

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 16. ECONOMIC REGULATION

### PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION

#### CHAPTER 82. BARBERS

##### 16 TAC §§82.1, 82.10, 82.20, 82.80, 82.120

The Texas Department of Licensing and Regulation (Department) proposes the repeal of existing rules at 16 Texas Administrative Code (TAC), Chapter 82, §§82.1, 82.10, 82.20, 82.80, and 82.120, regarding the Barbering and Cosmetology program. These proposed changes are referred to as "proposed rules."

#### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 82, implement Texas Occupations Code, Chapter 1603, Regulation of Barbering and Cosmetology.

The proposed rules are necessary to repeal obsolete rules that are no longer necessary after the consolidation of the rules for barbering and cosmetology into 16 TAC Chapter 83, which took effect September 1, 2023. Provisions in Chapter 82 were left in place to provide details for barbering regarding definitions, licensing provisions, fees, and curriculum requirements that were in effect prior to September 1, 2023. Those provisions are no longer necessary.

#### *Advisory Board Recommendations*

The proposed rules were presented to and discussed by the Barbering and Cosmetology Advisory Board at its meeting on March 3, 2025. The Advisory Board did not make any changes to the proposed rules. The Advisory Board voted and recommended that the proposed rules be published in the *Texas Register* for public comment.

#### SECTION-BY-SECTION SUMMARY

The proposed rules repeal Chapter 82, Barbers, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The proposed rules repeal §82.1, Authority, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The proposed rules repeal §82.10, Definitions, which consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The proposed rules repeal §82.20, License Requirements--Individuals (before September 1, 2023). This repealed section con-

sists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The proposed rules repeal §82.80, Fees (before September 1, 2023). This section consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

The proposed rules repeal §82.120, Technical Requirements--Curricula Standards (before August 1, 2023). This section consists of provisions that are no longer necessary after the consolidation of the rules for barbering and cosmetology.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state governments.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of local governments.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

#### PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be the removal of any confusion about which rules apply to barbering.

#### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules.

## FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

## ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

## GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules do not create a new regulation.
6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules repeal Chapter 82 in Title 16 of the Texas Administrative Code.
7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.
8. The proposed rules do not positively or adversely affect this state's economy.

## TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

## PUBLIC COMMENTS

Comments on the proposed rules may be submitted electronically on the Department's website at <https://ga.tdlr.texas.gov:1443/form/gcerules>; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant,

Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

## STATUTORY AUTHORITY

The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt repeals as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the proposed repeals.

§82.1. *Authority.*

§82.10. *Definitions.*

§82.20. *License Requirements--Individuals (before September 1, 2023).*

§82.80. *Fees (before September 1, 2023).*

§82.120. *Technical Requirements--Curricula Standards (before August 1, 2023).*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 17, 2025.

TRD-202500943

Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 463-7750



## CHAPTER 83. BARBERS AND COSMETOLOGISTS

The Texas Department of Licensing and Regulation (Department) proposes the repeal of existing rules at 16 Texas Administrative Code (TAC), Chapter 83, §§83.2, 83.20, 83.80, 83.120, 83.200, and 83.201; amendments to existing rules at §§83.10, 83.22, 83.23, 83.25, 83.28, 83.31, 83.72, and 83.202; and new rules at §§83.15, 83.20, and 83.80, regarding the Barbering and Cosmetology program. These proposed changes are referred to as "proposed rules."

## EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The rules under 16 TAC, Chapter 83, implement Texas Occupations Code, Chapter 1603, Regulation of Barbering and Cosmetology.

The proposed rules repeal obsolete transition provisions; reorganize rule sections; clarify definitions and services regulated by the Department; update terminology and citations; clarify licensing provisions for establishments and schools; update school facility and signage requirements; and clarify curriculum requirements.

#### Four-Year Rule Review

The proposed rules are necessary to implement changes recommended as a result of the required four-year rule review conducted under Texas Government Code §2001.039. The Department's Notice of Intent to Review 16 TAC Chapter 83, was published in the March 31, 2023, issue of the *Texas Register* (48 TexReg 1737). At its meeting on October 10, 2023, the Commission readopted the rule chapter in its entirety without changes. The readoption notice was published in the November 10, 2023, issue of the *Texas Register* (48 TexReg 6613).

In response to the Notice of Intent to Review that was published, the Department received public comments from six interested parties requesting amendments to Chapter 83. The comments suggested changes including reinstating the instructor license; allowing licensees to provide micropigmentation and intradermal cosmetic services; requiring licensees to obtain blood born pathogen certification; requiring only one exam for licensure; removing continuing education requirements; allowing licensed public schools to administer practical exams; and making changes to the subjects and hours listed in the curriculum requirements. These suggested changes are not included in the proposed rules. The proposed rules consist only of changes recommended by Department staff during the rule review process.

#### Advisory Board Recommendations

The proposed rules were presented to and discussed by the Barbering and Cosmetology Advisory Board at its meeting on March 3, 2025. The Advisory Board made the following changes to the proposed rules: A clarifying change was made to §83.80(f). The Advisory Board voted and recommended that the proposed rules with changes be published in the *Texas Register* for public comment.

#### SECTION-BY-SECTION SUMMARY

The proposed rules repeal existing §83.2, Transition Provisions. The provisions in this repealed rule consist of transition language to accommodate the consolidation of the Barbering and Cosmetology rules that took effect September 1, 2023. These provisions are no longer necessary.

The proposed rules amend §83.10, Definitions. The proposed rules add clarifying language to the definition of "esthetician"; remove the definition for "esthetician/manicurist" and replace it with the same definition for "manicurist/esthetician" for consistency with statutory terminology; amend the definition for "eyelash extension application" by replacing "and" with "or" and adding language to clarify that the term does not include a temporary strip or cluster of eyelashes attached to the lash line with an adhesive; add clarifying language to the definition for "eyelash extension specialist"; remove an obsolete reference to "cosmetology" in the definition for "guest presenter"; remove obsolete statutory references in the definition for "license"; rephrase the definition for "safety razor" to provide clarity; and renumber the remaining provisions.

The proposed rules add new §83.15, Application of Chapter, to clarify the Department's interpretation of certain provisions of Texas Occupations Code §1603.0013. The proposed rules add new subsection (a) to explain the intent of the section; add new subsection (b) to clarify actions that are considered to be "natural hair braiding"; add new subsection (c) to clarify actions that are not considered to be "natural hair braiding"; add new subsection (d) to clarify the term "cosmetic service" includes any barbering

or cosmetology service; add new subsection (e) to clarify the meaning of the term "licensed nursing or convalescent custodial or personal care home"; and add new subsection (f) to clarify that the term "operator license" includes any practitioner license.

