

An Audit Report on

The Texas State Board of Dental Examiners

August 2005
Report No. 05-050



The Texas State Board of Dental Examiners

Overall Conclusion

Gaps in the Texas State Board of Dental Examiners' (Agency) processes for disciplining licensees and issuing new licenses weaken the Agency's ability to ensure that only qualified practitioners hold licenses. Specifically, the Agency does not enforce sanctions against licensees who have violated professional standards. Also, between June 1998 and April 2005, it used incomplete information to determine whether new licensees had been convicted of crimes that directly relate to their profession, which would allow the Agency to deny or revoke their licenses (according to Section 53.021 of the Texas Occupations Code and Agency rules). Auditors' testing of complete criminal histories for 1,137 individuals who were licensed between September 2003 and February 2005 identified 6 with past convictions that the Agency should have investigated during the licensing process. These gaps could put patients at risk of being the victims of repeated violations.

Board of Dental Examiners

The mission of the Texas State Board of Dental Examiners is to safeguard the dental health of Texans by developing and maintaining programs to:

1. Ensure that only qualified persons are licensed to provide dental care; and
2. Ensure that violators of laws and rules regulating dentistry are sanctioned as appropriate.

The Texas Occupations Code, Title 3, Chapters 251 *et seq.*, defines dentistry and provides the Agency with the authority to regulate dental practices in Texas.

The Agency has 26 full-time employees and was appropriated approximately \$1.5 million for fiscal year 2005.

The Agency reported that, at the end of fiscal year 2004, there were 12,234 licensed dentists and 9,373 licensed dental hygienists in Texas.

The Agency did not ensure that the State received fair value for two contracts despite significant economic impact to the State and the importance of the services to the Agency's operations. Because the applicants—not the Agency—pay these vendors directly, the Agency was not required by either statute or rule to use a competitive process to select the vendors. The vendors involved received approximately \$650,000 in fiscal year 2004 and the first six months of fiscal year 2005 from applicants for Texas licenses.

The Agency is accurately managing, monitoring, and reporting its financial resources.



Key Points

The Agency does not ensure that violators of professional standards comply with disciplinary sanctions, and opportunities exist to improve its complaint resolution process.

The Agency does not ensure that dentists and hygienists who have been disciplined because of a violation of professional standards comply with the sanctions, or board orders, imposed by the Agency. Examples of violations that result in board orders include inadequate infection-control procedures and substandard care. Because of inadequate enforcement, patients of noncompliant violators are at risk of being the victims of repeated violations.

Although the Agency has resolved prior audit issues related to its complaint resolution function, the Agency needs to address new issues identified in this audit. For example, the Agency does not have a good process for managing cases as they move from the Enforcement Division, which investigates complaints, to the Legal Division, which establishes board orders. Cases sit for up to a month before being assigned to an attorney, and all attorneys are assigned the same number of cases without consideration of the cases' complexity or the attorneys' workloads.

The Agency's processes for checking new licensees' criminal histories and for verifying out-of-state applicants' credentials contain weaknesses.

The Agency did not perform full criminal history checks on new licensees between June 1998 and April 2005. State auditors tested 1,137 individuals licensed between September 2003 and February 2005 and identified 6 who had events in their criminal histories, such as felony convictions, that should have been investigated during the licensing process. In addition, the Agency does not obtain sufficient documentation to verify out-of-state licensees' credentials when they apply for Texas licenses. For example, the Agency accepts affidavits to demonstrate prior work history, but it has not specified that these need to be from individuals who know the dentist or hygienist professionally.

The Agency did not ensure that the State received fair value for two contracts, and its contract terms need to be clarified.

The Agency did not ensure that the State received fair value for two contracts despite significant economic impact to the State and the importance of the services to the Agency's operations. The contracts resulted in the two vendors' receiving a total of approximately \$650,000 from applicants for Texas licenses in fiscal year 2004 and the first six months of fiscal year 2005 for testing and credential verification services. However, because the Agency does not pay the vendors itself, the amount of state funds involved do not meet the Building and Procurement Commission's threshold for requiring the Agency to use competitive bidding.

In addition, some of the Agency's agreement and contract terms were not clear, increasing the likelihood of disagreements between the Agency and vendors about what should be provided and at what cost.

Summary of Management's Response

The Agency did not concur with our findings about compliance monitoring and the timeliness of legal review. Our follow-up comments include additional examples showing the weaknesses in these areas. The Agency concurred with the remaining findings.

Summary of Information Technology Review

Opportunities exist for the Agency to improve the management and accuracy of the four databases it uses to track information about its licensees: licensing, enforcement, legal, and compliance. Each of the databases requires separate, manual input of data, and auditors identified data entry errors in the licensing, legal, and compliance databases. There are no automatic data transfers from one system to another, and there are no compensating manual processes to ensure that data is accurate. Without accurate data, it is possible the Agency will make decisions based on incorrect information.

In addition, the Agency does not have a plan to discontinue the use of its old enforcement database after it implements the new one, and it does not ensure that licensees' information is correct before entering it in the licensing database.

Summary of Objectives, Scope, and Methodology

The objectives for this audit were to determine whether the Agency is:

- Maintaining financial viability by properly managing, monitoring, and reporting agency financial transactions.
- Delivering expected services as mandated by the Legislature and in compliance with applicable statute, rule, and regulation.

The scope for this audit was fiscal year 2004 and the first half of fiscal year 2005. We also reviewed policies and procedures implemented during the course of fieldwork.

Our methodology included collecting and reviewing information and documentation, performing selected tests, analyzing and evaluating the results of testing, and conducting interviews with Agency management and staff.

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SAO Report No. 05-050*

Recent SAO Work		
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00-023	2000 Small Agency Management Control Audit	March 2000

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Detailed Results

Chapter 1

The Agency Does Not Ensure that Violators of Professional Standards Comply with Disciplinary Sanctions, and Opportunities Exist for It to Improve Its Complaint Resolution Process

The Texas State Board of Dental Examiners (Agency) does not ensure that dentists and hygienists who have been disciplined because of a violation of professional standards comply with the sanctions, or “board orders” (see text box), imposed by the Agency. Examples of violations that result in board orders include inadequate infection-control procedures and substandard care.

What Is a Board Order?

A board order is an order issued by the Agency that sets out the Agency’s final and official disciplinary action taken against an Agency licensee. The board order contains the Agency’s official “findings of fact” and “conclusions of law” and describes any sanctions, penalties, and other conditions issued by the Agency against the licensee.

Because of inadequate enforcement, patients of noncompliant licensees could be at risk of being the victims of repeated violations.

