

The State Board of Dental Examiners (Board) proposes new rule 22 TAC §115.10, concerning the administration of local infiltration anesthesia by a dental hygienist. The proposed new rule pertains to the certification and standards for the administration of a local anesthetic agent by a dental hygienist as set out in House Bill 3824 of the 88th Texas Legislature, Regular Session (2023), and Sections 258.001 and 262.002 of the Texas Occupations Code.

FISCAL NOTE: Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

LOCAL EMPLOYMENT IMPACT STATEMENT: Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this rule.

GOVERNMENT GROWTH IMPACT STATEMENT: The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule may require the creation of an additional employee position. The Board may need to hire an additional full-time license and permit specialist to process applications for certificates issued pursuant to this proposal; (3) the implementation of the proposed rule may require an increase in future appropriations if the agency needs to hire an additional full-time license and permit specialist; (4) the proposed rule does require an increase in fees paid to the agency. The initial certification fee is *[X amount]* and the renewal certification fee is *[X amount]*; (5) the proposed rule does create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does increase the number of individuals subject to the rule's applicability by including dental hygienists who were not previously approved to administer local infiltration anesthesia; and (8) the proposed rule does not positively or adversely affect the state's economy.

COST TO REGULATED PERSONS: The Board finds that the provisions of Texas Government Code Section 2001.0045(b) do not apply to the proposal because the estimated costs associated with the proposal implement statutory requirements and are necessary to protect the health, safety, and welfare of the people of Texas, as provided in Section 2001.045(c)(6) and (9).

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to official_rules_comments@tsbde.texas.gov for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments

must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed 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.

This proposed rule implements the amendments to Sections 258.001 and 262.002 of the Texas Occupations Code as set out in House Bill 3824 of the 88th Texas Legislature, Regular Session (2023).

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

<rule>

§115.10. Administration of Local Infiltration Anesthesia.

(a) "Local infiltration anesthesia" means the deposition of a local anesthetic solution meant for the elimination of the sensation of pain by local injection of a drug near the terminal nerve endings.

(b) General Provisions.

(1) A Texas-licensed dentist may delegate the administration of local infiltration anesthesia to a licensed dental hygienist, if the ~~dental hygienist~~ delegating dentist is physically present in the facility where the procedure is occurring and is continuously aware of the patient's physical status and well-being.

~~(A) works under the direct supervision of the licensed dentist; and~~

(2) (B) The dental hygienist must hold a current local infiltration anesthesia certificate in accordance with the requirements of this section.

~~(3)~~ The certificate issued pursuant to this section must be issued for a two-year term and must be renewed in accordance with subsection (f) of this section.

(c) Standard of Care Requirements.

(1) Administration of local infiltration anesthesia must be in accordance with the minimum standard of care and limited to a procedure the dental hygienist is authorized to perform on a patient who must be:

(A) at least 18 years of age; and

(B) not sedated, or is sedated using only nitrous oxide-oxygen inhalation.

(d) Requirements for Initial Certification. To receive a dental hygiene local infiltration anesthesia certificate from the Board, a dental hygienist must:

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(1) apply on an application form approved by the Board;

(2) pay an application fee set by Board rule;

~~(3) have been engaged in the clinical practice of dental hygiene for the [X amount of months/years] immediately preceding initial application;~~

~~(3.4) successfully complete~~have a current course in Basic Life Support (BLS) for Healthcare Providers;

~~(4.5)~~ submit proof to the Board that he or she has fulfilled at least one of the following qualifications:

(A) completed a minimum of ~~[X amount of hours]~~ 12 hours of clinical and 20 hours of didactic education in the administration of local infiltration anesthesia taken in a classroom setting at an educational institution accredited by the Commission on Dental Accreditation of the American Dental Association (CODA) and approved by the Board. The education must fulfill the requirements in subsection (e) of this section;

(B) during the preceding year of initial application, was authorized to administer a local anesthetic agent by:

(i) a branch of the United States armed forces; or

(ii) another state with clinical and didactic requirements substantially equivalent to the requirements of a course approved by the Board as described under subsection (d)~~(4.5)~~(A) of this section, and have practiced for a minimum of three out of five years immediately preceding application to the Board; or

(C) successful completion of a CODA-accredited dental hygiene program that fulfills the requirements of subsection (d)(4)(A) of this section.