The proposed rules repeal existing §83.20, License Requirements--Individuals (before September 1, 2023). The provisions in this repealed rule are replaced with new §83.20, License Requirements--Individuals.

The proposed rules add new §83.20, License Requirements--Individuals. This new rule includes provisions that are relocated from existing §83.200, which is being repealed. The relocated provisions are revised to update rule citations, clarify language regarding criminal history background checks, update terminology for consistency with statutory language, and remove unnecessary transition language.

The proposed rules amend §83.22, License Requirements--Establishments. The proposed rules add new subsection (d) to clarify that a single establishment license may be issued for multiple units or suites operated as a single establishment within the same building or premises.

The proposed rules amend §83.23, License Requirements--Schools. The proposed rules add new subsection (f) to clarify that a single school license may be issued for multiple units or suites operated as a single school within the same building or premises.

The proposed rules amend §83.25, License Requirements--Continuing Education. The proposed rules remove an obsolete citation in subsection (h)(3) and amend subsection (k) to clarify that the subsection applies to a licensee who has held a practitioner license in Texas.

The proposed rules amend §83.28, Substantial Equivalence and Provisional Licensure, by removing obsolete transition language in subsection (a)(6) and amending subsection (k) to remove an obsolete citation and clarify that the subsection applies to documented work experience performed in the jurisdiction outside of Texas in which the person is licensed.

The proposed rules amend §83.72, Responsibilities of Schools. The proposed rules amend subsection (c) to remove the requirement for a school to notify the Department of alterations to its floor plan; amend subsection (f) to remove an obsolete citation; rephrase subsection (h) for clarity; amend subsection (k)(2)(C) to update a citation; amend subsection (q) to update a citation; amend subsection (u) to remove the requirement for a school to have a classroom separated from the laboratory area by walls extending to the ceiling; amend subsection (v)(1) to allow a school to post a copy of the school's most recent inspection report instead of posting a notice that a copy of the report is available upon request; amend subsection (v)(3) to allow a school to post a sign provided by the Department instead of posting a sign in at least 10-inch block letters; and add new subsection (y) to clarify that a school must not allow an instructor to teach services outside the scope of the instructor's practitioner license.

The proposed rules repeal existing §83.80, Fees (before September 1, 2023). The provisions in this repealed rule are replaced with new §83.80, Fees.

The proposed rules add new §83.80, Fees. This new rule includes provisions that are relocated from existing §83.201, which is being repealed. The relocated provisions are revised to update terminology, update citations, and remove obsolete tran-

sition language. The Advisory Board added parenthetical language for clarity.

The proposed rules repeal §83.120, Technical Requirements--Curriculum Standards (before August 1, 2023). This repealed section includes curriculum standards that became obsolete on August 1, 2023. The current curriculum standards are provided in existing §83.202.

The proposed rules repeal §83.200, License Requirements--Individuals (on or after September 1, 2023). The provisions in this repealed section are relocated to new §83.20 with revisions as explained in the summary for that section.

The proposed rules repeal §83.201, Fees (on or after September 1, 2023). The provisions in this repealed section are relocated to new §83.80 with revisions as explained in the summary for that section.

The proposed rules amend §83.202, Technical Requirements--Curriculum Standards (on or after August 1, 2023). The proposed rules amend the section title to remove obsolete transition language and amend the section text to add clarifying language, provide consistent terminology, and remove unnecessary language and obsolete transition provisions.

#### FISCAL IMPACT ON STATE AND LOCAL GOVERNMENT

Tony Couvillon, Policy Research and Budget Analyst, has determined that for each year of the first five years the proposed rules are in effect, there are no estimated additional costs or reductions in costs to state or local government as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to the state as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, there is no estimated increase or loss in revenue to local governments as a result of enforcing or administering the proposed rules.

Mr. Couvillon has determined that for each year of the first five years the proposed rules are in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of local governments.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

Because Mr. Couvillon has determined that the proposed rules will not affect a local economy, the agency is not required to prepare a local employment impact statement under Texas Government Code §2001.022.

#### PUBLIC BENEFITS

Mr. Couvillon also has determined that for each year of the first five-year period the proposed rules are in effect, the public benefit will be clarification of definitions, regulated services, licensing provisions for establishments and schools, facility and signage requirements for schools, and curriculum requirements.

#### PROBABLE ECONOMIC COSTS TO PERSONS REQUIRED TO COMPLY WITH PROPOSAL

Mr. Couvillon has determined that for each year of the first five-year period the proposed rules are in effect, there could be additional costs to persons who are required to comply with the proposed rules. The proposed rules clarify that the practitioner license an individual must have held for at least 15 years to be

eligible for a reduction in required continuing education hours must be held in Texas, as opposed to a license from another state. Previously, anyone who held a practitioner license from any state for the required number of years was allowed to renew with the reduced number of continuing education hours. With the clarification, license holders who previously paid for and attended continuing education courses only for a reduced number of hours will now need to complete the full four continuing education hours, which could entail extra costs for courses attended. However, continuing education must only be completed every two years, and any increase in costs for additional courses attended is expected to be minimal.

#### FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed rules. Because the agency has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities, preparation of an Economic Impact Statement and a Regulatory Flexibility Analysis, as detailed under Texas Government Code §2006.002, is not required.

#### ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT

The proposed rules do not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government. Therefore, the agency is not required to take any further action under Texas Government Code §2001.0045.

#### GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the agency provides the following Government Growth Impact Statement for the proposed rules. For each year of the first five years the proposed rules will be in effect, the agency has determined the following:

1. The proposed rules do not create or eliminate a government program.
2. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions.
3. Implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency.
4. The proposed rules do not require an increase or decrease in fees paid to the agency.
5. The proposed rules create a new regulation. The proposed rules create a new regulation by prohibiting school instructors from teaching barbering or cosmetology services outside the scope of the instructor's practitioner license.
6. The proposed rules expand, limit, or repeal an existing regulation. The proposed rules expand and limit existing regulations by modifying the rule chapter definitions and through the clarification of regulated services. The proposed rules limit regulations by restricting the reduction of continuing education requirements to Texas practitioner license holders only, by authorizing the substitution of work experience for education hours only for applicants who performed the work outside of Texas, and by removing the requirement for walls separating a classroom from a

laboratory area to extend to the ceiling. The proposed rules repeal an existing regulation by removing transition and obsolete sections of the rule chapter.

7. The proposed rules do not increase or decrease the number of individuals subject to the rules' applicability.

8. The proposed rules do not positively or adversely affect this state's economy.

#### TAKINGS IMPACT ASSESSMENT

The Department has determined that no private real property interests are affected by the proposed rules and the proposed rules do not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. As a result, the proposed rules do not constitute a taking or require a takings impact assessment under Texas Government Code §2007.043.

