TEXAS HEALTH AND HUMAN SERVICES COMMISSION

INSPECTOR GENERAL

DENTAL SERVICE ORGANIZATIONS

Informational Report

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HHSC IG

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WHY THE IG COMPILED THIS REPORT

Dental service organizations (DSOs) are management service companies that provide or administer business support services to dentists and dental practices. Examples of business support services offered by DSOs include human resources, marketing, facilities maintenance, procurement, and billing. DSOs may be associated with other business models that are sometimes referred to, broadly, as corporate dentistry.

In 2015, an estimated 7.4 percent of dentists in the country were affiliated with a DSO. Dentists who contract with a DSO are responsible for complying with professional standards and are accountable for all clinical decisions, regardless of who handles their business activities. In Texas, dentists are paid for services they provide to eligible Medicaid and Children's Health Insurance Program (CHIP) individuals through the Texas Medicaid and Healthcare Partnership (TMHP) for fee-for-service claims, or by dental maintenance organizations (DMOs) for managed care claims.

Due to the alleged influence DSOs may have on the delivery of services to Medicaid and CHIP populations in Texas, and due to the relative lack of public awareness about DSOs and their operations, the IG is issuing an informational report on DSOs.

THIS INFORMATIONAL REPORT

This informational report, which is not an audit report under generally accepted government auditing standards, consists of non-audited information compiled by the IG Audit Division.

View report online
For more information, contact:
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WHAT THE IG FOUND

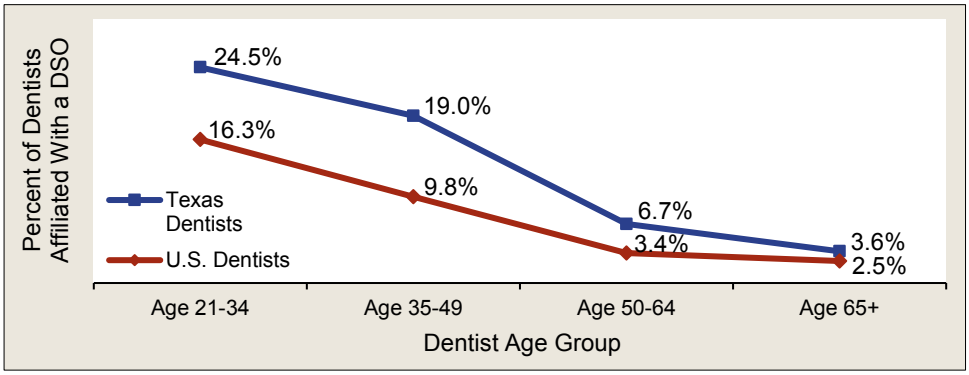
In order to gain an understanding of DSOs and how they support the delivery of dental services provided to Medicaid and CHIP-eligible individuals, the IG Audit Division compiled a broad array of information pertaining to DSO (a) practice structures, (b) operations in Texas, (c) alleged influence on Medicaid and CHIP participation, (d) state payments, and (e) oversight efforts and investigations.

DSO Practice Structures

Some DSOs are organized as internal management organizations among dental practices, but most are third-party management companies that contract with dental practices. DSOs are typically organized as corporate or limited liability companies owned by dentists, non-dentists, or private equity investors.

DSOs Operating in Texas

As of February 7, 2017, the Texas Secretary of State confirmed 129 DSOs were registered in Texas, although some of the entities registered as DSOs appeared to be affiliates or subsidiaries of larger parent DSOs. In 2015, an estimated 15 percent of dentists licensed in Texas were affiliated with a DSO. Across all dentist age groups, DSO affiliation rates among Texas dentists exceeded the average national DSO affiliation rates.



Alleged Influence on Medicaid and CHIP Participation

DSO advocates state DSOs are able to create efficiencies that lower operating costs and therefore increase dental care access for underserved, lower income populations. In 2015, DSO-affiliated dentists had higher Medicaid and CHIP participation rates than dentists not affiliated with a DSO, and participation rates for DSO-affiliated dentists in Texas exceeded the average national DSO participation rates across all dentist age groups.

State payments to DSOs

HHSC does not contract with DSOs, and therefore does not reimburse DSOs directly for Medicaid and CHIP dental claims. According to DentaQuest, one of two Medicaid and CHIP DMOs in Texas, DSO claims costs represented 10.8 percent of its approximately $1.8 billion Medicaid costs and 12.5 percent of its approximately $167 million CHIP costs from 2014 through 2016.

DSO Oversight Efforts and Investigations

All states prohibit interference by unlicensed persons or entities with dentists' independent judgement, and most states, including Texas, do not permit unlicensed persons to practice dentistry. Concerns regarding DSO influence on the practice of dentistry have led to federal and state investigations, as well as proposed amendments to Texas law to help clarify the context of dental practice ownership.

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INTRODUCTION

Dental service organizations (DSOs) are management service companies that provide or administer business support services to dentists and dental practices. DSOs may be referred to synonymously with other business models, including dental support organizations, dental management organizations, dental management service organizations, dental practice management companies, or group dental organizations. These models are sometimes referred to, broadly, as the corporate practice of dentistry, or corporate dentistry.[1]

Although DSOs first emerged as early as the 1970s, the model is still evolving. DSOs can own and operate dental practices in multiple states, and are typically organized as corporate or limited liability companies owned by dentists, non-dentists, or private equity investors, making them for-profit enterprises. In the fall of 2015, which covers the period from September through December 2015, the American Dental Association (ADA) Health Policy Institute estimated that 7.4 percent of dentists in the country were affiliated with a DSO.[2]

DSO advocates state dentists affiliated with DSOs perform fewer procedures and bill the Medicaid program less per patient for procedures that could indicate fraud or mistreatment (such as tooth extractions) than dentists not affiliated with DSOs,[3] and that the DSO model lends itself to meeting the needs of underserved communities.[4] However, concerns regarding the ownership structure of DSOs and level of influence DSOs exert on their affiliated practices to emphasize "quantity of care over quality of care" as a means to increase profits have led to federal and state investigations,[5] and at least two Texas-based DSOs have been the center of Medicaid fraud allegations in the last two years.

Due to the alleged influence DSOs may have on the delivery of services to Medicaid and CHIP populations in Texas, and due to the relative lack of public awareness about DSOs and their operations, the Texas Health and Human Services Commission (HHSC) Inspector General (IG) Audit Division is issuing this informational report on DSOs.

[1] Academy of General Dentistry Practice Models Task Force, "Investigative Report on the Corporate Practice of Dentistry" (2013).

[2] ADA Health Policy Institute webinar, "How Big are Dental Service Organizations?" (Mar. 6, 2017).

[3] Laffer Associates, "Dental Service Organizations: A Comparative Review" (Sept. 19, 2012).

[4] Wayne Winegarden and Donna Arduin, Pacific Research Institute, "The Benefits Created by Dental Service Organizations" (Oct. 2012).

[5] Jim Moriarty and Charles Siegel, "Unethical Private-Equity-Owned Dental Clinics Receive Well Deserved Attention" (July 2012).

Background

DSOs provide a variety of nonclinical business support services to dentists and dental practices. Examples of business support services offered by DSOs include:

- Human resources and general administration services
- Marketing and advertising services
- Information technology (IT) services
- Facilities management services
- Procurement services, including the purchase of office equipment
- Accounting services, including payroll and billing

By providing these support services, DSOs take advantage of economies of scale to lower operating costs at affiliated practices and "improve the quality of life of their practitioners by reducing their business and administrative burden, thereby allowing them to do what they were trained to do — care for patients."[6]

Like sole practitioners, dentists who contract with a DSO are responsible for complying with professional standards and are accountable for all clinical decisions, regardless of who handles their business activities. The Texas State Board of Dental Examiners (Dental Board) has licensing and enforcement authority for all individuals practicing dentistry in Texas.

