

The State Board of Dental Examiners (Board) proposes new rule 22 TAC §108.5, pertaining to a dentist's responsibilities when leaving a practice or location. The purpose of the rule is to provide the requirements a dentist must take to avoid patient abandonment and to protect patient records when leaving a practice or location.

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 proposed 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 does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does not require an increase in fees paid to the agency; (5) the proposed rule creates a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

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](mailto: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.

No other statutes, articles or codes are affected by this proposal.

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

<rule>

§108.5. Dentist Responsibilities when Leaving a Practice or Location.

(a) A dentist who leaves a practice or location, whether by retirement, sale, transfer, termination of employment or otherwise, must provide patients reasonable notice of whom to contact for continuation of care and to obtain copies of their records or arrange for the transfer of their records by:

- (1) letter or email to each patient seen in the last two years by the departing dentist; and
- (2) posting a notice in a conspicuous area in the dentist's practice or location, and on the practice or location's website at least 30 days prior to the leaving.

(b) The notice must include:

- (1) the date of the retirement, termination, or departure;
- (2) instructions as to how patients may obtain or transfer their dental records;
- (3) the name and location of the new practice, if any;
- (4) the name of another dentist whom patients may contact to continue their care; and
- (5) the name of another dentist, practice, or custodian if ownership of records is changing.

(c) If the dentist's license is surrendered or revoked, the notice must be provided immediately in accordance with this section.

(e) Responsibilities of Practice or Location

- (1) A practice or location must provide a list of patients seen by the departing dentist in the last two years for the purposes of providing notice to patients.
- (2) A departing dentist's practice or location is not required to provide the requisite notice to patients.
- (3) If the departing dentist's practice or location agrees to provide the requisite notices to patients, they must do so in accordance with this section.
- (4) No dentist remaining at the practice or location may prevent or interfere with the departing dentist's duties to provide notices described by this section.