#### PUBLIC COMMENTS

Comments on the proposed rules may be submitted electronically on the Department's website at ; by facsimile to (512) 475-3032; or by mail to Shamica Mason, Legal Assistant, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711. The deadline for comments is 30 days after publication in the *Texas Register*.

**16 TAC §§83.2, 83.20, 83.80, 83.120, 83.200, 83.201**

#### STATUTORY AUTHORITY

The proposed repeals are proposed under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt repeals as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The proposed repeals are also proposed under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the proposed repeals are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the proposed repeals.

The legislation that enacted the statutory authority under which the proposed repeals are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

§83.2. *Transition Provisions.*

§83.20. *License Requirements--Individuals (before September 1, 2023).*

§83.80. *Fees (before September 1, 2023).*

§83.120. *Technical Requirements--Curriculum Standards (before August 1, 2023).*

§83.200. *License Requirements--Individuals (on or after September 1, 2023).*

§83.201. *Fees (on or after September 1, 2023).*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 17, 2025.

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Doug Jennings

General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 463-7750



**16 TAC §§83.10, 83.15, 83.20, 83.22, 83.23, 83.25, 83.28, 83.31, 83.72, 83.80, 83.202**

#### STATUTORY AUTHORITY

The proposed rules are proposed under Texas Occupations Code, Chapters 51 and 1603, which authorize the Texas Commission of Licensing and Regulation, the Department's governing body, to adopt rules as necessary to implement these chapters and any other law establishing a program regulated by the Department.

The proposed rules are also proposed under Texas Government Code, Chapter 411, Subchapter F, and Texas Occupations Code, Chapters 51 and 53, which establish the Department's statutory authority to conduct criminal history background checks on an applicant for or a holder of a license, certificate, registration, title, or permit issued by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51 and 1603. No other statutes, articles, or codes are affected by the proposed rules.

The legislation that enacted the statutory authority under which the proposed rules are proposed to be adopted is House Bill 1560, 87th Legislature, Regular Session (2021).

§83.10. *Definitions.*

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

- (1) Act--Texas Occupations Code Chapter 1603.
- (2) Barbering--The services described by §1603.0011(a) and (b) of the Act.
- (3) Board--The Barbering and Cosmetology Advisory Board.
- (4) Class A Barber--A person who holds a class A barber license and who is authorized to perform any barbering service under Texas Occupations Code §1603.0011(a) and (b).
- (5) Commission--The Texas Commission of Licensing and Regulation.
- (6) Common Area--An area within an establishment or school which contains equipment and facilities available for use by all persons who practice barbering or cosmetology on the premises under a license or permit issued under this chapter or Texas Occupations Code, Chapter 1603.
- (7) Cosmetology--The services described by §1603.0011(a) and (c) of the Act.
- (8) Department--The Texas Department of Licensing and Regulation.
- (9) Digital Network--Any online-enabled application, Internet website, or system offered or used by a remote service business

that allows a client to arrange for a digitally prearranged remote service.

(10) Digitally Prearranged Remote Service--A barbering or cosmetology service performed for compensation by a person holding a license under this chapter that is:

- (A) prearranged through a digital network; and
- (B) performed at a location other than an establishment.

(11) Distance Education--A formal instructional process in which the student and teacher are separated by physical distance and a variety of communication technologies are used to deliver instruction in theory to the student. Courses taught by distance education do not satisfy the requirements of the practical portion of the course curriculum standards.

(12) Establishment--A place licensed under Subchapter E-2 of the Act where barbering or cosmetology is practiced. This term includes mini-establishments and mobile establishments, but does not include public or private schools.

(13) Esthetician--A person who holds an esthetician [a] specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(3)-(6), and (c). The term esthetician in this chapter includes the term facialist.

~~[(14) Esthetician/Manicurist--A person who holds a specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(3)-(8), and (c). An esthetician/manicurist may also be known as a "manicurist/esthetician."]~~

(14) ~~[(45)]~~ Executive Director--The executive director of the Texas Department of Licensing and Regulation.

(15) ~~[(46)]~~ Eyelash Extension Application--The process of applying or ~~[and]~~ removing a semi-permanent, thread-like, natural or synthetic single fiber to an eyelash, including cleansing of the eye area and lashes prior to applying and after removing extensions. The term does not include a temporary strip or cluster of eyelashes attached to the lash line with an adhesive.

(16) ~~[(47)]~~ Eyelash Extension Specialist--A person who holds an eyelash extension [a] specialty license and who is authorized to practice the service defined in Texas Occupations Code §1603.0011(c).

(17) ~~[(48)]~~ Full-service Establishment--An establishment authorized to perform all services defined as barbering or all services defined as cosmetology under the Act.

(18) ~~[(49)]~~ Guest Presenter--A person who possesses subject matter knowledge in specific curriculum topics and who has the teaching ability necessary to impart the information to [e]cosmetology] students. Instruction is limited to the presenter's area of expertise and an instructor must be present during the classroom session in order for students to earn hours.

(19) ~~[(20)]~~ Hair weaving specialist--A person who holds a hair weaving specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(9).

(20) ~~[(21)]~~ Hair weaving specialist/esthetician--A person who holds a hair weaving specialist/esthetician specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(3)-(6), (9), and (c). A hair weaving specialist/esthetician may also be known as an "esthetician/hair weaving specialist."

(21) ~~[(22)]~~ Instructor--An individual who holds a license issued by the department under Subchapter E-1 of the Act to perform

the acts of barbering or cosmetology for which the person will provide instruction at a school licensed under this chapter.

~~(22) [(23)]~~ Law and Rules Book--A publication prepared and issued in a format prescribed by the department containing Texas Occupations Code Chapter 1603, and 16 Texas Administrative Code Chapter 83.

(23) ~~[(24)]~~ License--A permit, certificate, approval, registration, or other similar permission issued by the department under Texas Occupations Code, Chapter ~~[4601, 4602, or]~~ 1603. The term does not include a student permit.

~~(24) [(25)]~~ License by substantial equivalence--A process that permits a barbering or cosmetology license holder from another jurisdiction or foreign country to obtain a Texas barbering or cosmetology license without repeating barbering or cosmetology education or examination license requirements.

(25) ~~[(26)]~~ Manicurist--A person who holds a manicurist specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(7)-(8).

~~(26) Manicurist/Esthetician--A person who holds a manicurist/esthetician specialty license and who is authorized to practice the services defined in Texas Occupations Code §1603.0011(a)(3)-(8), and (c). A manicurist/esthetician may also be known as an "esthetician/manicurist."~~

(27) Mini-Establishment--A barbering or cosmetology establishment in which a person practices barbering or cosmetology under a license issued under this chapter and which consists of a room or suite of rooms that is one of a number of connected establishments in a single premises that open onto a common hallway or common area.

