

# Minnesota Board of Dentistry

## BIENNIAL REPORT\* July 1, 1998 to June 30, 2000

### I. GENERAL INFORMATION

#### A. Board Mission and Major Functions

*Mission:* "To ensure that Minnesota citizens receive quality dental care from competent dental health care professionals"

#### *Major Functions*

##### Licensure and Registration:

- Establish minimum standards for entry to the professions of dentistry, dental hygiene and registered dental assisting
- Provide initial licensure of dentists and dental hygienists and registration of dental assistants who meet the minimum requirements for entry to the profession; applications must include successful completion of the National Dental Board Examination or the National Dental Hygiene Board Examination, successful completion of a clinical examination, among other requirements
- Design the Minnesota Dental Assistant Registration Examination (which is administered by an outside entity; successful completion of this exam is required prior to registration)
- Design and administer the Minnesota Jurisprudence Examination (successful completion of which is required of all applicants prior to licensure / registration)
- Provide annual renewal of licenses and registrations for 13,000+ dental professionals regulated by this Board
- Provide an objective, rule-based, timely process of licensure-by-credentials for dentists and dental hygienists who are licensed in other jurisdictions; similarly, provide a process of curricula and credentials review for dental assistants seeking Minnesota registration
- Provide official affidavits of licensure and verification of licenses and registrations for individuals, institutions, third party payers, others.

##### Complaint Resolution:

- Respond to complainants who have questions about how to file complaints against dental professionals regulated by the Board; provide Internet information to the public about the complaint resolution process
- Maintain a computer tracking record of 100% of all complaints filed with the Board
- Investigate 100% of all jurisdictional complaints filed with the Board against dental professionals regulated by the Board. Investigative methods include:

\*Pursuant to Minnesota Statute 3.197, the cost of preparing this report was approximately \$1,500 (staff time).

1. Letter of Inquiry to the licensee / registrant
2. Informational Conference with the licensee / registrant and one of the two Complaint Committees of the Board, or
3. Disciplinary Conference with the licensee / registrant (and their legal counsel); legal counsel from the Attorney General's Office (representing the Complaint Committee), and one of the two Complaint Committees of the Board.

Dispute resolution methods to arrive at equitable settlements are used in order to avoid prolonged, costly litigation--without compromising public protection from unsafe dental practitioners.

- Take corrective or disciplinary action when warranted, pursuant to statute and rule. Disseminate this public information to the public, dental professionals and national databases accurately and in a timely manner.

Tracking Compliance with Corrective Actions and Disciplinary Orders:

- All licensees / registrants currently under an Agreement for Corrective Action or a Stipulation and Order are tracked regarding compliance. Non-compliance is reported to the appropriate Complaint Committee and could result in further disciplinary action.
- General reports are generated and disseminated at public Board members regarding Complaint Committee meetings and activities (without disclosure of confidential or private data).

Continuing Dental Education:

- Record continuing dental education credits earned by all Minnesota licensed dentists, dental hygienists and registered dental assistants;
- Provide computer-generated CDE transcripts annually to all Minnesota licensed dentists, dental hygienists and registered dental assistants;
- Review and approve continuing dental education sponsor applications;
- Review and renew continuing dental education sponsor applications every four years for those who meet Board rule requirements.

Professional Firms:

- Register dental professional firms upon initial application and annually renew those registrations (about 760 per year).

Dissemination of Public Information:

- Maintain a Board web site to provide information on such topics as (1) how to file a complaint; (2) names of dentists, dental hygienists and registered dental assistants who have had disciplinary actions taken against their license / registration; (3) current Board-approved continuing dental education sponsors; (4) statutes and rules relating to dental practice in Minnesota; (5) the Health Professional Services Program (HPSP), and so forth.
- Maintain official records and minutes of public Board and committee meetings; provide copies of public data upon request.
- Mail meeting notices and rulemaking notices upon request
- Publish and distribute a quarterly Board newsletter

Legislation and Rulemaking:

- Periodically review and update statutes and rules relating to dental practice in Minnesota
- Respond in a timely manner either to support, remain neutral or oppose pending legislation initiated by entities other than the Board