Although the Agency has resolved prior audit issues related to its complaint resolution function (see Appendix 2), the Agency needs to address new issues identified in this audit. For example, the Agency does not have a good process for managing cases as they move from the Enforcement Division, which investigates complaints, to the Legal Division, which establishes board orders. Cases sit for up to a month before being assigned to an attorney, and all attorneys are assigned the same number of cases without consideration of the cases’ complexity or the attorneys’ workloads.

Chapter 1-A

The Agency Does Not Consistently Enforce Its Disciplinary Sanctions

The Agency does not ensure that dentists and hygienists who have been disciplined comply with the Agency’s sanctions. As discussed above, the Agency imposes board orders on licensees who are found to have violated professional standards. As a result of inadequate enforcement, patients of noncompliant licensees are at risk of becoming victims of repeated violations. In addition, the noncompliant licensees may not get the education and assistance that board orders often require to help prevent future violations.

Auditors tested 62 board order requirements for 39 licensees listed as being in compliance with their requirements and found the following (see also Table 1):

- For 6 of the 62 requirements, the licensees’ hard copy files contained evidence of noncompliance even though the database listed them as being in compliance. One requirement was for participation in the peer assistance program for licensees with job-impairing mental health or

substance abuse problems. The file contained notification from the program that the licensee had not complied. In another instance, a licensee was required to take a class on recordkeeping and risk management. The database showed that he had complied with this requirement, but the documentation in his file was for a different class.

- Files for 14 of the 62 requirements were silent as to whether the licensee had complied. In one case, a board order required payment of a \$3,000 fine by April 16, 2005, but there was no evidence in the file that payment had been made as of June 1, 2005. In another case, a dentist was required to arrange for a sanitation inspection of his office with a third party before he could reopen his office and for quarterly inspections for the first year of his probation. There was no evidence of any such inspection in his file.

Table 1: Auditors tested 39 licensees' hard copy files to determine whether they had actually complied with 62 board order requirements. The Compliance Database listed all 39 licensees as "in compliance" with their board orders.

Results of Audit Testing of Compliance with Disciplinary Sanctions				
Type of Requirement	Total Tested	File Supported Compliance Status in Database	File Contradicted Compliance Status in Database	File Did Not Support or Contradict Compliance Status in Database
Community Service	1	1	-	-
Continuing Education	10	9	1	-
Jurisprudence Exam	10	9	1	-
Penalty/Fine	20	17	2	1
Restitution	6	4	1	1
Other	15	2	1	12
Totals	62	42	6	14

The Texas Occupations Code, Section 254.010, requires the Agency to monitor compliance with board orders. However, the Agency's current process consists only of filing hard copy documentation that licensees send in to demonstrate their compliance and updating the Compliance Database. The Agency's process is missing several elements that are needed for consistent enforcement:

- The Agency does not have a way to consistently or efficiently identify requirements that are overdue. The Agency enters the requirements into its database when it finalizes board orders. However, the due dates are entered into text fields, which cannot be queried easily. A compliance officer would have to manually review each file to determine whether any requirements were overdue.

- The Agency does not consistently penalize licensees who do not comply with board orders or who do not comply within required time frames. If the Agency identifies noncompliance, it does not penalize the licensee. Instead, it may modify the order to include an increased penalty or open a new case against the licensee. Two other regulatory agencies with similar functions have standard penalties, such as fines, for late compliance or noncompliance.
- The Agency renews licenses for noncompliant licensees. The Agency does not check compliance status before renewing a license. According to the Agency, it cannot make compliance with a board order a condition of license renewal. As a result, board orders may not be having the desired effect. For example, one dentist had been required to receive peer assistance for a substance abuse problem. His file included information that he was not in compliance with the requirement. This notice was received by the Agency the day before it renewed his license.
- The Agency does not ensure that it performs inspections required by board orders. In some cases, a board order requires that the Agency conduct regular inspections for a specified period. However, the Legal Division, which settles board orders, does not have a system to communicate these requirements to the Enforcement Division, which performs inspections. For example, one board order required that a respondent be subject to periodic, unannounced inspections by the Agency for five years. However, the Enforcement Division had no record of this requirement, and there is no record that any such inspections occurred.

Recommendations

The Agency should:

- Develop and implement a system for tracking compliance with board orders. This system can be manual or electronic but should include a method for identifying overdue compliance requirements.
- Develop and implement a process for notifying Agency inspectors when a board order will require inspections.
- Ensure that the compliance files include all documentation that would support the determination that the licensee is complying with board orders.
- Review the compliance status for each individual who is under a board order before the person's license is renewed, and send a letter stating whether or not the person is in compliance.
- Determine what prevents it from withholding license renewal for failure to comply with a current board order, and structure future board orders so

that it can revoke a probationary status or limit the practice of those who are not complying with the terms of their board orders.

Management's Response

The Agency fulfils its obligations regarding compliance although it acknowledges that there are limitations in the current database system that prevent the agency from performing an automatic query of compliance deadlines. The agency has already contracted for the development of a new database system to correct the limitations of the current database system. The new database is scheduled for initial implementation in September of 2005.

The Agency reviews all cases of board order noncompliance and takes action that is tailored to address the specific noncompliance situation presented. The Agency believes that this type of review is necessary in most cases due to the fact that noncompliance can, for example, vary from tardiness in the payment of a fine to refusal to comply with board ordered peer assistance requirements necessary to protect the health and safety of the public. Of the two regulatory agencies cited as examples for noncompliance penalty guidelines, one requires a noncompliant licensee to appear at an Informal Settlement Conference (ISC) and the other limits its noncompliance penalties to minimal fines and additional continuing education. Both example agencies, like all similar state agencies, would still have to open new cases and prove noncompliance of the board order at the State Office of Administrative Hearings (SOAH) in order to comply with constitutional due process requirements if the noncompliant licensee refuses to accept the penalty recommendation. Under current policies, the Agency does not grant an ISC appearance to a noncompliant licensee but rather refers those cases to SOAH for formal resolution. However, the Agency will review its current penalty guidelines for formal clarification of the policy concerning board order noncompliance.

The requirements for the renewal of a license are set out under Texas Occupations Code Chapter 257. Chapter 257 does not specifically authorize the use of non-renewal of a license as a disciplinary action. However, the Agency is specifically authorized to use non-renewal of a license in the event of a default of a government funded student loan under Texas Occupations Code §56.003. The Agency's authority to discipline a licensee is otherwise set out under Texas Occupations Code Chapter 263. Chapter 263 requires the Agency to provide notice and an opportunity for a hearing under the Administrative Procedures Act of the Government Code prior to taking any contested disciplinary action against a licensee.