(28) Mini-Establishment Licensee--A person or entity that holds a license for a mini-establishment. The mini-establishment licensee must be responsible for all requirements under the Act and this chapter for the mini-establishment.

(29) Mobile Establishment--An establishment or specialty establishment that is operated in a self-contained, self-supporting, enclosed mobile unit.

(30) Operator--A person who holds a cosmetology operator license and who is authorized to perform any cosmetology service under Texas Occupations Code §1603.0011(a) and (c).

(31) Practitioner--A person holding any individual practitioner license issued under Subchapter E-1 of the Act to perform barbering or cosmetology services.

(32) Preparation--A substance used to beautify a person's face, neck or arms or to temporarily remove superfluous hair from a person's body including but not limited to antiseptics, tonics, lotions, powders, oils, clays, creams, sugars, waxes and/or chemicals.

(33) Private School--A private postsecondary school licensed under Subchapter E-3 of the Act that offers instruction in any barbering or cosmetology service.

(34) Provisional license--A license that allows a person to practice barbering or cosmetology in Texas pending the department's approval or denial of that person's application for licensure by substantial equivalence.

(35) Public School--A public secondary or postsecondary school licensed under Subchapter E-3 of the Act that offers instruction in any barbering or cosmetology service.

(36) Remote Service Business--A corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a

client to schedule a digitally prearranged remote service with a person holding a license under Subchapter E-1 of the Act.

(37) Safety Razor--A razor that is fitted with a guard positioned between [elose to] the entire cutting edge of the razor and the skin in a manner that [is intended to prevent the razor from cutting too deeply and] reduces the risk [and incidence] of cutting the skin [accidental cuts].

(38) School--A public school or private school licensed under Subchapter E-3 of the Act that offers instruction in any barbering or cosmetology service.

(39) Self-Contained--Containing within itself all that is necessary to be able to operate without connecting to outside utilities such as water and electricity.

(40) Special Event--An event of cultural, social, or religious significance justifying off-site provision of barbering or cosmetology services, including weddings, quinceaneras, pageants, proms, debutante balls, birthday parties, religious and cultural ceremonies, and on-stage performances.

(41) Specialty Establishment--An establishment in which only services defined in Texas Occupations Code §1603.0011(a)(3)-(9) and (c) are performed. Specialty establishments may only perform the services for which the establishment is licensed.

(42) Specialty Instructor--An individual acting as an instructor who holds a practitioner license that is not class A barber or cosmetology operator.

(43) Student Permit--A permit issued by the department under this chapter to a student enrolled in a school which states the student's name and the name of the school.

(44) Tweezing Technique--Any type of temporary hair removal procedure involving the extraction of hair from the hair follicle by use of, but not limited to, an instrument, appliance or implement made of metal, plastic, or other material.

(45) Weaving--The process of attaching, by any method, commercial hair (hair pieces, hair extensions) to a client's hair and/or scalp. Weaving is also known as hair integration or hair intensification.

(46) Wet disinfectant soaking container--A container with a cover to prevent contamination of the disinfectant solution and of a sufficient size such that the objects to be disinfected may be completely immersed in the disinfectant solution.

#### §83.15. Application of Chapter.

(a) This section clarifies certain provisions of §1603.0013 of the Act.

(b) For purposes of §1603.0013(7), the term "natural hair braiding" includes:

(1) twisting, wrapping, or braiding hair by hand that results in tension on hair strands or roots;

(2) forming dreadlocks by hand; and

(3) shampooing, drying, or blow-drying a client's hair in preparation for natural hair braiding.

(c) For purposes of §1603.0013(7), the term "natural hair braiding" does not include:

(1) the application of dyes, reactive chemicals, or other preparations to alter the color or structure of the hair;

(2) the use of chemical hair joining agents or adhesives, such as synthetic tape, keratin bonds, glue, or fusion bonds; or

(3) the use of tools such as needles and thread to braid an individual's hair or to attach commercial hair.

(d) For purposes of §1603.0013(4), (5), and (6), the term "cosmetic service" includes any barbering or cosmetology service.

(e) For purposes of §1603.0013(4) and (5), the term "licensed nursing or convalescent custodial or personal care home" means the holder of a license issued under Texas Health and Safety Code, Chapter 242.

(f) For purposes of §1603.0013(5), the term "operator license" includes any practitioner license.

#### §83.20. License Requirements--Individuals.

(a) To be eligible for a practitioner license, an applicant must:

(1) submit a completed application in the manner prescribed by the department;

(2) pay the applicable fee required under §83.80;

(3) be at least 17 years of age;

(4) have completed the hours of instruction required under §83.202 at a licensed school;

(5) pass a written and practical examination required under §83.21;

(6) undergo and successfully pass a criminal history background check; and

(7) meet other applicable requirements of the Act and this chapter.

(b) A person who holds both an active esthetician license and an active manicurist license is eligible for a manicurist/esthetician specialty license by submitting a completed application in the manner prescribed by the department and paying the required fee under §83.80.

(c) A person who holds both an active hair weaving specialist license and an active esthetician license is eligible for a hair weaving specialist/esthetician license by submitting a completed application in the manner prescribed by the department and paying the required fee under §83.80.

(d) To be eligible for a student permit, an applicant must:

(1) submit a completed application in the manner prescribed by the department; and

(2) pay the fee required under §83.80.

#### §83.22. License Requirements--Establishments.

(a) To be eligible for an establishment license, an applicant must:

(1) obtain the current law and rules book;

(2) comply with the requirements of the Act and this chapter;

(3) submit a completed and verified application in the manner prescribed by the department;

(4) pay the fee required under §83.80;

(5) own or rent the establishment; and

(6) have not committed an act that constitutes a ground for denial of a license.

(b) In addition to the requirements of subsection (a), the establishment must:

(1) meet this chapter's minimum health and safety standards for an establishment; and

(2) comply with all requirements of this chapter.

(c) In addition to the requirements of subsection (a) and (b), a mobile establishment license applicant must:

(1) provide a permanent physical address from which the mobile establishment unit is dispatched and to which the mobile establishment unit is returned when not in use;

(2) provide a permanent mailing address where correspondence from the department may be received; and

(3) verify that the mobile establishment complies with the requirements of the Act and this chapter.

(d) A single establishment license may be issued for multiple units or suites operated as a single establishment within the same building or premises.

