

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §115.4, pertaining to placement of site specific subgingival medicaments. The proposed rule simply updates the applicable section of the Texas Occupations Code pertaining to the practice of dental hygiene and a hygienist being able to topically apply drugs.

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) 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>

§115.4. Placement of Site Specific Subgingival Medicaments.

Pursuant to Texas Occupations Code §262.002(a)(4) [~~§262.002(a)(6)~~], the placement and removal of site specific subgingival medicaments may be delegated to a Texas licensed dental hygienist under the general supervision of, and in the office of, a Texas licensed dentist, only after scaling and root planing.

- (1) The responsibility for diagnosis, treatment planning, the prescription of therapeutic measures, and re-evaluation, shall remain with a Texas licensed dentist and may not be delegated to any dental hygienist or dental assistant.
- (2) Site specific subgingival medicaments are considered to be of "topical" nature and are agents approved for use by the Food and Drug Administration (FDA).
- (3) The placement of site specific subgingival medicaments may not be assigned to a dental assistant.
- (4) The Texas licensed dentist shall be responsible for identifying, selecting, and obtaining training that, in the dentist's reasoned opinion, will bring the dentist and dental hygienist to clinical competency prior to delegating the application of site specific subgingival medicaments to a dental hygienist.