The Agency's Legal Division creates a compliance file in the current database for every board order that requires monitoring of board ordered requirements. The Agency's current database has limitations that does not allow for adequate querying or communication of compliance requirements or

deadlines. The Agency anticipates that its new database system will allow for appropriate dissemination of compliance information regarding all board ordered requirements to the Agency's Enforcement, Legal and Licensing Divisions including any inspection requirements. The new database is scheduled for initial implementation in September of 2005.

Auditor's Follow-Up Comment

The fact that auditors found so many instances of noncompliance—and the fact that the Agency was unaware of them until they were identified by the auditors—confirms that the Agency is not fulfilling its obligations with respect to monitoring. When the process does not ensure, for example, that unannounced inspections occur in a case of poor sanitation, the process is not working.

In addition, if a statutory change is needed to allow the Agency to deny license renewal in cases of noncompliance with a standing board order, then the Agency should seek that change.

Chapter 1-B

The Agency's Complaint Resolution Function Needs Improvement

While the Agency has addressed or is addressing prior audit findings related to the investigation of complaints, it needs to address issues identified during the current audit. (See Appendix 2 for a summary of Agency actions that address prior issues.)

The Agency does not have a good process for managing complaints as they move from the Enforcement Division to the Legal Division. Currently, an administrative staff member collects cases forwarded from the Enforcement Division and distributes them fairly evenly among the four attorneys at the end of the month. This approach results in the following:

- Some cases sit almost a month before they are given to an attorney.
- Attorneys with backlogs of cases or with a higher number of complex cases receive the same number of cases as all other attorneys. For example, one of the attorneys has 60 percent of the cases that are waiting to be reviewed.

The Agency does not have an application process, selection criteria, or retention criteria for volunteer consultants who investigate the validity of

complaints related to the quality of care. Currently, these individuals (see text box) are selected by the director of enforcement with the concurrence of the governing board. There is no process by which any professional in good standing can apply, and there are no selection criteria for these consultants. In addition, the Agency does not regularly assess the consultants' performance or have a process for dismissing volunteers. Without these controls, there is a risk that someone might question the Agency's use of volunteers to investigate the validity of complaints.

Volunteer Consultants

The Agency uses volunteer consultants to determine the validity of complaints that relate to treatment and standard of care. These consultants are responsible for the following:

- Reviewing records, case files, radiographs, and other documents and preparing detailed written reports regarding the standard of care and violations of the Dental Practice Act.
- Conducting clinical exams of complainants.
- Testifying in board hearings or depositions.

Not all consultants are willing to do all of these.

The use of consultants is the Agency's way of obtaining the expertise that the State Auditor's Office recommended in its 2002 audit.

The Agency does not track additional offenses identified during an investigation if the original complaint is withdrawn or dismissed. Occasionally, during an investigation, the Agency identifies that a licensee has committed offenses in addition to those that prompted the complaint. If the case is completed, the Agency considers these additional offenses during the board order process. However, if the original complaint is withdrawn or dismissed, the Agency drops the additional offenses as well, which puts patients at risk of receiving care that does not meet professional standards. For example, in one case, a patient complained about the quality of a crown placed by a dentist. The investigation showed that the dentist had not taken or recorded vital signs or medical history for this patient, as required by rule. The patient withdrew the complaint when her money was reimbursed, and the case was closed. The failure to meet the standard of care was not addressed further.

Recommendations

The Agency should:

- Distribute cases to its attorneys more frequently than once per month, and consider the current workloads of attorneys when assigning cases.
- Establish controls for its use of volunteer consultants to investigate the validity of quality-of-care complaints. These controls should include an application process, selection criteria, performance reviews, and a dismissal process.
- Track all violations identified during investigations and, for serious violations, consider continuing a case even if the original complaint is withdrawn or dismissed.

Management's Response

The Agency's Enforcement and Legal Divisions have standard reporting deadlines that occur on a monthly basis. The Enforcement Division typically forwards cases to the Legal Division during the last week of each month. Cases received by the Legal Division from the Enforcement Division are typically distributed to attorneys for review during the first week of each month. Rarely, if ever, would a case sit for a month prior to being distributed to an attorney for review in the Legal Division. The Legal Division requires its attorneys to review newly distributed cases within thirty days and to make updates to the legal database to reflect that the cases have been reviewed and placed on an appropriate track to resolution. The Agency will review its policies to continue to ensure that cases are timely reviewed and that updates on those cases are accurately reflected in the Agency's new database.

The Agency will review its consultant selection process to ensure that the application process, selection criteria and retention criteria of consultants are appropriately established and documented.

The Agency's policy is to consider all potential violations raised during the course of an investigation whether or not those violations are associated with the original complaint. Standard of care issues raised during the course of an investigation are reviewed by a board consultant and a board reviewer. The withdrawal of a complaint does not automatically close a case if significant violations are otherwise substantiated. In those situations, where minor first time violations such as recordkeeping infractions are noted, the agency sends a letter identifying the deficiency and encourages the licensee to take steps to improve his or her practices. The Agency maintains all complaints on a licensee and monitors repeated violations for additional action as appropriate. The Agency will continue to review its policies with regard to tracking offenses.

Auditor's Follow-Up Comment

The Agency asserts that it reviews cases in a timely manner. However, our review of the 132 cases "under attorney review" in the legal database on March 23, 2005, showed that:

- 117 of them had been under attorney review for at least 31 days.
- Fifteen cases that had been delivered from the Enforcement Division more than a year earlier were still under attorney review.

("Under attorney review" is the status assigned to cases when they are first received by the Legal Division from the Enforcement Division. They are subsequently assigned to a "track" for resolution.) This suggests that either the database that the Agency depends on is not reliable or that cases are not

reviewed in a timely manner. In either case, the current process is not working.

Also, the Agency asserts that it does not drop issues identified during investigations if the case is subsequently dismissed. However, auditors identified 2 out of 36 dismissed cases reviewed that included issues identified during the course of the initial investigation but that were dropped when the case was dismissed. None of the files included copies of any letters sent to the dentists, and there was no notation of the offense in any of the databases.

