

The State Board of Dental Examiners (Board) proposes an amendment to rule 22 TAC §108.5, pertaining to patient abandonment. The amendment gives dentists the option to send a notice letter regarding discontinuation of treatment to a patient's email address, and specifies that reasonable cause to discontinue treatment includes a situation where a patient's conduct creates a reasonable concern for the safety of dental staff or others.

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.

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>

§108.5. Patient Abandonment.

(a) A dentist, without reasonable cause, shall not abandon a dental patient. Once a dentist has undertaken a course of treatment, the dentist, absent reasonable cause, shall not discontinue that treatment without giving the patient adequate notice and the opportunity to obtain the services of another dentist. A dentist shall exercise the level of care necessary to prevent jeopardizing the patient's oral health during this process.

(b) Under this section, a dentist shall give a minimum of 30 days written notice of his/her intent to discontinue undertaken treatment. Notice shall be sent via email to the patient if the patient authorized email communications, ~~[either]~~ hand-delivered to the patient, or sent via certified mail, return receipt requested to the patient's last known address, with the dentist retaining a copy of the notice letter in the patient's file along with proof of service. Adequate notice shall include the following:

- (1) a short description of the patient's current status, including the patient's current diagnosis and a summary of the patient's current treatment plan;
- (2) a short description of the patient's present and future needs;
- (3) an explanation regarding the consequences of non-treatment;
- (4) a recommendation that the patient continue care with another dentist; and
- (5) a clear statement emphasizing that the dentist is available to provide any emergency treatment necessary to prevent patient harm during the 30-day period.

(c) A dentist shall remain reasonably available to render any emergency treatment necessary under (b)(5) of this section for up to 30 days from the date of such notice.

(d) A dentist may have reasonable cause to discontinue treatment when a patient's conduct creates a reasonable concern for the safety of staff or others. Discontinuation of treatment on this basis must be supported by documentation of the conduct at issue, the basis for the safety concern, and the steps taken to comply with this section, including reasonable notice and availability for emergency treatment necessary to prevent patient harm during the notice period.