Health and Human Services (HHS) agencies administer health care programs for persons with disabilities and low-income individuals in Texas. Medicaid and the Children's Health Insurance Program (CHIP) are jointly funded state-federal programs that deliver health care services to eligible individuals. Medicaid serves primarily low-income families, children, related caretakers of dependent children, pregnant women, people aged 65 and older, and adults and children with disabilities. CHIP provides health coverage to low-income, uninsured children in families with incomes too high to qualify for Medicaid.

Children and young adults aged 20 and under with Medicaid coverage receive dental services either through a traditional fee-for-service model or, more often, through a managed care model. Children with CHIP coverage receive dental services through a managed care model only. Under the fee-for-service model, providers are paid through the Texas Medicaid and Healthcare Partnership (TMHP) for each service they administer, such as an office visit, test, or procedure. Under the managed care model, HHSC contracts with and pays a monthly per person

[6] McGuireWoods, "Industry Leaders' Perspectives: The Future of Dental Support Organizations and Dental Practice" (Mar. 2015).

capitation payment[7] to a dental maintenance organization (DMO), also called a dental plan.

DMOs contract with and pay Medicaid and CHIP providers for the delivery of dental services to members.[8] A main dentist serves as the member's dental home and is responsible for providing routine care, maintaining continuity of patient care, and initiating referrals for specialty care. In Texas, two DMOs, DentaQuest and MCNA Dental (MCNA), coordinate dental services for Medicaid and CHIP members. DMOs may also act as subcontractors that provide dental benefits to members of other managed care organizations (MCOs) when, for example, MCOs offer dental services as value-added services[9] to members.

CHIP members receive up to $564 in dental benefits, not including emergency dental services, per annual enrollment period. CHIP members can also receive certain preventative and medically necessary dental services beyond the $564 annual benefit limit through a prior authorization process. Under Texas Medicaid, eligible children and young adults are entitled to all medically necessary dental services covered under the traditional, fee-for-service Medicaid program, which include but are not limited to:

- Diagnostic and preventive services
- Therapeutic services
- Restorative services
- Endodontic services
- Periodontal services
- Prosthodontic (removable and fixed) services
- Implant and oral and maxillofacial surgery services
- Orthodontic services

[7] Capitation payments are monthly prospective payments HHSC makes to DMOs for the provision of covered services. HHSC makes capitation payments to DMOs at fixed, per member, per month rates based on members' associated risk groups. Capitation payments include federal and state funds.

[8] DMOs refer to enrollees as members. An enrollee is an individual who is eligible for Medicaid or CHIP services and is enrolled in a DMO.

[9] A value-added service is an additional health care service an MCO voluntarily provides to its clients based on medical necessity, cost-effectiveness, the wishes of the member, or the potential for improved health of the member. For example, an MCO might choose to offer dental services to an adult Medicaid member who might not otherwise be eligible to receive dental benefits under Texas Medicaid. The MCO is not reimbursed by the state for these costs.

In the fall of 2015, the ADA Health Policy Institute estimated 47.9 percent of professionally active[10] dentists in Texas participated in Medicaid and CHIP for the delivery of dental services. In state fiscal year 2015, Medicaid and CHIP dental expenditures totaled approximately $1.2 billion in Texas.

This Informational Report

This informational report is not an audit report under generally accepted government auditing standards. This report is the IG Audit Division's compilation and analysis of non-audited information obtained from multiple sources, including HHS System agencies, the Dental Board, the Texas Secretary of State, DentaQuest, MCNA, and the ADA Health Policy Institute. Unless otherwise described, any year that is referenced is the state fiscal year, which covers the period from September 1 through August 31.

[10] Professionally active dentists include licensed, not retired dentists having a primary occupation of (a) private practice (full or part time); (b) dental school or faculty member; (c) armed forces; (d) other federal services; (e) state or local government employee; (f) hospital staff dentist; (g) graduate student, intern, or resident; or (h) other health or dental organization staff member.

DATA AND OBSERVATIONS

In order to gain an understanding of what DSOs are, how they operate, and how they support the delivery of dental services provided to Medicaid and CHIP-eligible individuals in Texas, the IG Audit Division compiled a broad array of information pertaining to:

- Variations among DSO practice structures and payment arrangements with supported dentists.
- DSO affiliation rates among Texas and United States (U.S.) dentists, and an overview of DSOs registered in the state.
- The alleged influence DSOs may have on dental care access to underserved populations, and a comparison of Medicaid and CHIP participation rates among dentists affiliated with DSOs and dentists not affiliated with DSOs.
- The flow of payments between HHSC, DSOs, and supported dentists.
- Investigations of Medicaid fraud allegations involving DSOs, and proposed amendments to Texas law that called for increased DSO regulation.

Section 1: DSO Characteristics

Although DSOs have the common function of supporting or managing the administrative and nonclinical activities of their supported dental practices, the business support agreements between dentists and DSOs can vary significantly. Certain characteristics help distinguish the nature of a DSO practice structure, including the ownership structure of the DSO, the type of practice organization affiliated with the DSO, the involvement of private equity firms, and the contracted payment arrangements between DSOs and dentists.

Types of DSO Models

While no standard definition of a DSO model currently exists, DSOs are often categorized by three overarching practice structures, or models, grouped by shared common characteristics. These models, which include (a) DSOs with internal management, (b) DSOs without private equity ownership, and (c) DSOs with private equity ownership, are meant to convey a high-level, non-exhaustive overview of DSOs, as there are unique variations among all practice structures.

DSO With Internal Management

The first model is a DSO with an internal management team, in which dental practice owners participate in a collaborative management team. Dentists within the dental practices form and are the sole shareholders of the DSO, which centralizes business support services for the supported practices. The DSO's centralized business support structure provides practice management relief by creating administrative efficiencies and establishing common guidelines and protocols for its supported practices.

Unlike the other two models, dentists do not contract with a third-party DSO, and dental practice owners have final authority over decisions regarding production goals, equipment use, and facilities maintenance. Due to the internal management style of the DSO, this type of practice structure may not be readily distinguishable from other large group dental practices.

DSO Without Private Equity Ownership

In this model, dental practices or professional corporations[11] contract with a third-party DSO to provide business support services. The DSO may be owned by a larger parent corporation that specializes in dental practice management and establishes management protocols for subsidiary or affiliate DSOs throughout the country. In the context of this model, both the DSO and parent corporation may be owned by one or more individuals, who may or may not be dentists.

[11] Professional corporations are formed by a group of dentists or even a single dentist, and are a type of corporate practice structure used by many professionals, including dentists, physicians, and attorneys.

DSO With Private Equity Ownership

While a DSO with equity ownership is similar to the previous model, the distinguishing factor is that the third-party DSO or parent corporation might be wholly or partially owned by private equity firms. Private equity firms are for-profit entities that collect funds from investors, typically consisting of venture capital companies or wealthy individuals, for the purpose of investing in new or existing companies.