**B. Major Activities During the Biennium**

The major activities engaged in by the Board of Dentistry are found below:

- The Board's "Continuing Education / Professional Development Task Force" continued to meet several times a year. The Board is working to make significant, positive changes in its rules related to continuing education to shift the responsibility *for keeping track* of CDE activities from the Board to each individual dental professional. **The Board has no plans to eliminate continuing education requirements:** rather, it is seeking to promote professional development and individual responsibility for keeping track of such activities. Changes in this area may be met with resistance from practicing dental professionals, so the Board will continue to work with affected groups to garner their support. Although the Minnesota Board of Dentistry was the first state to mandate continuing dental education credits in order to renew licensure or registration, the CDE tracking method used by the Board is very outdated. To date, the Board's proposals for change are in line with what a majority of other states have been using, i.e. allowing individuals to report their CDE activities on the annual license / registration renewal form, use of a "random audit" system, etc.
- The Board's Credentials Committee doubled the number of meetings held per year. The reason for this was to meet the needs of dentists and dental hygienists licensed in other states wishing to obtain Minnesota licensure as quickly as possible. Increasing the number of such meetings was intended to allow qualified applicants to obtain Minnesota licensure sooner.
- Support for future legislation relating to mandatory reporting of impaired dental professionals was obtained from the major professional dental associations in Minnesota. Proposed legislation will require licensees and registrants to confidentially report fellow dental professionals who are believed to have a mental, physical, or chemical dependency problem to the Health Professionals Services Program or to the Board. It is believed that such mandatory reporting will help to secure assistance for dental practitioners in need of care, while simultaneously protecting the public from those who may be unsafe to practice.
- The Board began a planning process to establish three-year goals and performance measures of Board effectiveness. (The process was completed after the end of FY2000.)
- A Windows-based computer licensing/complaint/discipline database was designed, tested and deployed at the Board office, replacing an outdated DOS-based system in use since the 1980's.
- A Board web site was established and is being maintained by Board staff, thereby providing accurate public information in a timely manner.
- A preliminary rulemaking effort to substantially change Board rules relating to duties that dentists may delegate to licensed dental hygienists and to registered dental assistants was

discontinued. Working in conjunction with the major dental professional associations in Minnesota, this initiative (commonly referred to as "non-permissive rules") had been in progress for a number of years. The effort was tabled based on the possibility that new rules that described what dental auxiliaries may **not** perform (rather than listing what they **can** perform) would be: (1) difficult to enforce; (2) difficult for dental practitioners to understand; and (3) likely to be controversial, leading to a hearing on any proposed rules related to this topic.

- The Board officially opposed proposed legislation during the 1999 Legislative session that would have changed the Board membership composition and would have increased the membership to twelve (from nine.) The proposed legislation did not pass.
- The Board officially supported proposed legislation during the 1999 Legislative session that would have changed the credential of "registration" to "licensure" for dental assistants. The proposed legislation did not pass.
- There was a concerted effort from early 1999 to June 2000 to persuade the Attorney General's Office of the valid need for that office to hire at least one dentistry investigator. The AGO had no investigator with a dentistry background for about one year--the first time this had happened since 1987. During the interim, Board staff assumed as many duties as legally permissible in order to maintain a steady processing of complaint / disciplinary action activities. (Note: The AGO did hire a dentistry investigator during FY2001.)
- The Board continued to use two complaint committees to ensure prompt processing of complaints filed against regulated dental professionals. Those two committees held a total of 48 meetings during the biennium.
- The Board reduced its annual licensure and registration renewal fees in 1999.
- The Board sent a representative to serve on the Department of Human Services' Dental Access Advisory Committee.

**C. Emerging Issues Regarding Regulation of Dental Professionals**

- Ensuring access to dental health services for all Minnesota citizens remains an issue that the Board is exploring ways to address. One possible proposal involves looking for ways to license foreign-trained dentists who successfully complete advanced dental residency programs in the United States. The Board remains committed to ensuring that any statutory or rule changes related to licensure of foreign-trained dentists provide public and professional assurance of the dentists' competence. They should meet the same minimum standards of competence as those trained in dental programs in the U.S. or Canada that are accredited by the American Dental Association's Commission on Dental Accreditation.
- Other possible proposals to deal with the access issue could include modifying or clarifying the scope of practice for licensed dental hygienists, and/or creating a new type of "mid-level" dental practitioner. It is likely that such proposals would **not** be initiated by the Board, but rather by other entities, such as the Department of Human Services.