The Agency's Processes for Checking New Licensees' Criminal Histories and for Verifying Out-of-State Applicants' Credentials Contain Weaknesses

The Agency did not perform full criminal history checks on new licensees between June 1998 and April 2005. Of 1,137 people licensed between September 2003 and February 2005, state auditors identified 6 who had events in their criminal histories, such as felony convictions, that should have been investigated before their licenses were issued. In addition, the Agency does not consistently obtain sufficient documentation to verify out-of-state licensees' work history and professional standing when they apply for Texas licenses. For example, the Agency accepts affidavits to demonstrate prior work history, but it has not specified that these need to be from individuals who have direct knowledge of the applicants' work.

However, the Agency's process for issuing new licenses ensures that licensees have passed the required written and clinical tests, taken the required professional training, and paid the correct fees. All dentists and hygienists we tested, including those from other states, met these requirements for licenses in the State of Texas.

Chapter 2-A

The Agency Did Not Check New Licensees' Criminal Histories Between June 1998 and April 2005

The Agency did not obtain full criminal histories for new license applicants from June 1998 to April 2005, when auditors identified this issue. The Texas Occupations Code, Section 53.021, and the Agency's rules state that the Agency may revoke or deny a license because of a person's conviction of a felony or misdemeanor that directly relates to the duties and responsibilities of the profession.

Auditors found that six licensees' criminal histories listed convictions that the Agency should have investigated during the licensing process, such as felony possession of a controlled substance. Agency staff concurred that these charges warranted investigation. If the Agency had known about these convictions, its resulting investigation may have identified events that would have caused it to deny or revoke these licenses.¹

The audit tests consisted of obtaining full criminal histories for the 1,137 dentists and hygienists who received a new license between September 1, 2003, and February 28, 2005. The audit test did not include dentists and

¹ This audit did not include testing the accuracy of the Department of Public Safety's criminal justice information system. A 2001 audit found that data in the system was not consistently complete. See *An Audit Report on the Accuracy of Criminal Justice Information System Data at the Department of Public Safety and the Department of Criminal Justice* (SAO Report No. 02-013, December 2001; <http://www.sao.state.tx.us/reports/main/02-013.pdf>).

hygienists who were licensed between June 1998 and August 2003. Consequently, there could be many more criminal events that merit an investigation by the Agency. Since the completion of the auditors' test, the Agency has obtained full criminal histories for all dentists and hygienists licensed since 1998 and indicated that it intends to review them within the next six months.

The Agency was using incomplete criminal history information because it relied on quarterly checks that the Code of Criminal Procedure requires it to obtain on all new and existing licensees (see text box). The Agency incorrectly believed that these quarterly checks (performed by the Department of Public Safety) were providing full criminal histories for its new licensees and updates for existing licensees. However, these quarterly checks identified only those changes to crime records that occurred during the prior four months.

**Code of Criminal Procedure,
Section 60.061**

- a) The ... State Board of Dental Examiners ...[and other agencies] ...shall provide to the Department of Public Safety through electronic means ... a list including the name, date of birth, and any other personal descriptive information required by the department for each person licensed by the respective agency. Each agency shall update this information and submit to the Department of Public Safety the updated information quarterly.
- b) The Department of Public Safety shall perform at least quarterly a computer match of the licensing list against the convictions maintained in the computerized criminal history system and report convictions to the relevant agency.

Department of Public Safety staff members indicated that they assumed that the Agency obtained full criminal histories on all applicants for new licensees in a process separate from the quarterly update process. The correspondence between the two agencies does not clearly delineate the proper treatment of new licensees. (Some of the Agency's other contracts also contain unclear terms. See Chapter 3-B.)

Recommendations

The Agency should:

- Continue its review of criminal histories for all individuals who obtained new licenses since June 1998 and determine whether any of those licenses were issued in error.
- Work with the Department of Public Safety to ensure that, in the future, it obtains complete criminal histories on all new licensees.

Management's Response

The Agency will complete thorough background checks on all licensees to ensure no licenses were issued to unqualified individuals.

The Agency will continue to work with the Department of Public Safety to ensure that, in the future, it obtains complete criminal histories on all new licensees.

Access to the DPS database has now been issued to SBDE staff and background checks on new licensees will be accomplished in-house prior to licensing. The Agency will continue to request updates from DPS on existing licensees but follow results closely to ensure complete data is being received.

Chapter 2-B

The Agency Does Not Consistently Obtain Sufficient Documentation to Support Out-of-State Licensees' Applications for Texas Licenses

The Agency did not always obtain required endorsements from out-of-state licensing boards, and the documents obtained to demonstrate licensees' prior practice or character references were not always specific or clear enough to

Requirements for License by Credential

In addition to providing proof that basic educational requirements have been met, such as a degree from an accredited dental school and passing scores on required written and clinical exams, an applicant for licensure by credentials (i.e., an applicant who holds a license in another state) must present proof that the applicant:

- Is currently licensed in good standing in another state.
- Has practiced dentistry for a minimum of three of the last five years immediately preceding their application for a Texas license or has been a dental educator at a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association for a minimum of five years immediately preceding application for a Texas license.
- Is endorsed by the state board of dentistry that has jurisdiction over the applicant's current practice. Such endorsement is established by providing a copy under seal of the entity with jurisdiction over the applicant's current license and by a certified statement that the applicant has current good standing in said jurisdiction.

The same rules apply to hygienists applying for license by credential, with the addition that they must also provide two notarized letters of character reference.

Source: Texas Administrative Code, Title 22, Part 5, Sections 101.1 and 101.3 for dentists; Sections 103.1 and 103.3 for hygienists.

provide the desired level of assurance. By not consistently obtaining all documentation that applicants are required to provide from the states in which they are licensed, and by accepting documentation that does not clearly support its intended use, the Agency risks granting Texas licenses to individuals who may not be in good standing with the states in which they are licensed (see the text box for a summary of the requirements). In fiscal year 2004, the Agency issued Texas licenses to 61 dentists and 47 hygienists who were initially licensed in other states, the District of Columbia, or a territory of the United States with licensing requirements substantially equivalent to those of Texas.

Testing of applications for eight individuals who received their Texas licenses through the "license by credential" process identified the following situations:

- The Agency's rules require an official endorsement by a state board of dentistry of the state in which the applicant is currently licensed. Two applications did not include the required endorsement from the relevant state's

board of dentistry. However, these applicants' files contained evidence that the contractor that verifies out-of-state licensees' credentials for the Agency attempted to obtain assurance of the applicants' good standing. The Agency regarded this evidence as an adequate substitute for a dental board's official endorsement, even though the Agency's rules do not address such alternatives.