The growth of the DSO model over the past decades has led to increased private equity firm investment in DSOs. In 2015, it was estimated that "more than 25 private equity firms have invested significantly in DSOs" in the last ten years alone.[12] The following private equity firm transactions all involve DSOs operating in Texas, although they do not provide a complete overview of private equity firm investments in DSOs as private equity firms are not required to publically disclose the terms of their transactions:

- In 2010, private equity firm Leonard Green & Partners purchased Aspen Dental Management, Inc. (Aspen Dental) for approximately $500 million. At the time of the transaction, Aspen Dental supported 240 dental practices throughout 20 states.[13]
- In December 2012, private equity firm CHS Capital sold its investment in Heartland Dental Care (Heartland Dental) to the Ontario Teachers' Pension Plan Board.[14] While the terms of the transaction were not disclosed, Heartland Dental was valued at approximately 11 times the company's annual earnings of around $120 million, which equals a total value of approximately $1.3 billion.[15] At the time of the transaction, Heartland Dental supported more than 375 dental practices throughout 21 states.
- In August 2016, private equity firm Gryphon Investors acquired Smile Brands Group, Inc. (Smile Brands). Terms of the transaction were not disclosed. At the time of the transaction, Smile Brands supported nearly 350 dental practices throughout 17 states.[16]

DSO and Dentist Payment Arrangements

Similar to the variations among DSO practice structures, there is no standard payment arrangement between DSOs and supported dentists. The collection of revenue, base compensation paid to dentists, and addition of incentives such as

[12] McGuireWoods, "Industry Leaders' Perspectives: The Future of Dental Support Organizations and Dental Practice" (Mar. 2015).

[13] Luisa Beltran, "Leonard Green Sinks Teeth into Aspen Dental" (Aug. 18, 2010).

[14] CHS Capital, "CHS Capital Completes Sale of Heartland Dental Care" (Dec. 21, 2012).

[15] Soyoung Kim, Reuters, "Ontario Teachers acquires control of Heartland Dental" (Nov. 5, 2012).

[16] Gryphon Investors, "Gryphon Investors Acquires Smile Brands" (Aug. 18, 2016).

bonus mechanisms or paid membership fees are just some of the factors that differentiate payment arrangements between DSOs and dentists. Figure 1 shows two high-level, non-exhaustive examples of common payment arrangements between DSOs and supported dentists.

Figure 1: Examples of DSO and Dentist Payment Structures

Payment Structure 1	Payment Structure 2
DSO collects all revenue ↓ DSO pays dentists a base salary or a percent of payments received for dental services, whichever is higher. The DSO may also offer a productivity or profitability bonus.	Dentist collects all revenue ↓ Dentist pays DSO an agreed upon amount, such as a percent of revenue or a fixed fee, for business support services provided by the DSO.

Source: Prepared by the IG Audit Division utilizing information from DSOs and the U.S. Senate Finance and Judiciary Committees

Section 2: DSOs Operating in Texas

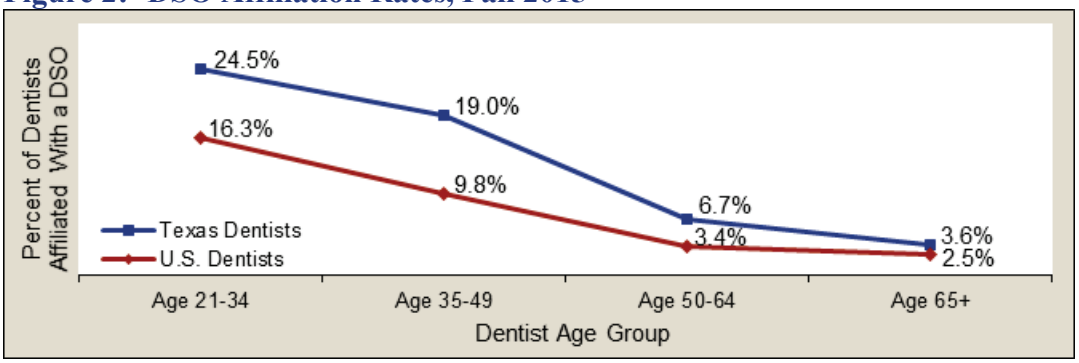
According to the ADA Health Policy Institute, 15 percent of dentists licensed in Texas were affiliated with a DSO in the fall of 2015, which was the second highest DSO affiliation rate in the country behind Arizona. In March 2017, DentaQuest reported that 866 of the 5,437 dentists in its provider network were affiliated with a DSO, which represented a 15.9 percent DSO affiliation rate.[17]

Although the exact reason DSOs are more prevalent in some states than others is unknown, DSOs are more likely to operate in areas with high profitability potentials. Profitability potentials could be influenced by a state's regulatory environment or by market factors such as population growth, which leads to an increased demand for dental services, and thus an increased number of dentists operating in the state.

Texas and U.S. Dentists' DSO Affiliation Rates

In the fall of 2015, DSO affiliation rates among Texas dentists exceeded the average national DSO affiliation rates across all dentist age groups. For both Texas and U.S. dentists, the age group with the highest DSO affiliation rate was the 21 through 34 age group. The high affiliation rate in this age group could be attributed to the fact that the DSO model appeals to recent dental school graduates, who may "have difficulty with the business and financial aspects of starting a practice, and have significant student loan debt,"[18] which has almost quadrupled from an average of $54,550 in 1990 to $220,892 in 2014.[19] Figure 2 shows Texas and U.S. dentists' affiliation rates with DSOs by dentist age group for the fall of 2015.

Figure 2: DSO Affiliation Rates, Fall 2015



Source: Prepared by the IG Audit Division utilizing data from the ADA Health Policy Institute

[17] Data based on the number of DentaQuest enrolled dentists affiliated with a DSO as of March 8, 2017, and the number of providers enrolled with DentaQuest as of January 31, 2017.

[18] McGuireWoods, "Industry Leaders' Perspectives: The Future of Dental Support Organizations and Dental Practice" (Mar. 2015).

[19] American Dental Education Association, "ADEA Survey of Dental School Seniors, 2014 Graduating Class Tables Report" (Feb. 2015).

DSO Registration with the Texas Secretary of State

As of September 2015, DSOs operating in Texas are required to register annually with the Texas Secretary of State. Chapter 73 of the Texas Business and Commerce Code defines a DSO as "an entity that, under an agreement, provides two or more business support services to a dentist,"[20] and outlines required registration content, which includes:

- The name and business address of the DSO.
- The name and business address of each dentist with which the DSO holds an agreement to provide two or more business support services.
- The name and address of each dentist who owns ten percent or more of the DSO.
- The name of each person who is not a dentist and owns ten percent or more of the DSO.
- A list of all business support services to be provided to each dentist.[21]

Chapter 73 imposes a civil penalty, not to exceed $1,000 per day, for noncompliance with registration requirements, which state DSOs must file registration applications "not later than January 31 of each year for which the registration is effective" or "not later than the 90th day after the date the agreement to provide business support services is executed" if a DSO meets the registration requirements after the January 31 deadline.[22] In the event of DSO noncompliance with registration deadlines, the Texas Attorney General may file suit to collect the civil penalty. As of March 2017, no civil penalties had been collected regarding DSO noncompliance with registration requirements.

Number of DSOs Registered in Texas

According to the Secretary of State, 17 DSOs were registered in Texas in calendar year 2016. By January 31, 2017, the number of registered DSOs increased to 120. The significant increase in the number of registered DSOs could be attributed to registration timelines outlined in the Texas Administrative Code, which states "The initial registration for a dental support organization that has entered into a dental support agreement prior to February 1, 2016 must be filed not later than January 31, 2017."[23] As of February 7, 2017, the Secretary of State confirmed an additional

[20] 73 Tex. Bus. and Comm. Code § 73.001 (2) (Sept. 1, 2015).

