

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §108.52, concerning names and responsibilities. The proposed amendment specifies that dental specialties are approved by the National Commission on Recognition of Dental Specialties and Certifying Boards.

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 proposed 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 does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect the state's economy.

COST TO REGULATED PERSONS: This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

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.

No statutes are affected by this proposed rule.

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

<rule>

§108.52. Names and Responsibilities.

(a) Disclosure of Full Name.

(1) Any person who practices dentistry under any name or trade name must provide full and outward disclosure of his full name as it appears on his license or renewal certificate issued by the board, or his commonly used name.

(2) Any person who owns, maintains, or operates an office or place of business in which the person employs or engages under any type of contract another person to practice dentistry, either directly or indirectly, under any name or trade name must provide full and outward disclosure of his full name as it appears on his license or renewal certificate issued by the board, or his commonly used name.

(3) Any person who holds himself out to the public, directly or indirectly, as soliciting patronage or as being qualified to practice dentistry in the state of Texas under any name or trade name must provide full and outward disclosure of his full name as it appears on his license or renewal certificate issued by the board, or his commonly used name.

(4) Any person who operates, manages, or is employed in any facility where dental service is rendered or conducted under any name or trade name must provide full and outward disclosure of his full name as it appears on the license or renewal certificate issued by the board, or his commonly used name.

(5) Any person who practices dentistry must display his full name as it appears on his license or renewal certificate issued by the board, or his commonly used name, outside the primary entry of each location at which he practices dentistry.

(6) If the names of auxiliary personnel, such as dental hygienists or dental assistants, are displayed in any manner or in any advertising, the auxiliary personnel must be clearly identified by title, along with the name of a supervising dentist.

(b) Name of Practice.

(1) Each dental office shall post at or near the entrance of the office in an area visible to the public, the name of, each professional degree received by and each school attended by each dentist practicing in the office.

(2) The name of the owner shall be prominently displayed and only the names of the dentists who are engaged in the practice of the profession at a particular location shall be used.

(3) The name of a deceased or retired dentist leaving a practice shall not be used at such location more than one (1) year following departure from the practice. The name of a dentist

leaving a location for any other reason or transferring his or her practice shall not be used at such location or practice for more than forty (40) days following departure from the location. However, if the transferring dentist remains actively engaged in the practice of dentistry in the transferred practice, the acquiring dentist may continue using the name of the transferring dentist.

(4) A licensed Texas dentist, in any professional communication concerning dental services, shall include the dentist's dental degree; the words "general dentist" or "general dentistry;" or a specialization approved by the National Commission on Recognition of Dental Specialties and Certifying Boards [~~an ADA approved dental specialty~~] if the dentist is a specialist in the field designated.

(5) A licensed Texas dentist who is also authorized to practice medicine in Texas may use the initials "M.D." or "D.O." along with the dentist's dental degree.

(c) Use of Trade Name.

(1) A dentist may practice under his or her own name, or use a corporation, company, association or trade name as provided by §259.003 of the Texas Occupations Code.

(2) A dentist practicing under a corporation, company, association or trade name shall give each patient the name and license number of the treating dentist, in writing, either before or after each office visit, upon request of a patient.

(3) An advertisement under a corporation, company, association or trade name must include prominently the name of the owner(s) and at least one dentist actually engaged in the practice of dentistry under that trade name at each location advertised. This provision does not apply to location signage.

(4) Each dentist practicing under a corporation, company, association or trade name shall file notice with the board of every corporation, company, association or trade name under which that dentist practices upon initial application for licensure and annual license renewal.

(5) Since the name under which a dentist conducts his or her practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is false or misleading in any material respect is unethical.

(d) Responsibility. The responsibility for the form and content of an advertisement offering services or goods by a dentist shall be jointly and severally that of each licensed professional who is an owner, principal, partner, or officer of the firm or entity identified in the advertisement.