- As mentioned in the text box, the Agency's rules include work history requirements. However, Agency procedures do not indicate how applicants are to establish proof of their prior work history and what the standard of evidence is. The Agency accepts affidavits to demonstrate prior work history, but it has not sufficiently specified who can supply the affidavits. As evidence of his New York dental practice, one dentist provided affidavits from two Florida attorneys who did not indicate that they were professionally associated with the dentist. The dentist did not provide statements from unrelated co-workers, employers, or patients from his New York practice. Some other states use tax records to help establish proof of applicants' prior work histories or require affidavits from other dentists and patients.
- The Agency accepted two letters of character references that may not have been properly notarized. (Notarized character references are required for dental hygienists.) Both letters contain handwritten notations; auditors were unable to determine whether these were the attestations of a notary public.

Recommendations

The Agency should:

- Clarify the types and level of documentation needed to demonstrate that applicants for licensure by credential meet the requirements for Texas dental and dental hygiene licenses. If the Agency is going to accept documentation other than an endorsement from the other state's board of dentistry, it should document acceptable alternatives in its written policies.
- Ensure that applicants for licensure by credential provide documentation that meets the Agency's criteria, such as containing an official seal or notarization, before issuing them Texas licenses.

In addition, the Agency should consider:

- Specifying that affidavits to support prior practice are from dental professionals (such as employers, co-workers, or colleagues) who work in the same region as the applicant.
- Clarifying the type of evidence needed to authenticate a letter of reference, such as the name and contact information of the person providing the letter and an official notarization including commission number or other identifying information for the notary public.

Management's Response

The Agency will provide written instruction to the Professional Background Information Service (PBIS) staff to identify types of documentation that will be acceptable as validation of credentials.

The Agency will closely review incoming PBIS application packets to ensure all SBDE standards for appropriate documentation has been received. Incomplete or inappropriate packets will be returned to PBIS for completion.

The Agency will instruct PBIS to obtain verification of clinical practice from current employers, colleagues, or other valid entities that can sufficiently document current practice.

The Agency will ensure that all documents submitted to support an application for licensure by credentials are appropriately and clearly notarized.

The Agency Did Not Ensure that the State Received Fair Value for Two Contracts, and Its Contract Terms Need to Be Clarified

The Agency did not ensure that the State received fair value for two contracts despite significant economic impact to the State and the importance of the services to the Agency's operations. The contracts resulted in the two vendors' receiving a total of approximately \$650,000 from applicants for Texas licenses in fiscal year 2004 and the first six months of fiscal year 2005 for testing and credential verification services. However, because the Agency does not pay the vendors itself, the amount of state funds involved do not meet the Building and Procurement Commission's threshold for requiring the Agency to use competitive bidding. (State funds paid to one of these vendors total only \$1,950, which is below the \$2,000 threshold that was in place when the funds were paid in fiscal year 2003. The threshold has since been increased to \$5,000. No state funds were paid to the other vendor.)

In addition, some of the Agency's agreement and contract terms were not clear, increasing the likelihood of disagreements between the Agency and vendors about what should be provided and at what cost.

Chapter 3-A

The Agency Did Not Ensure that the State Received Fair Value for Two Contracts with Vendors

For two licensing-related contracts with vendors, the Agency has not ensured that the State receives the best services available or that applicants pay a reasonable price for the services. Because applicants pay these two vendors directly, the vendors receive very little, if any, state money. In both cases,

state expenditures are below the Building and Procurement Commission's threshold for requiring competitive bidding.

According to the Agency:

- The testing vendor administered 6,341 tests on behalf of the Agency in fiscal year 2004 and 4,555 tests in the first half of fiscal year 2005.
- The vendor that checks credentials for out-of-state licensees verified applications from 108 applicants on behalf of the Agency in fiscal year 2004 and 76 applicants in the first half of fiscal year 2005.

However, the services these vendors provide are important to the Agency's licensing function (see text box). One vendor tests applicants, and the other checks the credentials of licensees from other states who apply for Texas licenses. Using a competitive bidding process or some other method to compare vendors' services and prices would help provide assurance that the vendors are providing good services at a fair value. The following two contracts were not bid competitively:

- The Agency's contract for computer-based testing services guarantees the vendor that it will receive at least \$100,000 per year from Texas's applicants. (Appendix 3 contains a copy of this contract.) According to the Agency, the testing center received almost \$350,000 in fiscal year 2004 and over \$250,000 in the first six months of fiscal year 2005. Each applicant pays the vendor \$55 per test. Without competitive bidding, there is the possibility that another contractor could have provided the same or

better service at a lower cost to applicants and without requiring a guarantee from the Agency.

- The contract with the vendor that verifies out-of-state licensees' credentials explicitly states that the vendor is not responsible for the accuracy of the information it provides to the Agency. Each applicant pays the vendor \$400 to \$500 to verify his or her credentials, and the vendor receives about \$50,000 per year for providing this service. (See Table 2.) Because it did not use a competitive process to award this agreement, the Agency does not know if a different vendor might have charged less and guaranteed the accuracy of its results.

Table 2: The Agency did not ensure that the State received the best value for two contracts with significant economic impact to the State.

Two Contracts Did Not Rely on Competitive Bids			
Agreement	Expenditures of State Funds (per the Uniform Statewide Accounting System)	Amount Earned by Vendor (per Agency)	Comments
Computer-based testing	\$1,950 in fiscal year 2003 for test development	Fiscal year 2004: \$348,700 First half of fiscal year 2005: \$250,525	Test takers pay contractor directly. Agency guarantees at least \$100,000 per year of income for contractor.
Licensure-by-credential verification	\$0	Fiscal year 2004: \$49,300 First half of fiscal year 2005: \$34,600	Applicants for licensure by credential pay contractor directly.

Recommendations

The Agency should:

- Use competitive bidding or some other method of ensuring that the state gets fair value for all contracts whenever possible.
- Post non-bid contract award proposals, where the value of the contract is reasonably estimable and significant, on the Electronic State Business Daily so that other potential bidders can comment.

Management's Response

Management strongly asserts the SBDE was in strict compliance with current procurement guidelines at the time the contracts in question were executed, as noted by the auditor. Future contract procurements will be carefully evaluated to ensure the State receives full value.

When appropriate, the Agency will post non-bid contract award proposals on the Electronic State Business Daily.

Terms in the Agency's Contracts Are Not Clear

The language that the Agency uses in its contracts is not consistently clear and leaves room for misunderstandings to occur. One contract was for "\$1500 to \$1750" but did not specify what the variables in payment were. Another contract was awarded for a specific amount per month, but the Agency was billed less than that each month. Although both the contractor and the Agency indicated to the auditors that they understood that the amount in the contract was a "not to exceed" amount, this understanding was not documented. Neither of these cases had a significant effect. However, to ensure that misunderstandings do not occur, a contract should include the basis for payment and the amount or the rate of payment.

