

The State Board of Dental Examiners (Board) proposes amendments to rule 22 TAC §116.3, pertaining to the registration and renewal of a dental laboratory. The amendments: remove repetitive statutory language, remove repetitive language found in the Board's dental laboratory application, update the rule to reflect the Board's current licensing process, and include grammatical changes.

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 removal of repetitive language and updating the rule to reflect the Board's current licensing process.

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>

§116.3. Registration and Renewal.

(a) A dental laboratory shall be registered according to the provisions of Occupations Code, Subchapter D, §§266.151 - 266.154.

(b) To qualify for a dental laboratory registration, the applicant must: ~~[submit an application, including the following information:]~~

(1) submit a complete application; ~~[the name, physical address, phone number, and email address of the laboratory;]~~

~~[(2) the name, address, phone number, and email address of the laboratory owner;]~~

(2) ~~[(3)]~~ if the laboratory owner is an individual, then he or she must submit documentation of proof of United States citizenship, legal permanent residency in the United States, or federal work authorization. This requirement applies for initial and renewal applications. The applicant must submit one of the following:

(A) a valid, unexpired driver's license or state identification certificate issued by a state or territory of the United States that complies with the minimum document requirements and issuance standards for federal recognition under the REAL ID Act of 2005, Public Law 109-13, unless the driver's license is marked "Limited Term" or "Temporary";

(B) a valid, unexpired driver's license or state identification certificate that does not comply with REAL ID issued by one of the following states: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, or Wyoming;

(C) a valid passport. Valid passport is defined as:

(i) an unexpired passport or passport card issued by the United States government; or

(ii) an unexpired passport issued by the government of another country accompanied by a current permanent resident card or unexpired immigrant visa issued by the United States Department of Homeland Security;

(D) a valid, unexpired license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(E) a United States Certificate of Naturalization (Form N-550 or N-570); or

(F) a United States Certificate of Citizenship (Form N-560 or N-561);

~~[(4) the date the laboratory opened or will open for business;]~~

~~[(5) type of ownership;]~~

~~[(6) if the laboratory is a corporation, the state in which the corporation is incorporated;]~~

~~[(7) if the laboratory is a subsidiary corporation, the name of the parent company, the state in which the parent company is incorporated, and the percent of stock that the parent company owns in the subsidiary;]~~

~~[(8) the laboratory manager's name, phone number, and email address;]~~

~~[(9) if the laboratory owner or manager has ever been convicted of a misdemeanor or a felony, an explanation and court disposition documents;]~~

~~[(10) if the applicant has ever held a laboratory registration in Texas, the owner's name, manager's name, CDT of record, laboratory name, address, DBA, and lab registration number;]~~

~~[(11) if the applicant, owner, or manager has ever been the subject of a disciplinary investigation or action, including a cease and desist order, in any jurisdiction, an explanation of that investigation or action;]~~

~~[(12) the notarized signature of the laboratory owner or general manager;]~~

(3) ~~[(13)]~~ if a certified dental technician of record is required:

(A) the name, home address, telephone number, email address, and notarized signature of the laboratory's certified dental technician of record;

(B) a copy of the certified dental technician's current certification card with the expiration date indicated; and

(C) a statement as to whether the certified dental technician of record is the certified dental technician of record for any other dental laboratory in the state of Texas, and if so, the dental laboratory's Texas registration number; and

(4) ~~[(14)]~~ any other information required by the Board.

(c) Board staff shall review each application for registration or renewal of registration to determine if the applicant meets the requirements of Occupations Code, Chapter 266. The following materials must be submitted:

(1) A complete initial or renewal application ~~[or renewal]~~, with all required information;

(2) proof of compliance with §116.6 of this chapter;

(3) the appropriate fee; and

(4) effective January 1, 2009, for initial registrations only and once every three years for registration renewals, proof of completion of the Texas Jurisprudence Assessment for dental laboratories. The Jurisprudence Assessment must be taken by the laboratory owner or the laboratory's general manager.

(d) It shall be the duty of each laboratory owner or manager to notify the Board in writing within 60 days of:

(1) a change in ownership or management of the laboratory;

(2) a change in location of the laboratory;

(3) closure of the laboratory;

(4) a change of designated CDT, in which case the notice must be accompanied by proof of current CDT certification for the replacement CDT;

(5) a change of designated employee, if the laboratory is exempted under §116.5 of this chapter. A change of designated employee will require proof within six (6) months of the change that the designated employee meets continuing education requirements; or

(6) a change in mailing address for the owner or manager of the laboratory.

(e) Any laboratory owner applying for a new laboratory registration who has pending fees and/or penalties due from a previous laboratory registration when such laboratory was closed for non-compliance with subsection (d) of this section must first remit to the Board any fees and penalties due on that previous registration before the new registration application will be considered by the Board.

~~[(f) An initial registration certificate issued under this chapter on or after September 1, 2009 expires on the 30th day after the date the registration certificate is issued if the holder of the registration certificate fails to pay the required registration certificate fee on or before that date.]~~