~~(5.6)~~ passed a Board-approved certification examination relating to the administration of a local anesthetic agent as described in subsection (e)(3) of this section.

(e) Education and Examination Requirements.

(1) Didactic component. The program must include at least 20 hours ~~[X amount]~~ of didactic instruction relating to the administration of local infiltration anesthesia in the practice of dental hygiene. Such education must include:

(A) Texas State Board of Dental Examiners laws and regulations;

(B) physiology and neurophysiology;

(C) head, neck, and oral anatomy;

(D) adult respiratory and circulatory physiology and related anatomy;

(E) emergency procedures;

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(F) recognition and management of local complications associated with local anesthetic injections;

(G) recognition and management of systemic local anesthetic toxicity related to the administration of local anesthetics;

(H) medical history and evaluation procedures;

(I) considerations for medically complex patients;

(J) behavior context and dental patient management;

(K) definitions and descriptions of physiological and psychological aspects of anxiety and pain;

(L) pharmacology of agents used in local anesthetics and vasoconstrictors, including drug interactions and incompatibilities;

(M) indications and contraindications for use of local anesthetic and vasoconstrictors;

(N) recommended dosages of local anesthetic and vasoconstrictors;

(O) patient monitoring through observation, with particular attention to vital signs and reflexes related to consciousness;

(P) selection and preparation of the armamentaria and record keeping for administering local anesthetic agents via infiltration;

(Q) safety and infection control procedures with regard to local infiltration anesthetic techniques and proper disposal of sharps; and

(R) post-operative care and instructions to patients.

(2) Clinical component. The program must include at least 12 hours ~~{X amount}~~ of clinical instruction relating to the administration of local infiltration anesthesia in the practice of dental hygiene. Such education must include:

(A) selection and preparation of the armamentaria for administering local anesthetic agents;

(B) demonstration of proper infection control techniques regarding local anesthetic agents and proper disposal of sharps;

(C) demonstration of proper evaluation of the patient's health status, taking and assessing vital signs and monitoring the patient's physical status while under the effects of local anesthetic;

(D) demonstration of the proper techniques for the administration of local infiltration anesthesia on a live patient or hands-on simulation:

(i) basic technique;

- (ii) aspiration;
- (iii) slow rate of injection;
- (iv) minimum effective dosage; and

(E) clinical experience demonstrating the successful use of local infiltration anesthetic on a minimum of [X amount] live patients or hands-on simulation receiving dental hygiene treatment. The [X amount] live patient or hands-on simulation clinical experiences required must be performed under the direct supervision of a Texas-licensed dentist associated with the course.

(3) Examination.

(A) Each student must pass a competency examination on the material covered in the didactic section of the training course with a minimum passing score of 75% before continuing to the clinical section of the course. Students who do not pass the didactic competency examination may be offered remediation before the start of the clinical experience.

(B) Each student must pass a clinical competency examination administered by a CODA-accredited institution including a demonstration of satisfactorily performing local anesthetic infiltration injections on [X amount] live patients or hands-on simulation.

~~(f) Requirements for Renewal of Certification. To renew a dental hygiene local infiltration anesthesia certificate issued by the Board, a dental hygienist must:~~

~~(1) apply on an application form approved by the Board;~~

~~(2) pay an application fee set by Board rule; and~~

~~(3) complete no less than [X amount] hours of in person continuing education in the administration of local infiltration anesthesia specific to the procedures to be performed by the dental hygienist administering the local anesthesia. The continuing education must be provided by an educational course provider recognized by the Board. Dental hygienists must maintain documentation of the satisfactory completion of the required continuing education courses.~~

~~(fg) Ineligibility. Applicants of an administration of local infiltration certificate are ineligible if they are in violation of a Board order at the time of application.~~

Commented [RD2]: This would potentially be limited by the class size (eg, Temple College caps enrollment at 12 students); applicable also to changes in 2(E) above.