Also, as discussed in Chapter 2-A, the Agency incorrectly thought that the Department of Public Safety was providing full background checks for new licensees. However, the correspondence between the two agencies does not clearly address new licensees. In this example, the lack of specificity in the agreement led to a gap in the Agency's licensing process.

Recommendation

The Agency should ensure that all contract terms are worded clearly.

Management's Response

Language in contracts, where unclear, will be revised to clarify obligations of all parties. Specific requirements will be outlined and adhered to on all future contracts.

The Agency Accurately Manages, Monitors, and Reports on Its Financial Resources

Audit tests of controls over revenue indicate that, as of the date tested, the Agency had reported and deposited all revenue it had collected. Licensees were charged the correct initial and renewal fees, including late fees when applicable. In addition, we found that all expenditures in our sample of 35 payments from fiscal years 2004 and 2005 were approved, received, adequately supported, and charged to the correct strategy.

The Agency Can Improve the Management and Accuracy of Its Electronic Information

Opportunities exist for the Agency to improve the management and accuracy of the databases it uses to track information about its licensees. Specifically:

- Multiple databases are not consistent.
- The Licensing Division does not verify information about its licensees.
- Transition plans to the new enforcement database need to be developed.

Chapter 4-A

Multiple Databases Are Not Consistent

The Agency uses four different databases to track information. Each of the databases requires separate, manual input of data. (See Table 3.) Auditors identified data entry errors in the licensing, legal, and compliance databases. There are no automatic data transfers from one system to another, and there are no compensating manual processes to ensure that data is accurate. Without accurate data, it is possible the Agency will make decisions based on incorrect information.

Table 3: The Agency has four separate internal information systems that document the status of licensees. The licensing database is maintained by Northrup Grumman; the others are maintained internally. We found input errors in each system. However, because each database depends on manual input from original sources, the information is not consistent across databases.

Databases Used at the Board of Dental Examiners	
Manual entry of data by Licensing Division when license is granted or renewed	<p style="text-align: center;">Licensing database:</p> <p>Includes 20,328 records on dentists and 13,332 records on hygienists. The database includes information on all entities licensed by the Agency. Source of data: applications and renewal forms.</p>
Manual entry of data by Enforcement Division when a complaint is received and as it is investigated in the Enforcement Division.	<p style="text-align: center;">Enforcement database:</p> <p>Includes 9,782 records, reflecting current and past investigations. Approximately 60% of complaints are dismissed or resolved before being referred to the Legal Division. Source of data: complaints and investigation reports.</p>
Manual entry of data by Legal Division after it is referred to Legal by the Enforcement Division.	<p style="text-align: center;">Legal database:</p> <p>Includes 1,736 records. Tracks cases once they are referred by the Enforcement Division, through dismissal or until a board order is signed. Source of data: referred cases from the Enforcement Division and notes from attorneys.</p>
Manual entry of data by Compliance Officer. Information is entered from board orders. When fines, etc., are received by the Agency, these are logged.	<p style="text-align: center;">Compliance database:</p> <p>Includes records on 144 open cases. Reflects what individuals under board orders have done to comply with those orders. Source of data: board orders and documentation from licensees.</p>

Recommendation

The recommendation in Chapter 1-A to review the compliance status for each individual under a board order before renewing a license will help the Agency ensure consistency between its databases.

Management's Response

Until the time the Agency is awarded funding necessary to obtain software that will manage all databases comprehensively, we will continue to face this challenge. The Agency will consider steps necessary to obtain statutory authority to refuse renewal of non-compliant licensees.

Chapter 4-B

The Licensing Division Does Not Verify the Accuracy of Identifying Information

Licensees' identifying information in the licensing database is not consistently accurate. The Agency receives the information from various sources and uses it for initial licensing as well as ongoing processes such as quarterly criminal record checks. However, the Licensing Division does not verify the accuracy of the information it receives, and the licensing database contains only a limited number of edit checks that would help ensure the information's accuracy.

For example, the database showed that 16 licensees who renewed their licenses in fiscal year 2004 were born after 1989. (One of the requirements for licensure is that the applicant be at least 21 years old.) Each of these cases turned out to be input errors, which an edit check could have prevented or identified. The Agency needs accurate identifying information to validate individuals' identities and ensure that they are qualified before issuing licenses.

Audit tests revealed cases in which identifying information was absent, contradictory, or incorrect:

- Four of 40 new licensee files tested did not contain the applicants' dates of birth.
- One applicant used three different social security numbers in an application. The Agency received an explanation, but it did not ensure that the final number provided was correct.
- A comparison of 1,008 social security numbers recorded in the licensing database with information from the Social Security Administration

identified two numbers in the database for which the dates of birth were incorrect.²

Since auditors identified these errors, the Agency has agreed to start requiring copies of applicants' social security cards. Having a copy of the card will help the Agency determine the correct number if the applicant's handwriting is not legible or if the applicant provides different numbers on different forms. It will also provide the Agency with some assurance that the applicant is providing his or her own number.

Recommendation

In addition to using applicants' social security cards to verify their social security numbers, the Agency should request regular reports from the database of all blank birthdates and social security numbers and use these reports to help ensure that missing data is completed.

Management's Response

Birthdates are necessary to ensure that minimal criteria for licensure is met – for example, the minimum age requirement for dental hygienists is 18 and for dentists, 21. When reviewing an application for licensure, staff reviews documentation of birth to ensure minimum age is met prior to authorizing the issuance of a license. Data entry errors in the licensing database, however, create confusion as to whether or not applicants are qualified. Therefore, the agency will conduct quarterly audits to ensure data accuracy and thoroughness.

Social security numbers are one of several identifying factors necessary to obtain a complete criminal history. Staff will request that all applicants for licensure submit a copy of their social security card with their application to ensure data integrity.

Chapter 4-C

The Agency Does Not Have A Plan to Discontinue the Use of the Old Enforcement Database

The Agency is currently implementing a new enforcement database and expects to begin using it in September 2005. Once the new database is implemented, the Agency will use it to collect data about new cases. However, the Agency will continue to add new information about ongoing cases to the old database indefinitely. As a result, weaknesses in the design of

² We did not identify all cases of errors. For example, if someone used a social security number that had been issued to someone else, our tests would not have identified the error. Also, if a date of birth had been misstated by a few days, our tests would not have noted it as an error. However, these would be enough to prevent a match with criminal history records.

the old database could jeopardize the accuracy of data regarding ongoing cases. The Agency does not have a plan to move these ongoing cases to the new database or to discontinue entry of new information into the old database.

