

The State Board of Dental Examiners (Board) proposes an amendment to rule 22 TAC §104.1, pertaining to continuing education requirements. The proposed amendment will allow dentists and dental hygienists to complete their continuing education hours, including clinical hours, through self-study. The Board has required clinical hours to be completed through a live course. However, allowing clinical hours to be completed through self-paced or online formats will improve accessibility, efficiency, and affordability while maintaining educational quality.

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.

The Board is requesting public comments on the proposed rule and information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Any information that is submitted in response to this request must include an explanation of how and why the submitted information is specific to the proposed rule.

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 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>

§104.1. Continuing Education Requirements.

As a prerequisite to the biennial renewal of a dental or dental hygiene license, proof of completion of 24 hours of acceptable continuing education is required.

(1) Each licensee shall select and participate in the continuing education courses endorsed by the providers identified in §104.2 of this title (relating to Providers). A licensee, other than a licensee who resides outside of the United States, who is unable to meet education course requirements may request that alternative courses or procedures be approved by the Licensing Committee.

(A) Such requests must be in writing and submitted to and approved by the Licensing Committee prior to the expiration of the biennial period for which the alternative is being requested.

(B) A licensee must provide supporting documentation detailing the reason why the continuing education requirements set forth in this section cannot be met and must submit a proposal for alternative education procedures.

(C) Acceptable causes may include unanticipated financial or medical hardships or other extraordinary circumstances that are documented.

(D) A licensee who resides outside of the United States may, without prior approval of the Licensing Committee, complete all required hours of coursework by self-study.

(i) These self-study hours must be provided by those entities cited in §104.2 of this title. Examples of self-study courses include correspondence courses, video courses, audio courses, and reading courses.

(ii) Upon being audited for continuing education compliance, a licensee who submits self-study hours under this subsection must be able to demonstrate residence outside of the United States for all periods of time for which self-study hours were submitted.

(E) Should a request to the Licensing Committee be denied, the licensee must complete the requirements of this section.

(2) Effective September 1, 2018, the following conditions and restrictions shall apply to coursework submitted for renewal purposes:

(A) At least 16 hours of coursework must be either technical or scientific as related to clinical care. The terms "technical" and "scientific" as applied to continuing education shall mean that courses have significant intellectual or practical content and are designed to directly enhance the practitioner's knowledge and skill in providing clinical care to the individual patient.

(B) Effective January 1, 2021, a licensed dentist whose practice includes direct patient care must complete not less than 2 hours of continuing education annually, and not less than 4 hours for each biennial renewal, regarding safe and effective pain management related to the prescription of opioids and other controlled substances. These 4 hours may be used to satisfy the 16-hour technical and scientific requirement. The courses taken to satisfy the safe and effective pain management requirement must include education regarding:

(i) reasonable standards of care;

(ii) the identification of drug-seeking behavior in patients; and

(iii) effectively communicating with patients regarding the prescription of an opioid or other controlled substance.

(C) Up to 8 hours of coursework may be in risk-management courses. Acceptable "risk management" courses include courses in risk management, record-keeping, and ethics. Dentists may complete continuing education courses described by §111.1 of this title (relating to Additional Continuing Education Required) to satisfy a portion of the risk-management requirement.

(D) The 24-hour requirement, including clinical hours, ~~[Up to 8 hours of coursework]~~ may be self-study. These self-study hours must be provided by those entities cited in §104.2 of this title. Examples of self-study courses include correspondence courses, video courses, audio courses, and reading courses.

(E) Hours of coursework in the standards of the Occupational Safety and Health Administration (OSHA) annual update course or in cardiopulmonary resuscitation (CPR) basic life support training may not be considered in the 24-hour requirement.

(F) Hours of coursework in practice finance may not be considered in the 24-hour requirement.

(3) As part of the 24-hour requirement, a course in human trafficking prevention approved by the executive commissioner of the Texas Health and Human Services Commission must be completed.

(4) Each licensee shall complete the jurisprudence assessment every four (4) years. This requirement is in addition to the twenty-four (24) hours of continuing education required biennially for the renewal of a license.

(5) A licensee may carry forward continuing education hours earned prior to a renewal period which are in excess of the 24-hour requirement and such excess hours may be applied to subsequent years' requirements. Excess hours to be carried forward must have been earned in a classroom setting and within the one year immediately preceding the renewal period. A maximum of 24 total excess credit hours may be carried forward.

(6) Examiners for the American Board of Dental Examiners (ADEX) and Central Regional Dental Testing Services-States Resources for Testing and Assessments (CRDTS-SRTA) will be allowed credit for no more than 12 hours biennially, obtained from calibration and standardization exercises associated with the examinations.

(7) Any individual or entity may petition one of the providers listed in §104.2 of this title to offer continuing education.

(8) Providers cited in §104.2 of this title will approve individual courses and/or instructors.

(9) A consultant for the SBDE who is also a licensee of the SBDE is eligible to receive up to 12 hours of continuing education credit biennially to apply towards the biennial renewal continuing education requirement under this section.

(A) Continuing education credit hours shall be awarded for the issuance of an expert opinion based upon the review of SBDE cases and for providing assistance to the SBDE in the investigation and prosecution of cases involving violations of the Dental Practice Act and/or the Rules of the SBDE.

(B) The amount of continuing education credit hours to be granted for each consultant task performed shall be determined by the Executive Director, Division Director, or manager that authorizes the consultant task to be performed. The award of continuing education credit shall be confirmed in writing and based upon a reasonable assessment of the time required to complete the task.

(10) A course instructor who offers continuing education through a provider listed in §104.2 of this title is eligible to receive 2 hours of continuing education credit for every 1 hour of instruction provided. This credit applies per course, per renewal period.