[21] 73 Tex. Bus. and Comm. Code § 73.004 (Sept. 1, 2015).

[22] 73 Tex. Bus. and Comm. Code § 73.005 (Sept. 1, 2015).

[23] 1 Tex. Admin. Code § 98.3 (c) (Apr. 10, 2016).

9 DSOs had completed registration applications, increasing the total number of registered DSOs to 129.[24]

Table 1: DSO Registration Rates through February 7, 2017

Year Registered	New DSO Registrations	DSO Renewed Registrations	Total DSO Registrations
2016	17	N/A	17
2017	115	14	129

Source: Prepared by the IG Audit Division utilizing data from the Texas Secretary of State

Of the 129 registered DSOs, 75 DSOs had at least one dentist listed as an owner, and 54 DSOs did not have a dentist listed as an owner. Only individuals or entities with ten percent or higher ownership are required to be included in the registration information, therefore individuals or entities with less than ten percent ownership might not be listed.

The IG Audit Division did not evaluate the accuracy or completeness of the DSO registration list, but determined that many of the entities registered as DSOs appeared to be owned by an affiliate or subsidiary of a larger parent DSO company. For example, 70 of the 129 entities listed as DSOs were owned in whole or in part by an affiliate of Pacific Dental Services, a company supporting over 500 practices throughout 17 states. The Texas Business and Commerce Code allows a parent entity's registration to satisfy the registration requirements for any affiliate or subsidiary DSOs of the parent.[25] Additionally, the registration statute allows for a wide variety of business structures, at least one of which would permit an affiliate DSO to register without providing any information about its parent organization. Under these circumstances, it might be difficult to trace the relationship between DSOs and their parent corporations, particularly if there are one or more intermediate level affiliate entities that satisfy the registration requirements on behalf of the parent organization.

[24] Denton Dental Services and New Braunfels 2 Dental Services have two registration numbers each in the Secretary of State's list of DSOs.

[25] 73 Tex. Bus. and Comm. Code § 73.002 (b) (Sept. 1, 2015).

Section 3: DSO Influence on Medicaid and CHIP Participation

Access to dental care is limited in certain parts of the country, particularly in rural areas where there are fewer employment opportunities and lower Medicaid and CHIP reimbursement rates than in urban areas. The ADA Health Policy Institute estimated that only 38 percent of dentists across the country participated in Medicaid or CHIP for the delivery of dental services in the fall of 2015.

DSO advocates state that DSOs may increase dental care access for underserved populations by reducing operating costs, therefore lowering service costs and allowing dentists to open practices in rural areas where the high costs necessary to maintain a viable dental practice tend to steer some practitioners "toward higher-income population centers."[26] In 2012, one DSO reported that it supported anywhere between 8 to 25 percent of all dental care provided to Medicaid-eligible children in five states.[27] In general, DSO advocates state the DSO model is able to serve lower income populations and still succeed financially by:

- Supporting or opening practices in economically depressed areas where real estate and employee costs are low.
- Purchasing in bulk, thus availing DSOs of quantity discounts.
- Providing flexible scheduling that recognizes the impediments that many low income families face with transportation and work arrangements.[28]

DSOs in Health Professional Shortage Areas

DSOs may increase dental care access to Medicaid and CHIP populations by supporting or opening practices located in designated Health Professional Shortage Areas. Health Professional Shortage Area designators identify areas and population groups, including Medicaid and CHIP populations, with shortages of dental care, primary care, or mental health providers. In April 2016, Aspen Dental reported that approximately 80 percent of its nearly 550 affiliated dental practices were located in designated Health Professional Shortage Areas.[29]

Moreover, DSO advocates state that the efficiencies created by the DSO model could help new practices enter the market, which in turn could lead to lower service

[26] National Minority Quality Forum White Paper, http://www.nmqf.org/wp-content/uploads/2015/11/Reassessing-the-Dental-Care-Paradigm.pdf (Nov. 2015).

[27] Children's Dental Health Project, "Dental Visits for Medicaid Children: Analysis and Policy Recommendations" (June 2012).

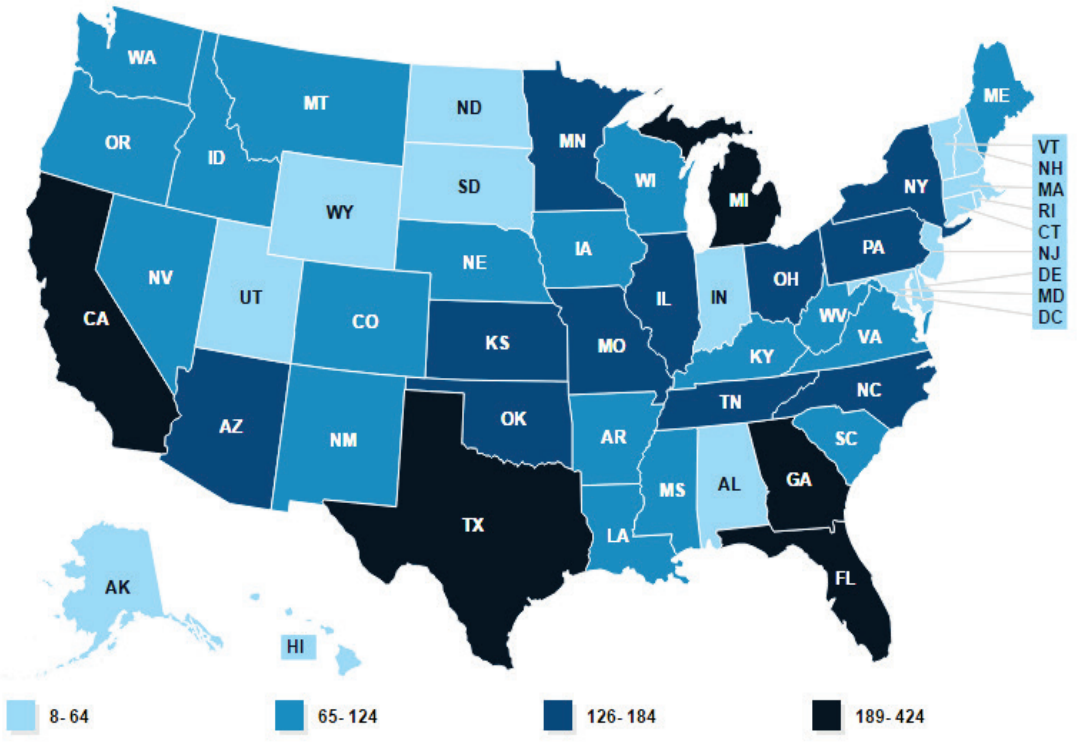
[28] Ibid.

[29] Aspen Dental Factsheet, https://api.aspendental.com/images/pages/Facts_Sheet_4_26_16-compressed.pdf (Apr. 26, 2016).

costs and better access to dental care. In response to pending legislation in North Carolina that proposed higher regulation of DSOs, the Federal Trade Commission expressed concerns about the legislation's potential impact on underserved areas, stating "Underserved communities, such as the 78 of 100 counties in North Carolina that are listed as Dental Health Professional Shortage Areas, may be particularly affected if DSO efficiencies cannot be realized."[30]

As seen in Figure 3, Texas had one of the highest Health Professional Shortage Area designations throughout the country in January 2017.[31] According to the Texas Coalition of Dental Support Organizations, DSOs could help address dental care shortages in Texas by enabling supported dentists to charge lower fees and accept more insurance plans, thus resulting in the delivery of "high-quality, cost-effective dental care to more Texans."[32]

Figure 3: Dental Care Health Professional Shortage Area Designations as of January 1, 2017



Source: The Kaiser Family Foundation's State Health Facts

[30] Federal Trade Commission, https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-letter-nc-representative-stephen-laroque-concerning-nc-house-bill-698-and-regulation/1205ncdental.pdf (May 25, 2012).