The new database has been designed to address the problems that prior State Auditor's Office reports identified. The Agency has also taken interim steps to mitigate the effects of the problems identified. See Appendix 2 for additional discussion of the Agency's response to prior audit findings.

Recommendation

The Agency should allow new information to be entered into the old database for only a limited amount of time after the new database is implemented (for example, one year). This should allow the Agency to finalize most of the open cases in the old database while using the new database for incoming cases. Any cases remaining open in the old database after the allotted time frame should be reviewed for data accuracy and moved to the new database. Once all open cases have been moved to the new database, the Agency should allow read-only access to the old database.

Management's Response

The Agency will continue to work with the contractor/database development the new database to find solutions to migrate the data from the old database to the new one when all open cases have been resolved.

Appendices

Appendix 1

Objectives, Scope, and Methodology

Objectives

The objectives for this audit were to determine whether the Texas State Board of Dental Examiners (Agency) is:

- Maintaining financial viability by properly managing, monitoring, and reporting agency financial transactions.
- Delivering expected services as mandated by the Legislature and in compliance with applicable statute, rule, and regulation.

Scope

The scope for this audit was fiscal year 2004 and the first half of fiscal year 2005. Policies and procedures that were implemented during the course of fieldwork were also reviewed.

Methodology

Our methodology included collecting and reviewing information and documentation, performing selected tests, analyzing and evaluating the results of testing, and conducting interviews with Agency management and staff.

Information collected and reviewed included the following:

- Interviews with Agency management and staff
- Agency policies and procedures
- Agency contracts
- Uniform Statewide Accounting System (USAS) data
- Reports and correspondence between the Agency and its contractors
- Mail logs
- The Agency fee schedule used during fiscal year 2004
- The minutes for the board meetings held in fiscal year 2004
- Board orders signed at board meetings held in fiscal year 2004

- Licensee information in the public database on the Agency's Web site
- Information contained in the enforcement database
- Information contained in the legal database
- Information contained in the licensing database
- Purchase vouchers and travel vouchers
- Dentist and dental hygienist complaint information

Procedures and tests conducted included the following:

- Comparing information in the enforcement database with supporting documentation found in compliance database files
- Comparing Agency policies and procedures to those of other examining boards in Texas
- Comparing Agency policies and procedures to those of other states' examining boards
- Comparing USAS data with supporting documentation to ensure that expenditures were for items that had been received and that those expenditures were documented properly and charged to the correct strategy
- Comparing performance measures for strategies with the expenditures for those strategies to determine whether funds were being requested appropriately on an as-needed basis
- Comparing information in the licensing database to license renewal fees to determine whether licensees were charged the proper amounts to renew their licenses
- Reviewing full Department of Public Safety background checks for licensees who recently obtained their licenses to determine whether they have criminal histories that should have prevented them from obtaining their licenses
- Validating the information in the enforcement database by tracking complaints from the mail logs to the enforcement database

Criteria used included the following:

- Texas Building and Procurement Commission's Procurement Manual
- *State of Texas Contract Management Guide*, Version 1.1

- Texas Administrative Code
- Texas Government Code
- Texas statutes, including the Texas Occupations Code
- Agency policies and procedures
- Sunset Advisory Commission, *Full Staff Report on the State Board of Dental Examiners*, February 2002
- Other standard audit criteria

Other Information

Our audit team conducted fieldwork for this project during March through June 2005. This audit was conducted in accordance with generally accepted government auditing standards. The following members of the State Auditor's staff performed this audit:

- Rachel Cohen, CPA (Project Manager)
- Barbette Mays (Assistant Project Manager)
- Marlen Randy Kraemer, MBA, CISA
- Margaret Nicklas, MPAff
- Serra Tamur, MPAff, CIA, CISA
- Lisa Thompson
- J. Scott Killingsworth, CIA, CGFM (Quality Control Reviewer)
- Verma L. Elliott, MBA (Audit Manager)

Follow-Up on Significant Findings and Recommendations

In 2002, the State Auditor's Office identified a number of significant problems at the Agency. The Agency has addressed or is addressing all of those findings as shown in Table 4.

Table 4

Current Status of Significant Findings and Recommendations from <i>An Audit Report on Internal Controls and Financial Processes at the Texas State Board of Dental Examiners</i> , SAO Report No. 02-050, June 2002	
2002 Finding	Current Status
The Agency does not have controls to: <ul style="list-style-type: none"> ▪ ensure consistent assignment of sanctions against dental professionals or ▪ ensure that staff carries out sanctions. 	Implemented
	The Agency has adopted a rule describing levels of sanctions. All board orders tested that were put into place after that rule was adopted complied with the new standards.
	Not Implemented
	(See Chapter 1-A.)
The Agency is not completing complaint investigations in a timely fashion.	Implemented
	The Agency has decreased the number of days it takes to investigate a complaint over the last few years. The reported average time for complaint resolution has decreased from over 500 days in 2002 to 337 days as of May 2005.
Enforcement database does not have adequate controls in place to ensure data integrity.	Substantially Implemented
	The Agency is in the process of replacing this database. The new system, as planned, will address the issues raised by the 2002 audit. The Agency has also taken interim steps to clarify the definitions of fields, reducing the risk that different staff members will use fields differently.
Agency investigators are not allowed to make recommendations for sanctions. Cases are assigned to Board members.	Implemented
	The Agency has amended a rule that allows the Director of Enforcement to review and make recommendations regarding cases.
Cases can be dismissed by a single Board member.	Implemented
	Testing of 36 case dismissals showed that each dismissal had two signatures. Reasons documented for dismissals appeared to be reasonable.
There are no dental professionals on Enforcement staff.	Minimally Implemented
	The Agency did not hire a dental professional, but we did verify that it has approved 25 volunteer consultants to review cases, perform exams, and serve as witnesses in standard-of-care cases as needed. (See Chapter 1-B.)
Performance measures were not accurate.	Minimally Implemented
	We tested the accuracy of the number reported to the Legislative Budget Board for the "Average time for complaint resolution." The reported number was accurate. However, because the information comes from a database that does not have adequate controls, we cannot provide assurance that future reports will be accurate.