- Exploring more contemporary methods of tracking continuing dental education credits earned by regulated dental professionals is an area that the Board has devoted a great deal of time on during the biennium. The Board has used a "card system" for at least the past 20 years, and that method is fast becoming obsolete. Many other states rely on a self-reporting system in conjunction with random auditing. But changing the existing, long-established system will require more time and effort to overcome resistance to change and acceptance of a new and different method.
- Registered dental assistants will be seeking additional expanded duties, particularly in the absence of Board activities related to "nonpermissive" rules. Such rulemaking efforts may be controversial, but will attempt to meet the needs of dental patients in Minnesota.
- Providing easy and timely access to accurate public data is an area that the Board is committed to by expending funds necessary to upgrade its computer database, software and hardware. (In the event that General Fund revenue becomes available in the future, the Board would like to make its web site interactive.)

## II. BOARD MEMBERS, STAFF AND BUDGET

### A. Board Composition

The Board is statutorily required to have five licensed dentists, one licensed dental hygienist, one registered dental assistant and two consumer members, all of whom must be appointed by the Governor. Each member is appointed for a four-year term, and may be re-appointed to serve a second four-year term.

As of June 30, 2000, the following were members of the Board:

- |                                     |                    |
|-------------------------------------|--------------------|
| 1. Susan Gross, D.D.S.              | St. Louis Park, MN |
| 2. William Zimbinski, D.D.S.        | Duluth, MN         |
| 3. Freeman Rosenblum, D.D.S.        | St. Paul, MN       |
| 4. Ronald King, D.D.S.              | Minneapolis, MN    |
| 5. Ann Stone Thelen, D.D.S.         | Cold Spring, MN    |
| 6. Cheryl Tietge, D.H.              | St. Paul, MN       |
| 7. Phyllis Gilbert, R.D.A.          | Pelican Rapids, MN |
| 8. Julia Huebner, Consumer          | Minneapolis, MN    |
| 9. Marguerite Rheinberger, Consumer | Stillwater, MN     |

### B. Board Staff

The Board staff consists of a full-time executive director appointed by the Board, and the following 7 full-time employees hired by the executive director: 1 office manager; 1 administrative assistant; 1 licensing analyst; 1 complaint unit supervisor; 1 complaint analyst; 1 compliance officer, and 1 continuing dental education program administrator. The director also has hired temporary, student clerical workers to assist at various times throughout the year, as needed.

### C. Receipts, Disbursements and Major Fees Assessed by the Board.

<u>Item</u>	<u>FY 1999</u>	<u>FY2000</u>
Receipts	\$1,190,000	\$1,102,000
Disbursements	\$1,085,000	\$ 963,000
<u>Fees: Dentists (including Faculty Dentists)</u>		
Initial Application	\$140	\$140
Annual Renewal Application*	\$168	\$155**
Credential Application	\$725	\$725
<u>Fees: Dental Hygienists</u>		
Initial Application	\$55	\$55
Annual Renewal Application*	\$59	\$50**
Credential Application	\$175	\$175
<u>Fees: Registered Dental Assistants</u>		
Initial Application	\$35	\$35
Annual Renewal Application*	\$40	\$35**