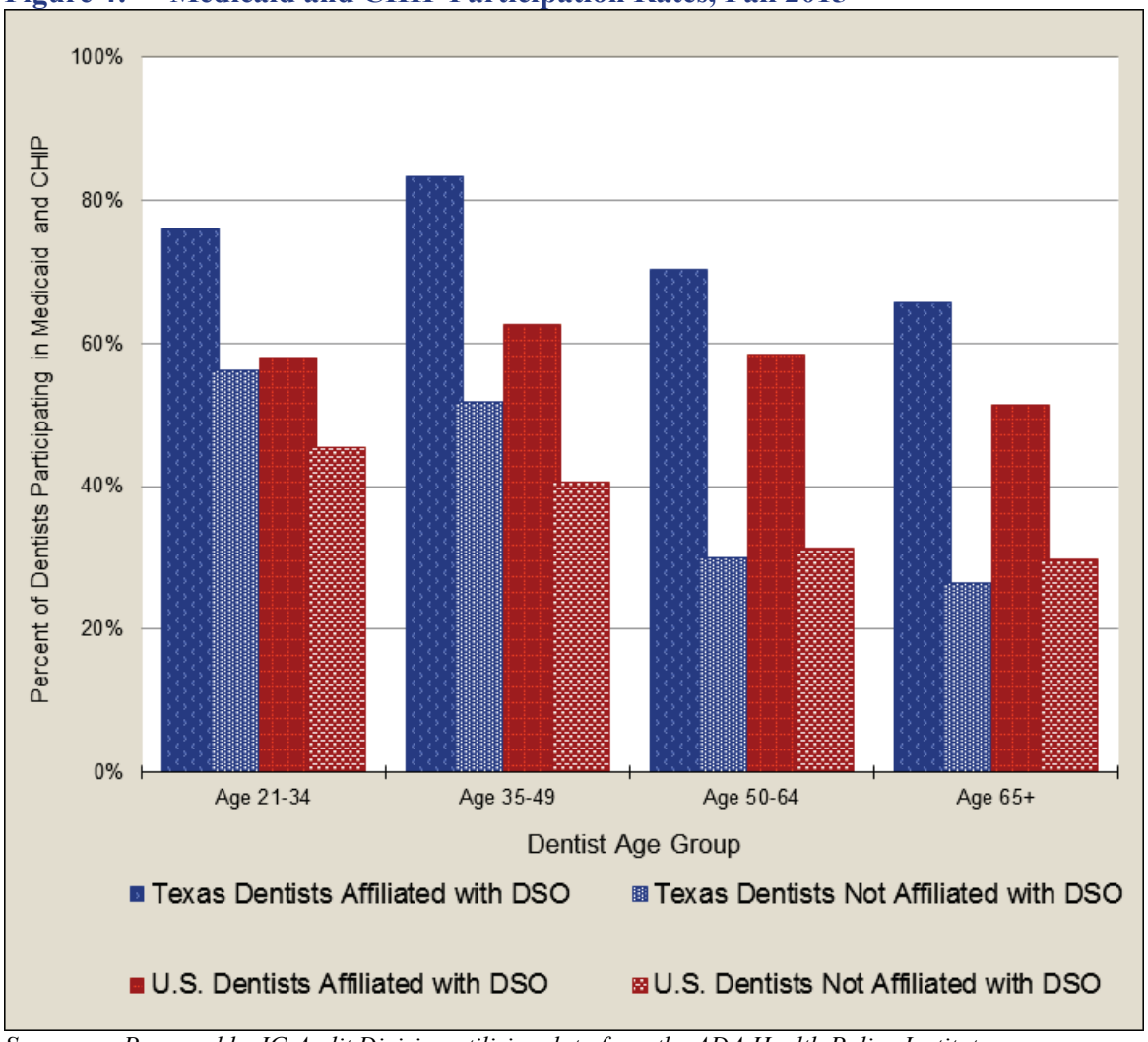
[31] The Kaiser Family Foundation's State Health Facts, "Dental Care Health Professional Shortage Areas (HPSAs)" (Jan. 2017).

[32] Texas Coalition of Dental Support Organizations, www.tcdso.org/wp-content/uploads/2014/09/ExpandingDentalCareinTexas.pdf (Sept. 2014).

Texas and U.S. Dentists' Medicaid and CHIP Participation Rates

According to the ADA Health Policy Institute, dentists affiliated with a DSO had higher Medicaid and CHIP participation rates than dentists not affiliated with a DSO in the fall of 2015. As seen in Figure 4, Medicaid and CHIP participation rates for DSO-affiliated dentists in Texas exceeded the average national participation rates across all dentist age groups. Furthermore, there was a greater difference in participation rates between DSO affiliated and unaffiliated dentists in Texas than in the U.S., indicating that DSOs may have a greater impact on Medicaid and CHIP participation in Texas than national trends would suggest.

Figure 4: Medicaid and CHIP Participation Rates, Fall 2015



Source: Prepared by IG Audit Division utilizing data from the ADA Health Policy Institute

Section 4: State Payments to DSOs

HHSC administers payments for all fee-for-service and managed care dental services covered by Medicaid and CHIP. Due to the fact that a complete list of DSOs and supported dentists was not available until January 2017, the IG Audit Division was not able to analyze state expenditure data for DSO-supported dentists from prior fiscal years.

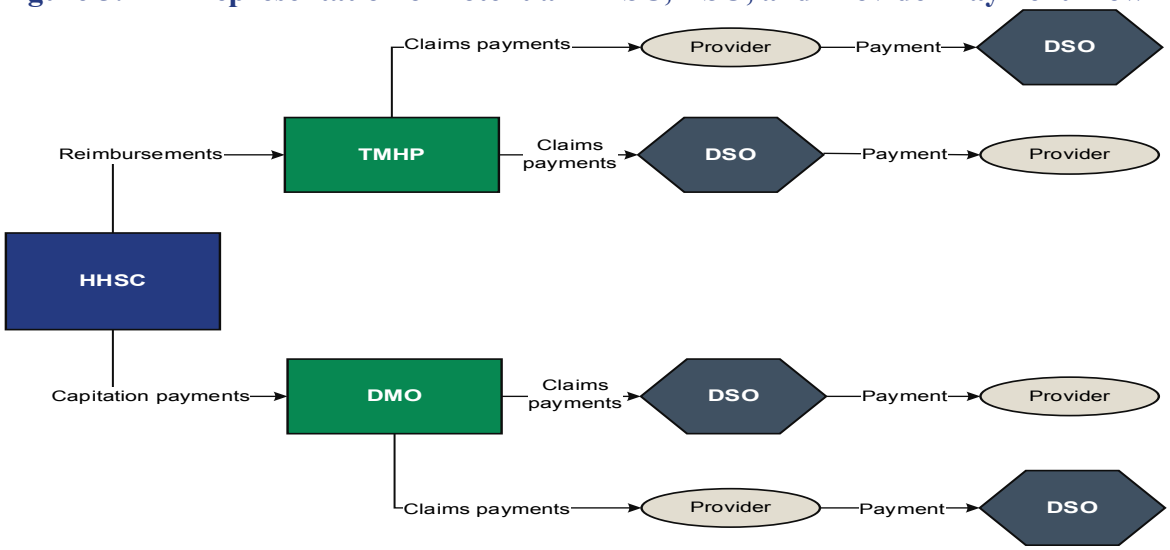
HHSC, DSO, and Provider Payment Process

HHSC does not contract with DSOs, and therefore does not reimburse DSOs directly. How a DSO receives payments for Medicaid and CHIP dental claims depends on a variety of factors, including:

- The payment arrangement between the dentist and the DSO, including whether the DSO collects all revenues from its supported dentists.
- The DSO model and whether the DSO has a centralized billing center.
- The manner in which DMOs and TMHP reimburse providers, including whether payments are sent to the provider's physical address where services are performed or to the provider's billing address, which could be listed as the DSO's address if the DSO handles its providers' billing services.