*§83.23. License Requirements--Schools.*

(a) To be eligible for a school license, an applicant must:

(1) obtain the current law and rules book;

(2) comply with the requirements of the Act and this chapter;

(3) submit a completed application in the manner prescribed by the department;

(4) pay any applicable fees required under §83.40 and §83.80;

(5) meet the health and safety standards of this chapter; and

(6) for a private school, provide a current financial statement prepared by a certified public accountant in the format prescribed by the department. If the financial statement is more than 180 days old, an applicant must also provide a supplemental financial statement within 180 days of the application. The applicant must demonstrate that it has the financial resources to ensure continuity of operation of the school, provide a quality educational program, and fulfill its obligations to students for at least 12 months, without relying on student tuition.

(b) A school must be inspected and approved by the department prior to the operation of the school.

(c) Private schools must have and maintain:

(1) a building of permanent construction that must include two separate areas, one area for instruction in theory and one area for clinic work, and that must also include access to permanent restrooms and adequate drinking water;

(2) adequate space, equipment, and instructional materials to provide quality classroom training to the number of students enrolled;

(3) proof of ownership of building or proof of a lease for the first 12 months of operation; and

(4) a copy of the certificate of approval for the curriculum standards approved by the department for each course offered.

(d) Public schools must have and maintain:

(1) adequate space to provide quality classroom training for the number of students enrolled including classroom and laboratory space;

(2) adequate equipment and instructional materials required by the department; and

(3) a copy of the certificate of approval for the curriculum standards approved by the department for each course offered.

(e) A school must comply with all health and safety standards established by this chapter.

(f) A single school license may be issued for multiple units or suites operated as a single school within the same building or premises.

*§83.25. License Requirements--Continuing Education.*

(a) Terms used in this section have the meanings assigned by Chapter 59 (relating to Continuing Education Requirements), unless the context indicates otherwise.

(b) To renew a practitioner license, a licensee must complete at least 4 hours of continuing education through department-approved courses. The continuing education hours must include the following:

(1) 1 hour in sanitation required under the Act and this chapter;

(2) for renewals on or after September 1, 2025, 1 hour on human trafficking prevention, which at a minimum must include information on:

(A) activities commonly associated with human trafficking;

(B) recognition of potential victims of human trafficking; and

(C) methods for assisting victims of human trafficking, including how to report human trafficking; and

(3) the remaining hours in any topics listed in subsection (h).

(c) Continuing education hours required under §83.25(b)(3) and taught before September 1, 2025, must include information on human trafficking prevention. At a minimum, these courses must include information on:

(1) activities commonly associated with human trafficking;

(2) recognition of potential victims of human trafficking; and

(3) methods for assisting victims of human trafficking, including how to report human trafficking.

(d) For a timely or a late renewal, a licensee must complete the required continuing education hours within the two-year period immediately preceding the renewal date.

(e) A licensee may not receive continuing education hours for attending the same course more than once.

(f) A licensee will receive continuing education hours for only those courses that are registered with the department, under Chapter 59 and procedures prescribed by the department.

(g) A licensee must retain a copy of the certificate of completion for a course for two years after the date of completion. In conducting any inspection or investigation of the licensee, the department may examine the licensee's records to determine compliance with this subsection.

(h) To be approved under Chapter 59, a provider's course must be dedicated to instruction in one or more of the following topics:

(1) sanitation required under the Act and this chapter;



(2) the Act and this chapter, addressing topics other than sanitation;

(3) the topics listed in the curriculum standards in [§83.120] §83.202;

(4) mental health awareness, which may include topics on mental health, mental illness, suicide prevention, and opportunities to provide clients referrals or other assistance;

(5) human trafficking prevention which at a minimum must include information on:

(A) activities commonly associated with human trafficking;

(B) recognition of potential victims of human trafficking; and

(C) methods for assisting victims of human trafficking, including how to report human trafficking.

(i) A registered course may be offered until the expiration of the course registration or until the provider ceases to hold an active provider registration, whichever occurs first.

(j) A provider must pay to the department a continuing education record fee of \$5 for each licensee who completes a course for continuing education credit. A provider's failure to pay the record fee for courses completed may result in disciplinary action against the provider, up to and including revocation of the provider's registration under Chapter 59.

(k) Notwithstanding subsection (b), a licensee who has held a practitioner license in Texas for at least 15 years may satisfy the continuing education requirement for renewal by completing department-approved courses as follows:

(1) for renewals before September 1, 2025, one hour of sanitation; or

(2) for renewals on or after September 1, 2025:

(A) one hour of sanitation; and

(B) one hour of human trafficking prevention.

(l) Barber licensees exempt from continuing education requirements until September 1, 2025. Beginning on September 1, 2025, the requirements of this section will apply to a licensee who, on August 31, 2023, held a license issued under Texas Occupations Code Chapter 1601 and Chapter 82, when that licensee files an application with the department to renew that license.

#### §83.28. *Substantial Equivalence and Provisional Licensure.*

(a) To be granted a license through substantial equivalence, an applicant must:

(1) submit a completed application in the manner prescribed by the department;

(2) furnish a certified transcript of hours from the state board, territory, or foreign country from which the applicant is applying;

(3) provide one of the following:

(A) if an applicant is from another state of the United States, provide documentation that licensure in another state was obtained by standards substantially equivalent to those of Texas; or

(B) if an applicant is from a territory or foreign country, provide documents verified by the department or a certified credential-

ing agency confirming that licensure in the territory or foreign country was obtained by standards substantially equivalent to those of Texas;

(4) furnish an active and valid license or certificate to indicate that the applicant is licensed in good standing in another jurisdiction or foreign country;

(5) pay the substantial equivalence fee and applicable license application fee required under §83.80; and

(6) [for applications on or after September 1, 2023,] be at least 17 years of age.

(b) A person who cannot provide documentation of standards equivalent to those in Texas must pass the applicable written and practical examination for the license.

(c) A person issued a license through substantial equivalence may perform those acts of barbering and cosmetology authorized by the license.

(d) The department may waive any license requirement for an applicant who holds a license from another state or country that has license requirements substantially equivalent to those of Texas.

(e) The department may issue a provisional license to applicants currently licensed in another jurisdiction who file an application for a Texas license by substantial equivalence.

(f) To be eligible for a provisional license, an applicant must:

(1) file a completed application, in the manner prescribed by the department, for a Texas barbering or cosmetology license by substantial equivalence;

(2) provide information sufficient for the department to verify the applicant's licensure in good standing for at least two years in the license type for which the person seeks the license; and

(3) have been licensed in a jurisdiction or foreign country in which the requirements for obtaining the same license are substantially equivalent to the requirements under the Act, including passage of a national examination or other examination recognized by the department relating to the practice of the profession.

(g) A person issued a provisional license may perform those acts of barbering or cosmetology authorized by the provisional license pending the department's approval or denial of an applicant's license by substantial equivalence.