Fees: Resident Dentists

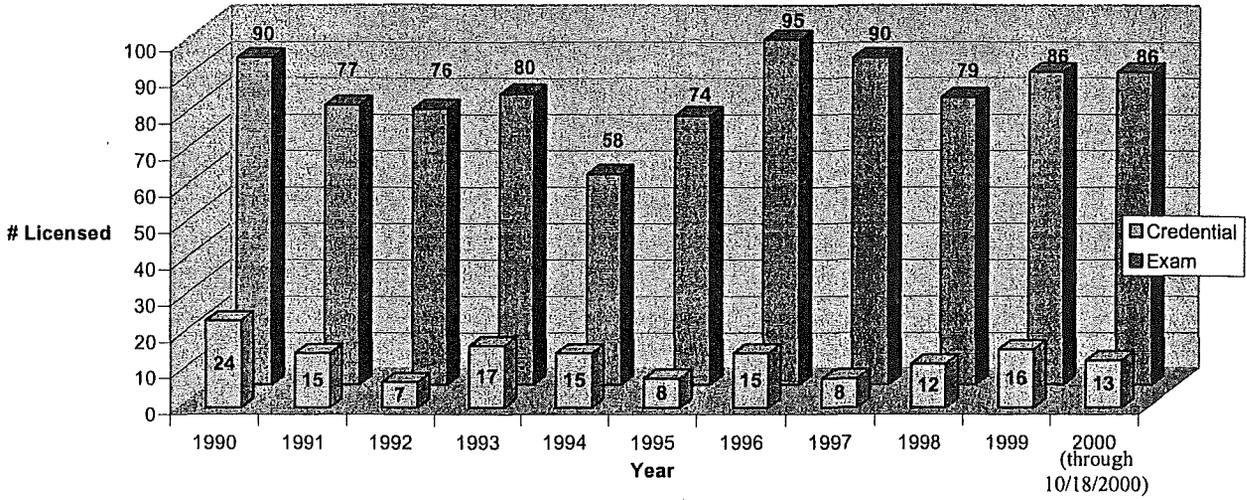
Initial Application	\$55	\$55
Annual Renewal Application	\$59	\$50**

*\*Those who fail to renew their credential by December 31 are subject to a 50% late fee.*

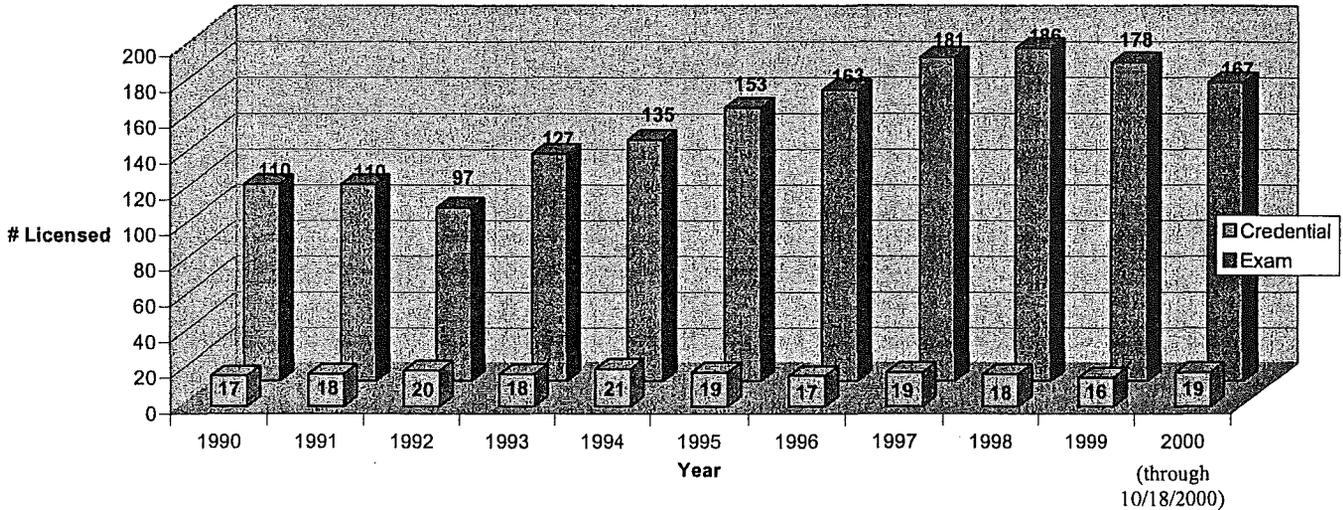
*\*\*The annual renewal fees collected in 1999 (for the calendar year 2000) were reduced as shown above.*

