

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §114.3, pertaining to dental assistants applying pit and fissure sealants. This rule was recently reviewed in accordance with the Board's rule review plan. As a result of the review, the Board proposes changes that correct punctuation and typo errors.

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 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.

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.

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

<rule>

§114.3. Pit and Fissure Sealants.

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) "Didactic education" requires the presentation and instruction of theory and scientific principles.
- (2) "Clinical education" requires providing care to patient(s) under the direct supervision of a dentist or dental hygienist instructor.
- (3) "Direct Supervision" requires that the instructor responsible for the procedure shall be physically present during patient care and shall be aware of the patient's physical status and well-being.

(b) In addition to application of pit and fissure sealants, a dental assistant who meets the requirements in this section may use a rubber prophylaxis cup and appropriate polishing materials to cleanse the occlusal and smooth surfaces of teeth that will be sealed or to prepare teeth for application of orthodontic bonding resins. Cleansing is intended only to prepare the teeth for the application of sealants or bonding resins and should not exceed the amount needed to do so.

(c) The dentist may not bill for a cleansing provided hereunder as a prophylaxis.

(d) A Texas-licensed dentist may delegate the application of pit and fissure sealants to a dental assistant, if the dental assistant ~~[assist]~~ has:

- (1) at least two years of experience as a dental assistant;
- (2) successfully completed a current course in basic life support; and
- (3) completed a minimum of 8 hours of education that includes clinical and didactic education in pit and fissure sealants taken through a CODA-accredited dental, dental hygiene, or dental assistant program approved by the Board whose course of instruction includes:
 - (A) infection control;
 - (B) cardiopulmonary resuscitation;
 - (C) treatment of medical emergencies;
 - (D) microbiology;
 - (E) chemistry;
 - (F) dental anatomy;
 - (G) ethics related to pit and fissure sealants;
 - (H) jurisprudence related to pit and fissure sealants; and
 - (I) the correct application of sealants, including the actual clinical application of sealants.

(e) Application of pit and fissure sealants must be in accordance with the minimum standard of care and limited to the dental assistant's scope of practice.

(f) The dental assistant must comply with the Dental Practice Act and Board Rules in the application of pit and fissure sealants. Pursuant to §258.003 of the Dental Practice Act, the delegating dentist is responsible for all dental acts delegated to a dental assistant, including application of pit and fissure sealants.

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