dentistry and the provision of teledentistry services.

**Synopsis:** The bill defines teledentistry including the standard of care, supervision of remote team members, clinical regulations, and insurance provisions.

**Current Status:** Filed

**Comments:** Oppose as filed; TDA Policy #43-2020-H

### **HB 1742 – Teledentistry**

**Caption:** Relating to the practice of dentistry and the provision of teledentistry services.

**Synopsis:** The bill defines teledentistry including the standard of care, supervision of remote team members, clinical regulations, and insurance provisions.

**Current Status:** Filed

**Comments:** Monitor; TDA Policy #43-2020-H



## Stay On Track *Cont'd.*

### **HB 1629 – Medicaid Dental Policy Review**

**Caption:** Relating to improvements to the Texas Medicaid Provider Procedures Manual designed to prevent fraud, waste, or abuse in the provision of Medicaid dental services.

**Synopsis:** The bill authorizes the Health and Human Services Commission to create a workgroup to oversee a comprehensive review of the Medicaid dental program.

**Current Status:** Filed

**Comments:** Support; TDA Policy #141-2000-H & 157-1990-H as amended by 37-2016-H

### **SB 401 – General Anesthesia Coverage Pediatric Dental Services**

**Caption:** Relating to health benefit coverage for general anesthesia in connection with certain pediatric dental services.

**Synopsis:** The bill prohibits a health insurance plan that covers general anesthesia from excluding coverage for general anesthesia in connection with covered dental services provided to an individual younger than 18 years of age who is unable to undergo the covered dental services in an office setting due to a documented physical, mental, or medical reason determined by the individual's physician or by the dentist providing the dental care.

**Current Status:** Filed

**Comments:** Monitor; Recommended by TDA's Council on Public Health and Access to Care

## Important Dates

### **February 17, 2021**

**TDA Virtual Legislative Day**  
5:30 PM to 7:00 PM

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### **February 18, 2021**

**Senate Finance Committee/TSBDE**  
9:00 AM  
Texas Capitol  
E1.036 (Finance Room)

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### **March 11, 2021**

**TSBDE Committee Meetings**  
Details Forthcoming

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### **March 12, 2021**

**TSBDE Board Meeting**  
Details Forthcoming

## TDA SoundByte Podcast

Episode 7, “Taking a Byte out of the 87th Legislature,” is available now. This roundtable discussion with TDA’s Council on Legislative, Regulatory & Governmental Affairs Chair Dr Matt Roberts, Public Affairs Director Jess Calvert, and Senior Policy Manager Diane Rhodes, covers what is on deck for dentistry during the 87th Legislative Session.

If you have not already done so, you can also listen to back episodes of 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 on [tda.org](http://tda.org), Apple Podcasts/iTunes, Spotify, Google Podcasts, Google Play Music, Stitcher, iHeartRadio, and other podcast apps.

The TDA SoundByte Podcast is available at [tda.org](http://tda.org) > Publications & Media > TDA SoundByte Podcast, and on Apple Podcasts/iTunes, Spotify, Google Podcasts, Stitcher, iHeartRadio, and other podcast apps.





## References

1. Gov. Greg Abbott unveils legislative priorities, including police funding, “election integrity,” expanding broadband access and more. Texas Tribune. February 1, 2021.
2. Governor Abbott Releases 2022-2023 Budget with Key Priorities. February 5, 2021. Available from <https://gov.texas.gov/news/post/governor-abbott-releases-2022-2023-budget-with-key-priorities>.
3. Texas Senate changes rules so Republicans can still bring bills to floor without Democratic support. Texas Tribune. January 13, 2021.
4. 22 Texas Administrative Code §104.1(2)(B), Requirement
5. 22 Texas Administrative Code §111.1(b), Additional Continuing Education Required

## 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](mailto:drhodes@tda.org), or DENPAC Coordinator/Policy Analyst Staci Rives at 512-443-3675 ext. 123 or [srives@tda.org](mailto:srives@tda.org).