### III. LICENSING AND REGISTRATION

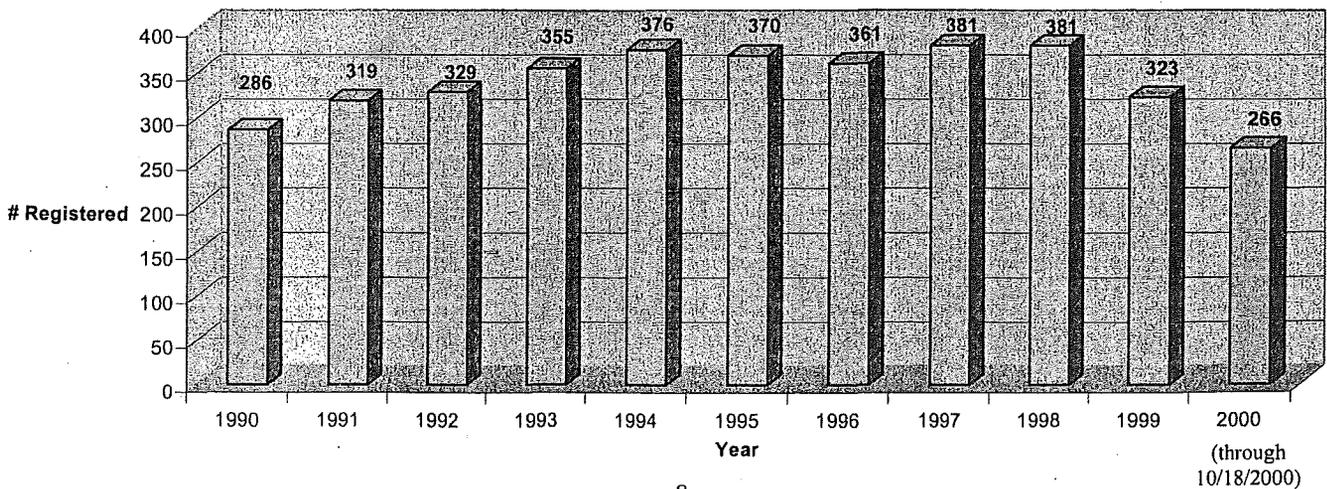
#### # of New Licensed Dentists Per Calendar Year



#### # of New Licensed Dental Hygienists Per Calendar Year



#### # of New Registered Dental Assistants Per Calendar Year



## IV. COMPLAINTS AND DISCIPLINE

### A. NEW complaints received during each year of the biennium

	<u>FY 99</u>	<u>FY00</u>
1. Total <u>new</u> complaints received	209	240
2. Complaints categorized by occupation		
a) D.D.S.	200	220
b) D.H.	3	5
c) R.D.A.	3	13
d) non-licensed	3	2
3. Complaints per 1,000 regulated individuals: <i>(Not analyzed according to type of     dental professional)</i>	15	19
4. Complaints categorized by type (primary allegation):		
a) competency	85	102
b) licensure	11	10
c) prescription or drugs	12	11
d) sexual misconduct	1	1
e) auxiliary misuse	4	7
f) sanitary/safety	14	11
g) advertising	10	7
h) unprofessional conduct	54	81
i) fraud	11	6
j) failure to cooperate w/Board	1	1
k) unconscionable fees	5	1
l) disability	1	2
<b>TOTALS:</b>	<b>209</b>	<b>240</b>

**B. ALL OPEN Complaints on June 30 of each fiscal year of the biennium**

*[Note: The numbers below include complaints that were open previous to the biennium. The numbers cannot be compared to the number of complaints listed under part A, above.]*

	<u>FY 99</u>	<u>FY00</u>
1. All complaints open on 6/30/00		140
All complaints open on 6/30/99	94	
2. Open less than 3 months	90	91
3. Open more than 3 mos., but less than 6 mos.	67	59
4. Open more than 6 mos., but less than 9 mos.	16	19
5. Open for more than 1 year	32	23

Explanation of complaints open for more than one year:

FY99

Of the 32 complaints that remained open for more than one year, 11 were from previous bienniums. Of those 11 complaints:

- 3 involved one licensee who had a federal felony conviction. The Board's Complaint Committee was advised to wait on taking any action until the federal case was closed. Disciplinary action was taken on 9/8/00.
- The remaining 8 complaints (8 of 11) involved AGO investigations.