(h) A provisional license is valid until the date the department approves or denies the application for licensure by substantial equivalence. The department must approve or deny a provisional license holder's application for a license by substantial equivalence not later than the 180th day after the date the provisional license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(i) The department will issue a license by substantial equivalence to the provisional license holder if the person is eligible to hold a license under the Act.

(j) An applicant for licensure by substantial equivalence is eligible for a provisional license only once. A person who is denied licensure by substantial equivalence and subsequently reapplies for licensure by substantial equivalence is not eligible to obtain additional provisional licenses to practice barbering or cosmetology in Texas.

(k) If an applicant for a class A barber or operator license has not completed the hours required under this chapter [or Chapter 82], documented work experience, performed in the jurisdiction outside of

Texas in which the person is licensed, may be substituted at the rate of 25 hours per month worked, up to a maximum of 300 hours, or the applicant must complete the balance of hours required in an approved Texas school.

§83.72. *Responsibilities of Schools.*

- (a) Each school must have the current law and rules book.
- (b) Each school is responsible for compliance with the health and safety standards of this chapter.
- (c) Each school must ensure that ~~[notify the department of]~~ any alterations to a school's floor plan are in compliance with the Act and this chapter.
- (d) The certificate of curriculum approval must be posted in a conspicuous place in the school. A current syllabus and lesson plan for each course must be maintained by the school and be available for inspection.
- (e) Schools must have at least one instructor on duty for each 25 students in attendance, including evening classes. An instructor must be physically present during all practical curriculum standard activities, and physically present or participating through distance education for theory curriculum standard activities. No credit for instructional hours can be granted to a student unless such hours are accrued under the supervision of an instructor.
- (f) Schools offering distance education must:
  - (1) obtain department approval before offering a course;
  - (2) provide students with the educational materials necessary to fulfill course requirements; and
  - (3) comply with the curriculum standards in ~~[[§83.120(e) and] §83.202(e)~~ by limiting distance education to instruction in theory.
- (g) Schools must maintain one album to display each student permit, including affixed picture, of each enrolled student. The permits must be displayed in alphabetical order by last name, then alphabetical order by first name, and, if more than one student has the same name, by student permit number.
- (h) Schools must either ~~[may]~~ use a time clock or credit hours to track student hours and maintain a daily record of attendance ~~[or schools may use credit hours].~~
- (i) Schools using time clocks must ensure compliance with the following requirements and post a sign at the time clock that states the following department requirements:
  - (1) Each student must personally clock in/out.
  - (2) No credit may be given for any times written in, except in a documented case of time clock failure or other situations approved by the department.
  - (3) If a student is in or out of the facility for lunch, the student must clock out.
  - (4) Students leaving the facility for any reason, including smoking breaks, must clock out, except when an instructional area on a campus is located outside the approved facility, that area is approved by the department and students are under the supervision of an instructor.
- (j) Students are prohibited from preparing hour reports or supporting documents. Only school owners and school designees, including instructors, may electronically submit information to the department in accordance with this chapter. No student permit holder may electronically submit information to the department under this chapter.

(k) A school must properly account for the hours granted to each student. A school may not engage in any act directly or indirectly that grants or approves student credit that is not accrued in accordance with this chapter. A school must maintain and have available for a department and/or student inspection the following documents for a period of the student's enrollment through 48 months after the student completes the curriculum standards, withdraws, or is terminated:

- (1) daily record of attendance;
- (2) the following documents if a time clock is used:
  - (A) time clock record(s);
  - (B) time clock failure and repair record(s); and
  - (C) field trip records in accordance with ~~§83.202(f)(4) [§83.120(e)(5)]~~; and
- (3) all other relevant documents that account for a student's credit under this chapter.

(l) Schools using time clocks must, at least one time per month submit to the department an electronic record of each student's accrued clock hours in a manner and format prescribed by the department. A school's initial submission of clock hours must include all hours accrued at the school. Delayed data submission(s) are permitted only upon department approval, and the department will prescribe the period of time for which a school may delay the electronic submission of data, to be determined on a case-by-case basis. Upon department approval, a school may submit data required under this subsection in an alternate manner and format as determined by the department, if the school demonstrates that the requirements of this subsection would cause a substantial hardship to the school.

(m) Schools using credit hours must, at the end of the course or module or if the student drops or withdraws, submit to the department an electronic record of each student's accrued credit hours in a manner and format prescribed by the department.

(n) Schools changing from clock hours to credit hours or from credit hours to clock hours must apply with the department for approval, on a department approved form, prior to making any changes.

(o) Successful completion of 1 credit hour is equal to 37.5 clock hours. This equivalency will be used for conversion between clock hours to credit hours or credit hours to clock hours and the department must periodically assess this equivalency conversion to ensure it is an acceptable industry standard.

(p) Except for a documented leave of absence, schools must electronically submit a student's withdrawal or termination to the department within 10 calendar days after the withdrawal or termination. Except for a documented leave of absence, a school must terminate a student who does not attend class for 30 consecutive days.

(q) All areas of a school or campus are acceptable as instructional areas for a public school, provided that the instructor is teaching barbering or cosmetology curricula required under ~~§83.202 [§83.120]~~.

(r) A private school or public post-secondary school may provide barbering and cosmetology instruction to public high school students by contracting with the school district and complying with Texas Education Agency law and rules. A public high school student receiving instruction under such contract is considered to be a public high school student enrolled in a public school barbering and cosmetology program for purposes of the Act and department rules.

(s) Schools may establish school rules of operation and conduct, including rules relating to absences and clothing, that do not conflict with this chapter.

(t) Schools must ensure that guest presenters possess the necessary knowledge and teaching ability to present a curriculum standard topic and that an instructor is present during the guest presenter's classroom teaching.

(u) Schools must have a classroom separated from the laboratory area [by walls extending to the ceiling] and equipped with the following equipment:

(1) if using a time clock to track student hours, one day/date formatted computer time clock;

(2) desks and chairs or table space for each student in attendance;

(3) multi-media equipment;

(4) a sink with hot and cold running water and secure space for storage and dispensing of supplies and equipment;

(5) a suitable receptacle for used towels/linens;

(6) covered trash cans in lab area;

(7) wet disinfectant soaking container, large enough to fully immerse tools and implements;

(8) for each student, equipment that is:

(A) sufficient to enable the student to perform the services associated with the curriculum standards for which the student is enrolled;

(B) in good working condition; and

(C) of adequate design to permit effective instruction;

(9) if offering the class A barber or operator curriculum standards, the following equipment available in adequate number for student use:

(A) shampoo bowl and shampoo chair;

(B) hair drying equipment or professional hand-held hair dryers;

(C) cold wave rods;

(D) thermal iron (electric or non-electric);

(E) styling station covered with a non-porous material that can be cleaned and disinfected, with mirror and styling or barber chair (swivel or hydraulic);

(F) mannequin with sufficient hair;

(G) professional hand clippers;

(H) manicure station and stool;

(I) facial bed or a chair that reclines;

(J) dry sanitizer; and

(K) wet disinfectant soaking containers, large enough to fully immerse tools and implements;

(10) if offering the esthetician curriculum standards, the following equipment available in adequate number for student use:

(A) facial bed or a chair that reclines;

(B) lighted magnifying glass;

(C) woods lamp;

(D) dry sanitizer;

(E) steamer machine;

(F) brush machine for cleaning;

(G) vacuum machine;

(H) high frequency machine for disinfection, product penetration, stimulation;

(I) galvanic machine for eliminating encrustations, product penetration;

(J) mannequin head; and

(K) wet disinfectant soaking containers, large enough to fully immerse tools and implements.