While a more thorough analysis of state expenditure data would be needed to determine how DSOs collect payments for Medicaid and CHIP dental claims, Figure 5 represents a high-level overview of the potential flow of payments between HHSC, DSOs, and providers.

Figure 5: Representation of Potential HHSC, DSO, and Provider Payment Flow



Source: IG Audit Division

DSO Claims Costs

To verify the total state dollars DMOs paid to DSO-supported dentists in Texas, the IG Audit Division asked DentaQuest and MCNA to provide data from 2014, 2015, and 2016 showing (a) total DSO claims costs[33] and (b) DSO claims costs as a percent of the DMOs' total Medicaid and CHIP program costs.

MCNA stated that while it was able to identify whether providers contracted with certain DSOs, it was not able to identify all providers contracted with DSOs because providers are not required to disclose their administrative partners as a condition for enrollment. Also, MCNA could not verify total DSO claims costs because MCNA does not contract directly with DSOs, and therefore does not reimburse DSOs directly.

DentaQuest was able to identify which of its providers contracted with DSOs, and therefore provided the requested information over the three-year period. Table 2 shows DSOs were paid approximately $189.9 million for dental services provided to Medicaid members from 2014, 2015, and 2016, which represented 10.8 percent of DentaQuest's approximately $1.8 billion total Medicaid costs over the three-year period.

Table 2: DentaQuest Medicaid DSO Claims Costs

Fiscal Year	Total Medicaid Costs	DSO Claims Costs	% DSO Claims Costs
2014	$ 522,888,590	$ 58,261,220	11.1%
2015	$ 612,810,413	$ 65,025,569	10.6%
2016	$ 627,074,452	$ 66,600,787	10.6%
Total	$ 1,762,773,455	$ 189,887,576	10.8%

Source: DentaQuest

DSO claims costs were slightly proportionally higher for dental services provided to CHIP members. Table 3 shows DSOs were paid approximately $20.9 million for dental services provided to CHIP members from 2014, 2015, and 2016, which represented 12.5 percent of DentaQuest's approximately $167 million total CHIP costs over the three-year period.

Table 3: DentaQuest CHIP DSO Claims Costs

Fiscal Year	Total CHIP Costs	DSO Claims Costs	% DSO Claims Costs
2014	$ 66,364,041	$ 8,759,162	13.2%
2015	$ 46,774,137	$ 5,665,607	12.1%
2016	$ 53,943,922	$ 6,436,799	11.9%
Total	$ 167,082,100	$ 20,861,568	12.5%

Source: DentaQuest

[33] DSO claims costs are the total dollar amounts of claims paid to DSOs during the state fiscal year. Claims are considered paid to a DSO if the tax identification number submitted with the claim belongs to a dentist contracted with a DSO.

Section 5: DSO Oversight Efforts and Investigations

There are no federal laws regulating DSOs or the corporate practice of dentistry. However, all states outlaw interference by unlicensed persons or entities with dentists' independent judgement and patient care, and most states, including Texas, do not permit unlicensed persons to practice dentistry.[34] Concerns regarding the level of influence DSOs exert on the practice of dentistry have led to federal and state investigations, as well as proposed amendments to Texas law to help clarify the meaning and context of dental practice ownership.

Joint U.S. Senate Committees Investigation

In June 2013, the U.S. Senate Finance and Judiciary Committees released a joint staff report detailing the results of a year-long, bipartisan investigation into the alleged abuse of children in dental clinics owned or supported by DSOs. The report called for dental clinics to be banned from participating in the Medicaid program if the clinics circumvented state laws designed to ensure only licensed dentists own clinics.

Although the investigation began by broadly examining five DSOs, two of which operated in Texas (Heartland Dental and Aspen Dental), the focus shifted primarily to Church Street Health Management (CSHM) and ReachOut Healthcare America (ReachOut). The two DSOs, which did not operate in Texas, were selected for further investigation because they treated Medicaid-eligible patients almost exclusively, and therefore were reimbursed using taxpayer dollars.

CSHM Investigation

CSHM was the parent company of Small Smile Dental Centers (Small Smiles), a chain of dental clinics focused on serving Medicaid-eligible children. While licensed dentists were listed as the owners of Small Smile-branded clinics, the Senate Committees concluded that CSHM's business service agreements "were designed to give the appearance of complying with state laws requiring that dental clinics be owned by licensed dentists. However, in practice, these dental clinics were not owned by dentists in any meaningful sense."[35]

The Senate Committees found that CSHM paid its supported dentists a salary as well as a flat fee when the dentists signed paperwork stating they owned nearby Small Smile-branded clinics. However, some dentists never visited clinics they purported to own, were not allowed to make hiring decisions at the clinics, and had no control over the scheduling of patients. When one CSHM-supported dentist was

[34] Jim Moriarty and Martin J. Siegel, "Survey of State Laws Governing the Corporate Practice of Dentistry" (Apr. 10, 2012).

[35] Senate Report No. 113-16 (June 2013).

asked why she would tell state authorities she owned multiple clinics for no additional compensation, the dentist stated she was told by CSHM that the clinics would close if another owner could not be identified.

At the time of the investigation, CSHM had already established a history of alleged fraudulent behavior, and had been subject to audits by an Independent Monitor since 2010 as a condition of its corporate integrity agreement[36] with the HHS Office of Inspector General. Between 2010 through 2013, the Independent Monitor uncovered numerous breaches in quality and compliance, including (a) the unnecessary treatment of children, (b) the improper administration of anesthesia, (c) providing care without proper consent, and (d) overcharging the Medicaid program. As a result, CSHM was barred from participating in Medicaid and all other federal health care programs for five years in September 2014.

ReachOut Investigation

ReachOut maintained administrative services agreements with dentists who owned and operated mobile dental clinics that primarily treated children at schools. Unlike CSHM, ReachOut's agreements only related to nonclinical support services, and ReachOut was paid set fees by its supported dentists.

The Senate Committees investigated alleged problems at ReachOut-supported clinics related to the (a) delivery of unnecessary procedures, (b) lack of parental consent when administering services to children, and (c) abuse of patients, and found that the nature of ReachOut's nonclinical service agreements lacked sufficient strength to monitor the behavior of unscrupulous dentists with whom it contracted. The Senate Committees concluded that while the nature of ReachOut's agreements may have contributed to the alleged problems, it also provided evidence that ReachOut did not significantly control the operations of its supported clinics.

Texas Medicaid Fraud Investigations Involving DSOs

In 2015 and 2016, approximately $13 million in collective settlements resolved Medicaid fraud allegations for unrelated lawsuits filed against dental clinics supported by two Texas-based DSOs.