The 21 other complaints remained open for the following reasons:

- 3 complaints were related to a case in which a notice of conference was prepared in June 1999, but in July 1999, a new egregious complaint was filed & investigated; pending contested case hearing;
- 2 complaints were being investigated by the Attorney General's Office and related to a licensee already under a disciplinary order;
- 1 complaint was received against a licensee whose license was already suspended; the case was closed on 3/20/00;
- 1 involved a case where disciplinary action was pending, and in fact, was taken in 9/10/99;
- 1 involved an AGO investigation and subsequent expert review;
- 3 involved an AGO investigation and subsequent consultant review;
- 2 required an AGO investigation after the licensee met with the complaint committee for an informational conference; and
- 8 were under AGO investigation.

FY00

The 23 complaints that remained open on June 30, 2000 are among those that were open on 6/30/99. All 23 cases were under investigation by the Attorney General's Office.

**C. CLOSED Complaints**

[Notes: 1. The numbers below include complaints that had been open at the start of the biennium. Thus, the numbers cannot be compared to the number of complaints listed under part A, above.

2. Subparts 2.e. and 2.h., below, are not included in the total number of cases closed. Civil penalties and referrals to HPSP are not considered separate disciplinary actions, but rather, they are included as part of disciplinary board orders.]

	<u>FY 99</u>	<u>FY00</u>
1. Number of complaints closed	204	228
2. Disposition by type:		
a) revocation	5	0
b) voluntary surrender	0	1
c) suspension with or without stay	6	0
d) restricted / limited / conditional license	15	20
e) <i>civil penalties</i>	8	5
f) reprimand	0	0
g) agreement for corrective action	13	49
h) <i>referral to HPSP</i>	3	0
i) dismissal or closure	<u>165</u>	<u>158</u>
<b>TOTALS:</b>	<b>204</b>	<b>228</b>
3. Number of cases closed that were open for more than 1 year:	48	44

Explanation of why complaints were open for more than one year

FY99 (N=48):

- 19 complaints were under AGO investigation; complaints received over extended period;
- 2 complaints required AGO investigation after the licensees met with the Complaint Committee at an informational conference;
- 16 complaints were referred to the AGO for investigation;
- 9 complaints required an Informational Conference with a Complaint Committee;
- 2 complaints involved licensees who were no longer practicing dentistry.

FY00 (N= 44):

- 10 complaints required AGO investigation and subsequent expert review of case;
- 10 complaints required AGO investigation and had lengthy settlement negotiations;
- 4 complaints required AGO investigation; also delayed because of a pending civil matter;
- 1 complaint required AGO investigation and subsequent expert review of case;
- 2 complaints were referred to AGO for legal advice and Notice of Conference preparation;
- 2 complaints required expert review of care issues of an already suspended licensee;
- 11 complaints were referred to AGO for investigation;
- 2 complaints required an Informational Conference with a Complaint Committee;
- 2 complaints required internal review by Board members/staff of technical dental issues.