(11) if offering the manicure curriculum standards, the following equipment available in adequate number for student use:

(A) an autoclave, dry-heat sterilizer or ultra-violet sanitizer;

(B) manicure station with sufficient lighting;

(C) client chair;

(D) student stool or chair;

(E) whirlpool foot spa or foot basin;

(F) electric nail file;

(G) UV light curing system;

(H) paraffin bath and paraffin wax; and

(I) wet disinfectant soaking containers;

(12) if offering the esthetician/manicure curriculum standards, the equipment required for the esthetician curriculum standards as listed in paragraph (10); and the equipment required for the manicure curriculum standards as listed in paragraph (11); in adequate number for student use; and

(13) if offering the eyelash extension curriculum standards, the following equipment available in adequate number for student use:

(A) facial bed, facial chair, or massage table, all of which must allow the consumer to lie completely flat;

(B) stool or chair;

(C) lamp;

(D) mannequin head;

(E) wet disinfectant soaking containers; and

(F) dry sanitizer.

(v) Schools must display in the school, in a conspicuous place clearly visible to the public:

(1) a copy of the school's most recent inspection report issued by the department or a notice that a copy of the school's most recent inspection report issued by the department is available upon request;

(2) a sign, acceptable to the department, regarding human trafficking information as required by Texas Occupations Code §1603.356 and this chapter; and

(3) a sign that reads "SCHOOL--STUDENT PRACTITIONERS" in at least 10-inch block letters, or the sign provided by the department, visible from the outside of each client entrance to the licensed school.

(w) A school may not award credit or provide instruction for, and a student may not earn, more than 184 hours or equivalent credit hours per calendar month.

(x) Each school must display a copy of §§83.100-83.115. A school may meet this requirement by placing the law and rules book so that it is accessible to all students and all staff who work in the school.

(y) A school must not allow an instructor to teach barbering or cosmetology services outside the scope of the instructor's practitioner license.

§83.80. Fees.

(a) Application fees.

(1) Class A Barber License or Operator License--\$50

(2) Specialty Practitioner License (Esthetician, Manicurist, Manicurist/Esthetician, Eyelash Extension, Hair Weaving, or Hair Weaving/Esthetician)--\$50

(3) Full-Service Establishment License--\$78

(4) Specialty Establishment License (Esthetician, Manicurist, Manicurist/Esthetician, Eyelash Extension, or Hair Weaving)--\$78

(5) Mini-Establishment License--\$70

(6) Mobile Establishment License--\$78

(7) School License--\$380

(8) Student Permit--\$25

(b) Renewal fees.

(1) Class A Barber License or Operator License--\$50

(2) Specialty Practitioner License (Esthetician, Manicurist, Manicurist/Esthetician, Eyelash Extension, Hair Weaving, or Hair Weaving/Esthetician)--\$50

(3) Full-Service Establishment License--\$78

(4) Specialty Establishment License (Esthetician, Manicurist, Manicurist/Esthetician, Eyelash Extension, or Hair Weaving)--\$78

(5) Mini-Establishment License--\$70

(6) Mobile Establishment License--\$78

(7) School License--\$280

(c) Substantial Equivalence Fee--\$50

(d) Inactive License Status.

(1) Renewal of license on inactive status--renewal fees as stated in subsection (b).

(2) Change from inactive status to active status--\$25

(e) Revised or Duplicate License--\$25

(f) Law and Rules Book (additional copy)--\$14

(g) School (public and private) Inspection Fees--\$200

(h) Verification of license to other states--\$15

(i) Student transcript fee--\$5

(j) Late renewals fees for licenses under this chapter are provided under §60.83 (relating to Late Renewal Fees).

(k) All fees are nonrefundable, except as otherwise provided by law or commission rule.

(l) Law and rule book fee is included in the application and renewal fees for student, individual, school, and establishment licenses and permits.

§83.202. Technical Requirements--Curriculum Standards [from or after August 1, 2023].

(a) The cosmetology operator and class A barber curricula consist of 1,000 clock hours or equivalent credit hours, as follows:

(1) Core hours. Theory and related practice: anatomy and physiology; diseases and disorders of the skin, scalp, hair and nails; chemistry (haircoloring, chemical waving, and relaxing); bacteriology, sterilization and sanitation, health, safety, first aid, laws and rules; tools and equipment; hair care and related theory; business skills and establishment management; skin care and related theory; hair removal; nail care and related theory; electricity; haircutting; hairstyling; hair and scalp treatments, scalp massage; hairweaving, extensions; chemical textures and applications; face and neck massage and treatments; facial hair removal; manicuring; waxing and removing body hair; customer service and professional ethics; makeup; pedicuring; artificial nails. 700 hours.

(2) The standards for the cosmetology operator curriculum must include Specialty Practice and related theory: eyelash semi-permanent extensions; advanced hair care and advanced chemical services; and related practices, including sanitation, health, and safety. 300 hours.

(3) The standards for the class A barber curriculum must include Specialty Practice and related theory: shaving with any razor type and razor techniques; mustache and beard care; advanced hair care and men's haircutting; and related practices, including sanitation, health, and safety. 300 hours.

(4) A school may enroll a student simultaneously in both the cosmetology operator course and the class A barber course if the student seeks to obtain both license types. The student must complete all the requirements under subsections (a)(1) through (a)(3) to obtain both license types.

(b) A person holding the class A barber license who seeks to also obtain the cosmetology operator license must complete the requirements described under subsection (a)(2).

(c) A person holding the cosmetology operator license who seeks to also obtain the class A barber license must complete the requirements described under subsection (a)(3).

(d) Specialist Curricula.

(1) The esthetician curriculum consists of 750 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: anatomy and physiology; skin diseases and disorders; skin analysis; machines and related equipment; basic facials; chemistry; care of client; superfluous hair removal and related theory; laws [sanitation law] and rules; business management; facial treatments, cleansing, masking, and therapy; [chemistry machines and related equipment;] superfluous hair removal; sanitation, first aid, health and safety; makeup. 450 hours.