Smile Magic

In March 2015, four Smile Magic dental clinics agreed to pay a $4.5 million settlement for alleged Medicaid fraud charges. The settlement resolved Medicaid fraud allegations in two lawsuits and an administrative action brought against Smile

[36] The HHS Office of Inspector General negotiates corporate integrity agreements with health care providers and other entities as part of the settlement of federal health care program investigations arising under a variety of civil false claims statuses.

Magic by the IG, which alleged that Smile Magic "defrauded the Texas Medicaid program by performing unnecessary or excessive dental services on young children, billed Medicaid for dental services never-performed, targeted young Medicaid beneficiaries through improper financial incentives, and used paid recruiters to round up poor kids to be used to commit Medicaid fraud."[37] As of February 2017, Smile Magic dental clinics were supported by National Dental Partners, a DSO based out of Denton, Texas.

MB2 Dental Solutions

In January 2017, the Texas Attorney General announced an $8.5 million settlement with MB2 Dental Solutions (MB2), a DSO that supported 21 affiliated pediatric dental practices throughout Texas. According to the Attorney General, the settlement resolved three lawsuits "alleging that MB2 knowingly submitted claims for children's dental services which were either not performed or were provided after false identification was used. The claims also involved illegal kickbacks to Medicaid beneficiaries and their families, marketers and marketing entities."[38] The settlement was the result of a joint investigation involving the federal and state attorneys general.

Proposed Amendments to Texas Dental Practice Act

During the eighty-third Legislative session, Senate Bill 151 was introduced in the Texas Senate. The bill proposed to amend parts of the Texas Dental Practice Act[39] to include provisions requiring DSOs to register with the Dental Board, submit a copy of each of its service agreements, and submit information regarding its finances, ownership, and governance as part of its registration application. Had the bill passed, it would have given the Dental Board the authority to "refuse to issue a certificate of registration, impose an administrative penalty on a person who holds a certificate of registration," [40] and impose penalties for violations of the Texas Dental Practice Act.

Currently, the Texas Dental Practice Act neither precludes dentists' rights to contract with management service organizations[41] nor specifically regulates DSOs, although it does prohibit the practice of dentistry without a license.

[37] Waters Kraus & Paul, "Smile Magic Dental Clinics Settle Texas Medicaid Fraud Allegations for $4.5 Million" (Mar. 19, 2015).

[38] The Attorney General of Texas, "AG Paxton Announces $8.45 Million Settlement with MB2 Dental Solutions" (Jan. 12, 2017).

[39] The Dental Practice Act authorizes the Dental Board to adopt rules prohibiting a dentist to engage in contracts that allow a non-dentist to influence or interfere with the exercise of the dentist's independent professional judgement.

[40] Tex. S.B. 151, 83rd Leg. (2013).

[41] Tex. Occ. Code § 254.0011 (b) (Sept. 1, 2001).

Proposed Administrative Rule Addressing Dental Practice Ownership

During three successive board meetings, the Dental Board proposed variations of an administrative rule intended to clarify the meaning of practice ownership and hold individuals practicing dentistry accountable for all administrative and operational functions provided on behalf of their clinics. The Dental Board stated the proposed rule would have clarified the characteristics of business arrangements between dentists and corporate entities that suggested dental practice ownership, and would have helped interpret the Texas Dental Practice Act, which states that a person practices dentistry if the person owns, maintains, or operates a place of business that employs dentists.[42]

While the Dental Board acknowledged it had authority to investigate and prosecute corporate entities from practicing dentistry without a license, it expressed concerns that "dentists were partnering with non-dentists to establish 'sham' ownership of dental practices that were functionally owned, maintained, or operated by non-dentist entities driven by financial interests."[43] The Dental Board also raised concerns that the Texas Dental Practice Act does not prohibit a non-dentist from owning, maintaining, or operating a dental practice, so long as the non-dentist does not employ a person who practices dentistry. For example, even if a non-dentist owner of a DSO was proven to be the de facto owner of its supported practices based on the nature of the DSO's business service agreements, the arrangement would not violate the statute unless it could also be proven that the non-dentist owner of the DSO employed the dentists at the supported practices.

As a result of feedback received from members of the Legislature and other stakeholders, including comments from the Federal Trade Commission that the rule seemed likely to "discourage dentists from affiliating with DSOs by mandating that dentists assume responsibility for the types of functions that DSOs typically provide,"[44] the Dental Board declined to adopt its proposals. However, the Dental Board offered possible solutions to provide guidance on interpreting language in the statute and clarifying the Dental Board's role in evaluating practice ownership. To date, no legislative action has been taken to address the Dental Board's proposed solutions.

[42] Tex. Occ. Code § 251.003 (a) (4) (Sept. 1, 1999).

[43] Texas State Board of Dental Examiners, "Dental Examiners Self-Evaluation Report to the Sunset Commission" (Sept. 2015).

[44] Federal Trade Commission, https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-texas-state-board-dental-examiners/141006tsbdecomment1.pdf (Oct. 6, 2014).

CONCLUSION

The DSO information and statistics evaluated demonstrate several areas of interest that may warrant further review. In order of consequence, the top observations are:

- Due to the many variations in DSO practice and ownership structures, it would be difficult to aggregate procedures billed by and claims paid to dentists supported by DSOs. The Dental Board indicated that licensees had previously resisted Dental Board subpoenas requiring production of ownership, employment, and other contracts between DSOs and non-dentist corporate entities,[45] furthering the difficulty in understanding the nature of the relationship between DSOs and supported dentists.
- Dentists affiliated with DSOs have higher Medicaid and CHIP participation rates than dentists not affiliated with DSOs, and DSOs may have a greater impact on Medicaid and CHIP participation in Texas than national trends would suggest.
- Although not widespread, some DSOs have been the target of Medicaid fraud investigations, and at least one DSO has been banned from participating in the Medicaid program.
- In the fall of 2015, an estimated 15 percent of all dentist in Texas were affiliated with a DSO. However, actual affiliation rates may be higher as dentists were only considered to be affiliated with a DSO if at least one location the dentist practiced in was supported by a DSO that was (a) one of three large DSOs (American Dental Partners, Western Dental Services, or Kool Smiles) that support dental practices throughout the country, or (b) a member of the Association of Dental Support Organizations.
- DSOs were not required to register with the Texas Secretary of State until no later than January 2017, so prior attempts to obtain the total number of procedures billed by or payments made to dentists supported by DSOs might not have been comprehensive.
- Recent efforts to introduce legislation and administrative rules that would increase state regulation of DSOs in Texas have been unsuccessful.

[45] Texas State Board of Dental Examiners, "Dental Examiners Self-Evaluation Report to the Sunset Commission" (Sept. 2015).

Appendix A: DSOs Registered in Texas

This list shows the DSOs registered with the Texas Secretary of State as of February 7, 2017. Of the 129 registered DSOs, 75 DSOs had at least one dentist listed as an owner, and 54 DSOs did not have a dentist listed as an owner. Denton Dental Services and New Braunfels 2 Dental Services are listed twice because they were assigned two registration IDs.