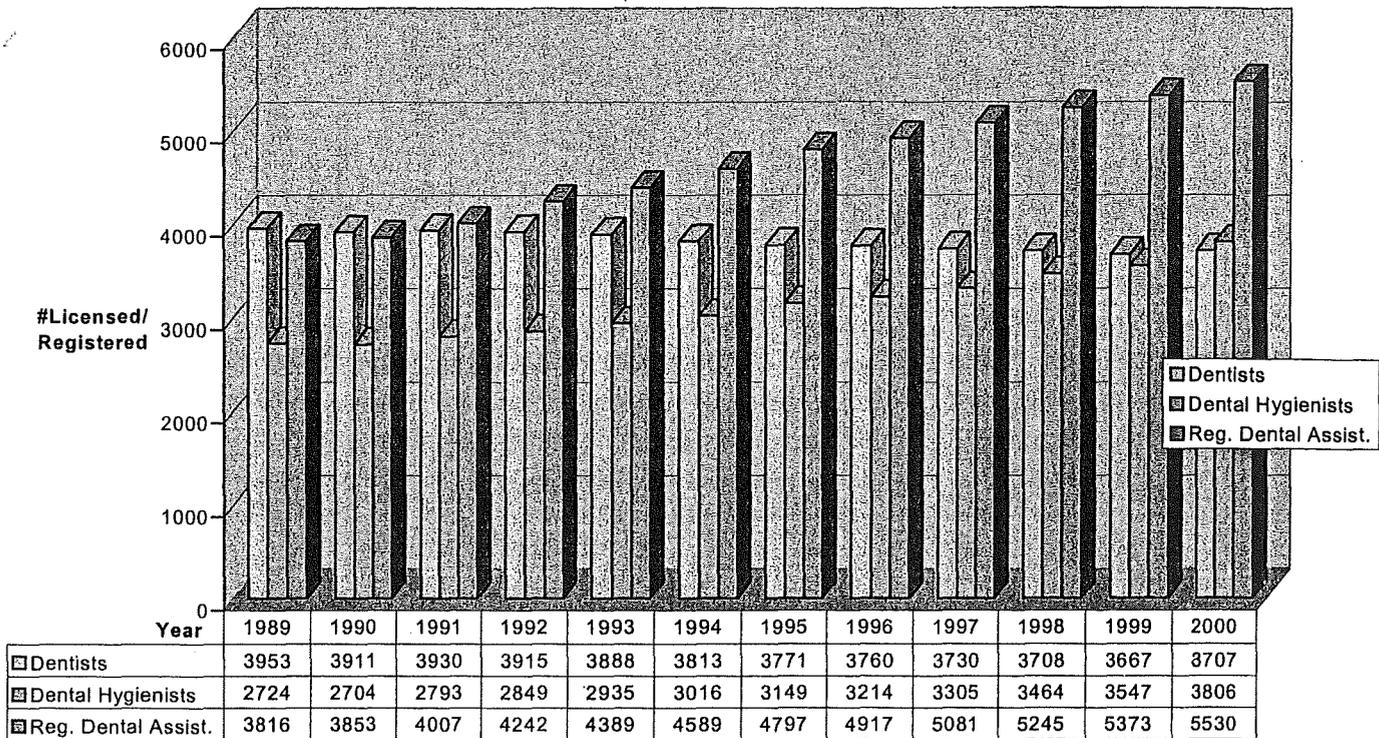
## V. TREND DATA AS OF JUNE 30

For each year of the previous five bienniums:

### A. Number of persons licensed or registered:

1989 - 2000

#### Licensed Dentists and Dental Hygienists and Registered Dental Assistants



### B. Number of complaints received, categorized by type of profession:

*[Note: Data not available re: type of profession in calendar years 1988 & 1989]*

Fiscal Year	DDS	DH	RDA	Non-lic/reg	Total
2000	220	5	13	2	240
1999	200	3	3	3	209
1998	166	4	3	6	179
1997	208	2	3	0	213
1996	239	4	6	0	249
1995	243	4	1	3	251
1994	280	0	1	2	283
1993	307	0	0	3	310
1992	254	0	0	1	255
1991	243	0	11	5	259
1990	na	na	na	na	232
1989	na	na	na	na	144

**C. Number of complaints received each year per 1,000 persons of each occupation:**

*[Note: Data not available re: type of occupation in calendar years 1988 & 1989]*

<b>Fiscal Year</b>	<b>DDS</b>	<b>DH</b>	<b>RDA</b>
2000	60	1.30	2.35
1999	55	0.85	0.56
1998	45	1.15	0.57
1997	56	0.61	0.59
1996	64	1.24	1.22
1995	64	1.27	0.21
1994	73	0	0.22
1993	79	0	0
1992	65	0	0
1991	62	0	2.75
1990	N/A	N/A	N/A
1989	N/A	N/A	N/A

**D. Total number of all cases remaining open at the end of each biennium (June 30):**

*(NOTE: Includes cases opened before and during the biennium)*

<b>Biennium</b>	<b>DDS</b>	<b>DH</b>	<b>RDA</b>
99-00	138	2	0
97-98	153	N/A	N/A
95-96	265	N/A	N/A
93-94	282	N/A	N/A
91-92*	N/A	N/A	N/A
89-90*	N/A	N/A	N/A

*\*Data were reported differently for the Biennial Reports of these years and, thus, cannot be interpreted as trend data for this Report.*