

The State Board of Dental Examiners (Board) adopts on an emergency basis an amendment to 22 TAC §108.7, in response to the COVID-19 disaster declaration. The amendment is being made pursuant to Executive Order GA 19, and dictates the minimum standards for safe practice during the COVID-19 disaster.

This rule is adopted on an emergency basis due to the imminent peril to the public health, safety and welfare caused by failure to adhere to the minimum standards for safe practice during the COVID-19 pandemic.

The amended definitions are applicable only for purposes of the COVID-19 disaster declaration and shall only remain effective until the COVID-19 disaster declaration is terminated.

The emergency rule amendment is adopted under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

In addition, the emergency rule amendment is adopted on an emergency basis pursuant to Texas Government Code §2001.034, which authorizes the adoption of a rule on an emergency basis without prior notice and comment based upon a determination of imminent peril to the public health, safety or welfare.

The statutes affected by this rule: Dental Practice Act, Chapters 251 and 263, Texas Occupations Code.

Legal counsel for the Board has reviewed the proposed rule and has found it to be within the Board's authority to adopt.

<rule>

§108.7 Minimum Standard of Care, General

Each dentist shall:

- (1) conduct his/her practice in a manner consistent with that of a reasonable and prudent dentist under the same or similar circumstances;
- (2) maintain patient records that meet the requirements set forth in §108.8 of this title (relating to Records of the Dentist);
- (3) maintain and review an initial medical history and perform a limited physical evaluation for all dental patients;
 - (A) The medical history shall include, but shall not necessarily be limited to, known allergies to drugs, serious illness, current medications, previous hospitalizations and significant surgery, and a review of the physiologic systems obtained by patient history. A "check list," for consistency, may be utilized in obtaining initial information. The dentist shall review the medical

history with the patient at any time a reasonable and prudent dentist would do so under the same or similar circumstances.

(B) The limited physical examination shall include, but shall not necessarily be limited to, measurement of blood pressure and pulse/heart rate. Blood pressure and pulse/heart rate measurements are not required to be taken on any patient twelve (12) years of age or younger, unless the patient's medical condition or history indicate such a need.

(4) obtain and review an updated medical history and limited physical evaluation when a reasonable and prudent dentist would do so under the same or similar circumstances. At a minimum, a medical history and limited physical evaluation should be obtained and reviewed at the initial appointment and updated annually;

(5) for office emergencies:

(A) maintain a positive pressure breathing apparatus including oxygen which shall be in working order;

(B) maintain other emergency equipment and/or currently dated drugs as a reasonable and prudent dentist with the same or similar training and experience under the same or similar circumstances would maintain;

(C) provide training to dental office personnel in emergency procedures which shall include, but not necessarily be limited to, basic cardiac life support, inspection and utilization of emergency equipment in the dental office, and office procedures to be followed in the event of an emergency as determined by a reasonable and prudent dentist under the same or similar circumstances; and

(D) shall adhere to generally accepted protocols and/or standards of care for management of complications and emergencies;

(6) successfully complete a current course in basic cardiopulmonary resuscitation given or approved by either the American Heart Association or the American Red Cross;

(7) maintain a written informed consent signed by the patient, or a parent or legal guardian of the patient, if the patient is a minor, or the patient has been adjudicated incompetent to manage the patient's personal affairs. A signed, written informed consent is required for all treatment plans and procedures where a reasonable possibility of complications from the treatment planned or a procedure exists, or the treatment plans and procedures involve risks or hazards that could influence a reasonable person in making a decision to give or withhold consent. Such consents must disclose any and all complications, risks and hazards;

(8) safeguard patients against avoidable infections as required by this chapter;

(9) not be negligent in the provision of dental services;

- (10) use proper diligence in the dentist's practice;
- (11) maintain a centralized inventory of drugs;
- (12) report patient death or hospitalization as required by this chapter;
- (13) abide by sanitation requirements as required by this chapter;
- (14) abide by patient abandonment requirements as required by this chapter; and
- (15) abide by requirements concerning notification of discontinuance of practice as required by this chapter.
- (16) limit their practice and abide by the minimum standards for safe practice during the COVID-19 disaster pursuant to the CDC Guidelines and the TSBDE COVID-19 Guidance (see attached).