Agreement Between the Agency and the Testing Vendor

-----The Texas State Board of Dental Examiners-----

CLIENT SCHEDULE NO. 2 FOR THE TEXAS DENTAL ASSISTANT PROGRAM

This Client Schedule between Prometric, a division of Thomson Learning, Inc. (as successor in interest to Prometric, Inc. and hereinafter referred to as "Prometric"), and The Texas State Board of Dental Examiners ("Client"), together the "Parties", is entered into as of this 31st day of October, 2003, (the "Effective Date") to define the rights and responsibilities of the parties in performing the Texas Dental Assistant Program (the "Program"). This Client Schedule No. 2 shall replace and supersede the Client Schedule No.1 dated August 1, 2002.

THE PARTIES AGREE AS FOLLOWS:

1. **The United States and Canada Computer-Based Testing (CBT) Services Agreement** (the "Agreement"), between Client and Prometric, dated August 1, 2002, is hereby incorporated by reference to be as binding as if set forth in full in this document, except as noted in or to the extent in conflict with, this or any subsequent Client Schedule (including attachments), in which case the terms of the Client Schedule or attachment, as the case may be, shall control.
2. The following Statements of Work are hereby incorporated by reference to be binding upon the parties except as noted in or to the extent in conflict with, this or any subsequent Client Schedule (including attachments), in which case the terms of the Client Schedule or attachment, as the case may be, shall control.
 - A. **Attachment A- Statement of Work, USA/Canada PTC Channel, Rev A 22April 2002.**
 - B. **Attachment B- Statement of Work, Test Development Services.**
3. **TERM** -The term of this Client Schedule is from the Effective Date-of execution by both parties until October 31, 2006, (the "Expiration Date") at which time this Client Schedule will automatically renew for an unlimited number of consecutive additional one year renewal periods starting on the Expiration Date and on each anniversary of said date unless either Party gives 90 days notice to the other Party that this agreement will not be renewed. This provision supersedes Art. 3 of the Agreement as incorporated, such that the provisions of the Agreement as incorporated, modified, and applied to a Program, could survive the termination of the original Agreement.

4. REGISTRATION AND ELIGIBILITY

No Eligibility or Eligibility Determined by Prometric

Prometric shall be solely responsible for registering individuals to take a Test, assigning to each individual a unique Candidate Test Admission Number, and providing to Client at the intervals contained in the Client Schedule, via the electronic communications link, the following Candidate information:

- a) Candidate's full name
- b) Test candidate has been approved to take
- c) Candidate's Test Admission Number
- d) Candidate's Social Security Number
- e) Candidate's address

f) Candidate's phone number.

5. SCHEDULING METHODS AVAILABLE TO CANDIDATES

- Central via Prometric Candidate Services Call Center
- Online Scheduling and registration
- Local at Test Center
- Interactive Voice Response at Call Center

6. **TEST(S)** - Prometric will provide the services outlined in the Statement of Work, Attachment A for the administration of the following computer-based tests on behalf of Client:

<u>Test Name</u>	<u>Duration</u>	<u>Items</u>	<u>Forms</u>	<u>Order</u>	<u>Est'd Tests</u>
					<u>Per Year</u>
Jurisprudence	2 hours	50			1100
Nitrous Oxide Monitoring Certification Exam	2 hours	50			1300
Radiology Certification Exam	2 hours	50			2600
Infection Control *	2 hours	50			10,000
Jurisprudence for Dental Assistants*	2 hours	50			10,000

* Testing set to commence with projected Q2, 2004 launch date.

7. FEE COLLECTION Prometric Fee Collection

Prometric shall collect the Per-Test Delivery Fee directly from Candidates. For any charges or fees other than those described above, Client will be invoiced monthly. Client agrees to pay invoices, including any taxes that may apply to Client, within 30 days from date of invoice. Client will provide Prometric with documentation required by the taxing authority to support any tax exemption.

8. DISPLAY OF TEST RESULTS TO CANDIDATE

- no display
- on-screen display only
- on-screen display and written copy

9. FEES: CLIENT SHALL PAY PROMETRIC THE FEES SET FORTH IN THE FOLLOWING SCHEDULE:

- a) Test File Preparation and Publishing Fee covering the first 3 tests in Section 6 (Jurisprudence, Nitrous Oxide Monitoring Certification Exam and Radiology Certification Exam) - US English - up to 500 multiple choice/true-false. **One-time fee of US \$0.00**
* Prometric shall also publish the Jurisprudence for Dental Assistants test once per year at no charge to the client.
- b) Prometric shall create the Infection Control Examination as set forth in Attachment B at no charge to the client. Prometric shall own the intellectual property of this exam.
- c) Special Accommodations (Test reader, signer, amanuensis, private test, etc.)
Estimated costs will be provided on a case-by-case basis.
- d) Per-Test Delivery Charge: US \$62.00 per Test for Jurisprudence, Nitrous Oxide Monitoring Certification Exam and Radiology Certification Exam (until such time as the Infection Control and Jurisprudence for Dental Assistants Exams are launched).
- e) Per-Test Delivery Charge: US \$55.00 per Test for all Tests named in section 6 (after such time as the Infection Control and Jurisprudence for Dental Assistants are launched).
Annual Minimum total Per-Test Delivery Charges: US \$ 100,000.00

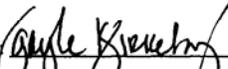
Conditions:

Client shall pay Prometric the Annual Minimum total Per-Test Delivery Charges during each year of this Agreement. The first year commences on the earlier of, the date Client's first test is available for testing at Prometric's testing center or six months after Effective Date, and subsequent years begin on the anniversary date of such commencement. If the Annual Minimum is not paid in any year, Prometric will withhold any fees payable to Client until the Annual Minimum charge is reached. If Client terminates this Agreement without cause and before the Annual Minimum for that year is satisfied, Client will pay the difference on a full year basis; otherwise, the Annual Minimum for the year of termination will be prorated for any partial year.

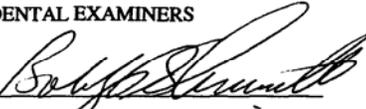
Prometric may, at its option, reduce amounts payable to Client by any amounts owed by Client to Prometric.

IN WITNESS WHEREOF, the parties have executed this Client Schedule No. 2 of the day and year first above written.

THOMSON LEARNING, INC.

By: 
Title: SVP Global Sales & Mktg
Date: 11-6-03

TEXAS STATE BOARD
OF DENTAL EXAMINERS

By: 
Title: EXECUTIVE DIRECTOR
Date: 10/31/03

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The Honorable Jim Pitts, House Appropriations Committee
The Honorable Jim Keffer, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Texas State Board of Dental Examiners

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Dr. Juan D. Villarreal, Secretary
Ms. Tammy L. Allen, R.D.H.
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