DSO Names and Ownership

DSO Name	At least one dentist listed as 10% or higher owner of DSO?
Abbeville Dental Health Management, LLC	No
Affordable Care, LLC	No
Allen 1 Dental Services	Yes
Amarillo DSO, LLC	No
American Dental Partners of Texas, LLC	No
Arbors Dental Services	Yes
Aspen Dental Management, Inc.	No
Atascocita Dental Services	Yes
Austin CCD, LLC	No
Austin Dental Services	No
Axis Dental LLP	No
Bandera Dental Services	Yes
Baytown Dental Services	No
Bee Cave Dental Services	No
BMS-Austin, LLC	Yes
BMS-Denver, LLC	Yes
BMS-San Antonio, LLC	Yes
Briargrove Dental Services	Yes
Bryan Dental Services	No
Burleson Dental Services	Yes
Carrollton Dental Services	Yes
Castle Hills Dental Services	Yes
CDIS-Dallas, LLC	No
CDIS-Houston, LLC	No
CDIS-The Woodlands, LLC	Yes
Cedar Hill Dental Services	Yes
Cedar Park Dental Services	Yes
CFK of Texas, LLC	No
Champions Dental Services	No
Clear Lake Dental Services	Yes
Clearchoice Management Services, LLC	No

DSO Name	At least one dentist listed as 10% or higher owner of DSO?
Coast Dental Services, LLC	No
College Station Dental Services	Yes
Coppell Dental Services	Yes
Cross Roads Dental Services	No
Culebra Dental Services	Yes
Custer Star Dental Services	Yes
Cypress 2 Dental Services	No
Cypress 3 Dental Services	No
Cypress Dental Services	No
Deca Dental Management, LLC	No
Dental Administrative Services of Texas	No
Dental Care Alliance DSO, LLC	Yes
Dental One, Inc.	No
Denton Dental Services	Yes
Denton Dental Services	Yes
Firewheel Dental Services	Yes
Flower Mound Dental Services	Yes
Forney Dental Services	Yes
Friendswood Modern Dental Services	No
Frisco 2 Dental Services	Yes
Fulshear Dental Services	No
GEDC of Texas, LLC	No
Geriatric Onsite Dental care Management, Inc.	No
Glade Dental Services	Yes
Heartland Dental, LLC	No
Hedwig Village Dental Services	No
Heights Dental Services	Yes
Heritage Dental Services	Yes
Houston 4 Dental Services	Yes
Houston Dental Health Management, LLC	Yes
Hulen Dental Services	Yes
JDC Healthcare Management, LLC	No
Katy 2 Dental Services	No
Katy 3 Dental Services	Yes
Katy Dental Services	Yes
Keller Dental Services	Yes
Kendall and Davis, LLC	No
Kitty Hawk Dental Services	No
Lake Conroe Dental Services	No
Lake Jackson Dental Services	Yes

DSO Name	At least one dentist listed as 10% or higher owner of DSO?
League City 2 Dental Services	Yes
League City Dental Services	Yes
Mansfield Dental Services	Yes
MB2 Dental Solutions, LLC	Yes
McKinney Dental Services	Yes
MDS Texas Management, LLC	No
Mesquite Dental Services	Yes
Mode Dental Management Services, LLC	No
National Dental Partners, LLC	Yes
New Braunfels 2 Dental Services	No
New Braunfels 2 Dental Services	No
Northwest Dental Services	No
NRH Dental Services	No
Oak Forest Dental Services	Yes
Onsite Dental LLC	No
Parkway Dental Management, LLC	Yes
Pearland 2 Dental Services	Yes
Pearland Dental Services	Yes
Pflugerville Dental Services	Yes
Plano Dental Services	Yes
Preston Dental Services	Yes
Prosper Practice Services	Yes
Rayford Dental Services	Yes
RD Resource Center, Inc.	Yes
Richardson Dental Management, LLC	Yes
Roanoke Dental Services	Yes
Rockwall Dental Services	Yes
Rodeo Dental Texas, LLC	Yes
Round Rock 2 Dental Services	No
Round Rock Dental Services	Yes
Royal Oaks Dental Services	No
San Antonio CCD, LLC	Yes
Shenandoah Dental Services	Yes
Sienna Dental Services	Yes
Smile Brands of Abilene, L.P.	No
Smile Brands of Midland/Odessa, L.P.	No
Smile Brands of Texas, LP	No
Smile Doctors, LLC	No
Smile Workshop Management Co.	Yes

DSO Name	At least one dentist listed as 10% or higher owner of DSO?
Southpark Dental Services	Yes
Spring & Sprout Support Services, LLC	No
Spring 2 Dental Services	Yes
Spring 3 Dental Services	No
Spring Dental Services	Yes
Stone Oak Dental Services	Yes
Strc Dental Support Organization, Ltd.	Yes
STX Healthcare Management Services, Inc.	No
Sugar Land 2 Dental Services	No
Sugar Land Dental Services	Yes
Summerwood Dental Services	Yes
The Woodlands 2 Dental Services	Yes
The Woodlands Dental Services	Yes
Tomball Dental Services	No
Trails Dental Services	Yes
West Plano Dental Services	Yes
Westpointe Dental Services	Yes
Windermere Dental Services	No
Wylie Dental Services	Yes

Source: Prepared by IG Audit Division utilizing information from the Texas Secretary of State

Appendix B: DSO Affiliation by State

This list shows the percent of dentists within each state that were affiliated with a DSO in the fall of 2015.

State	% Dentists Affiliated with DSO
Arizona	17.5%
Texas	15.0%
Indiana	14.7%
Georgia	12.7%
Nevada	12.1%
Oregon	12.0%
Florida	11.3%
Wisconsin	9.7%
South Carolina	9.4%
Arkansas	8.9%
Oklahoma	8.5%
Ohio	8.4%
Colorado	8.3%
New Hampshire	8.2%
Minnesota	8.2%
Michigan	7.8%
Maryland	7.5%
Massachusetts	6.9%
Virginia	6.9%
California	6.6%
Tennessee	6.5%
New Mexico	6.3%
District of Columbia	5.9%
Missouri	5.8%
Kentucky	5.4%
Pennsylvania	5.4%
Alabama	5.3%
Mississippi	5.0%
Iowa	4.8%
Washington	4.3%
Louisiana	4.3%
Connecticut	4.1%
Kansas	4.1%
Maine	3.9%
North Carolina	3.8%
Utah	3.5%
Vermont	3.4%
Illinois	3.2%
New Jersey	2.6%
New York	2.2%
Hawaii	1.9%

State	% Dentists Affiliated with DSO
Rhode Island	1.8%
Nebraska	1.6%
Idaho	1.3%
West Virginia	1.0%
Wyoming	0.0%
South Dakota	0.0%
North Dakota	0.0%
Montana	0.0%
Delaware	0.0%
Alaska	0.0%

Source: Prepared by IG Audit Division utilizing information from the ADA Health Policy Institute

Appendix C: Report Team and Distribution

Report Team

The IG staff members who contributed to this audit report include:

- Steve Sizemore, CIA, CISA, CGAP, Audit Director
- Carolyn Cadena, CRMA, CICA, CIGA, Staff Auditor
- Frederick Appiah, Associate Auditor
- Nicole Cook, Senior Audit Performance Analyst

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DentaQuest

- Joe Vesowate, Regional Vice President, Client and Provider Engagement

Appendix D: IG Mission and Contact Information

The mission of the IG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of IG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Principal Deputy Inspector General
- Christine Maldonado, Chief of Staff and Deputy IG for Operations
- Olga Rodriguez, Senior Advisor and Director of Policy and Publications
- Roland Luna, Deputy IG for Investigations
- David Griffith, Deputy IG for Audit
- Quinton Arnold, Deputy IG for Inspections
- Alan Scantlen, Deputy IG for Data and Technology
- Deborah Weems, Deputy IG for Medical Services
- Anita D'Souza, Chief Counsel

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- Phone: 1-800-436-6184

To Contact the Inspector General

- Email: OIGCommunications@hhsc.state.tx.us
- Mail: Texas Health and Human Services Commission
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