

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §111.5, concerning electronic prescribing waivers. The proposed amendment removes the requirement that a dentist must submit a written statement and supporting documentation describing the circumstances necessitating a waiver, and instead requires a dentist to attest to the circumstances necessitating a waiver. This amendment will make it less burdensome on the dentist when submitting a waiver request to the Board, and it will make the Board's waiver process more efficient.

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 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 or decrease the number of individuals subject to it; 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 amendment 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 proposed rule and has found it to be within the Board's authority to adopt.

<rule>

§111.5. Electronic Prescribing Waivers.

(a) Effective January 1, 2021, the Board shall issue an electronic prescribing waiver to dentists who submit a waiver request form.

(b) The dentist must demonstrate circumstances necessitating a waiver from the electronic prescribing requirement, which include:

(1) economic hardship. Economic hardship shall be determined on a case by case basis, taking into account factors including:

(A) any special situational factors affecting either the cost of compliance or the ability to comply;

(B) the likely impact of compliance on profitability or viability; and

(C) the availability of measures that would mitigate the economic impact of compliance;

(2) technological limitations not reasonably within the control of the dentist; or

(3) other exceptional circumstances demonstrated by the dentist. Exceptional circumstances include, but are not limited to, prescribing fewer than twenty-five prescriptions per year.

(c) The dentist must attest to [~~submit a written statement and supporting documentation describing~~] the circumstances necessitating a waiver as described in subsection (b) of this section.

(d) The waiver shall be issued for a period of one year. A dentist may reapply for a subsequent waiver not earlier than the 30th day before the date the waiver expires if the circumstances that necessitated the waiver continue.