(B) Specialty Practice and related theory: advanced facial treatments and superfluous hair removal using devices or preparations; makeup; semi-permanent eyelash extension applications; and related practices. 300 hours.

(2) The manicurist curriculum consists of 600 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: anatomy and physiology; nail structure and growth; equipment and implements; bacte-

riology, sanitation, health, and safety; hazardous chemicals and ventilation; basic manicures and pedicures; business management; laws and rules; nail and skin diseases and disorders; artificial nails; product chemistry; repair work, massage, buffing and application of polish and artificial nails; cosmetic fingernails, extensions, sculptured nails, tips, wraps, fiberglass/gels and odorless products; basic manicuring and pedicuring; nail art; electric filing. 300 hours.

(B) Specialty Practice and related theory: professional practices; advanced manicuring and pedicuring; advanced techniques, preparations and applications. 300 hours.

(3) The manicurist/esthetician curriculum consists of 800 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: anatomy and physiology; machines and related equipment; chemistry; care of client; basic facials; superfluous hair removal and related theory; nail structure and growth; equipment and implements; hazardous chemicals and ventilation; basic manicures and pedicures; business management; bacteriology, sanitation, health, and safety; laws and rules. 200 hours.

(B) Specialty Manicure Practice and related theory: repair work, massage, buffing and application of polish and artificial nails; cosmetic fingernails, extensions, sculptured nails, tips, wraps, fiberglass/gels and odorless products; professional practices, techniques and preparations; sanitation, first aid, health and safety. 300 hours.

(C) Specialty Esthetician Practice and related theory: facial treatments, cleansing, masking, and therapy; [~~chemistry machines and related equipment;~~] superfluous hair removal; devices or preparations; makeup; semi-permanent eyelash extension applications; sanitation, first aid, health and safety. 300 hours.

(4) The eyelash extension specialist curriculum consists of 320 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: eye shapes and eyelash growth; supplies and related equipment; contagious diseases and adverse reactions; sanitation, first aid, health and safety; client protection; business management, laws and rules. 80 hours.

(B) Specialty Practice and related theory: Semi-permanent eyelash extension isolation, separation and application. 240 hours.

(5) The hair weaving specialist curriculum consists of 300 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: basic hair weaving; anatomy and physiology; scalp and skin conditions, lesions and diseases; structure and composition; sterilization methods; chemistry and client protection; sanitation, health and safety; business management, laws and rules. 75 hours.

(B) Specialty Practice and related theory: hair weaving, repair, weft removal, sizing and finishing; procedures and hair weaving/braiding skills; compounds, mixtures and cosmetic applications; equipment, supplies and preparations. 225 hours.

(6) The hair weaving specialist/esthetician curriculum consists of 800 clock hours or equivalent credit hours, as follows:

(A) Theory and related practice: anatomy and physiology; scalp and skin conditions, lesions and diseases; structure and composition; basic hair weaving; sterilization methods; chemistry and client protection; basic facials; machines and related equipment; chemistry; care of client; superfluous hair removal and related theory; laws and rules; sanitation, health, and safety. 200 hours.

(B) Specialty Hair Weaving Practice and related theory: hair weaving, repair, weft removal, sizing and finishing; procedures and hair weaving/braiding skills; compounds, mixtures and cosmetic applications; equipment, supplies and preparations; sanitation, health, and safety. 260 hours.

(C) Specialty Esthetician Practice and related theory: facial treatments, cleansing, masking, and therapy; chemistry machines and related equipment; superfluous hair removal; devices or preparations; makeup; semi-permanent eyelash extension applications; sanitation, first aid, health and safety. 340 hours.

(e) Distance Education.

(1) Schools offering distance education may not designate more than 50% of the total hours in each course as theory hours delivered via distance education.

(2) A student may obtain the following distance education hours:

(A) a maximum of 500 hours out of the 1,000 hour cosmetology operator course;

(B) a maximum of 500 hours out of the 1,000 hour class A barber course;

(C) a maximum of 150 hours out of the 300 hour class A barber to cosmetology operator course;

(D) a maximum of 150 hours out of the 300 hour cosmetology operator to class A barber course;

(E) maximum of 300 hours out of the 600 hour manicurist course;

(F) a maximum of 375 hours out of the 750 hour esthetician course;

(G) a maximum of 400 hours out of the 800 hour manicurist/esthetician [~~esthetician/manicurist~~] course;

(H) a maximum of 160 hours out of the 320 hour eyelash extension specialist course;

(I) a maximum of 150 hours out of the 300 hour hair weaving specialist course; and

(J) a maximum of 400 hours out of the 800 hour hair weaving specialist/esthetician course.

(f) Field Trips.

(1) Barbering and cosmetology related field trips are permitted under the following conditions for students enrolled in the following courses. The guidelines under this subsection must be strictly followed.

(2) A student may obtain the following field trip hours:

(A) a maximum of 100 hours out of the 1,000 hour cosmetology operator course;

(B) a maximum of 100 hours out of the 1,000 hour class A barber course;

(C) a maximum of 60 hours for the manicurist course;

(D) a maximum of 75 hours for the esthetician course;

(E) a maximum of 80 hours for the manicurist/esthetician [~~esthetician/manicurist~~] course;

(F) a maximum of 32 hours for the eyelash extension specialist course;

(G) a maximum of 30 hours for the hair weaving specialist course; and

(H) a maximum of 70 hours for the hair weaving specialist/esthetician course.

(3) Students must be under the supervision of an instructor from the school where the student is enrolled at all times during the field trip. The instructor-student ratio required in a school is required on a field trip.

(4) Complete documentation is required, including student names, instructor names, activity, location, date, and duration of the activity.

(5) No hours are allowed for travel.

(6) Prior department approval is not required.

(g) The department may allow students previously enrolled in a 1,200-hour manicurist/esthetician program to transfer completed hours to an 800-hour manicurist/esthetician program if the hours meet the required technical standards. Upon request of a student, a school must apply completed hours toward a department-approved 800-hour manicurist/esthetician program if the school has such a program, or allow the student to transfer to another school.

~~[(h) This section provides the curriculum standards that are effective on or after August 1, 2023. Until that date, §§83.120 and §82.120 provide the required curriculum standards.]~~

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 17, 2025.

TRD-202500944

Doug Jennings  
General Counsel

Texas Department of Licensing and Regulation

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 463-7750



## TITLE 22. EXAMINING BOARDS

### PART 5. STATE BOARD OF DENTAL EXAMINERS

#### CHAPTER 104. CONTINUING EDUCATION

##### 22 TAC §104.2

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §104.2, concerning continuing education providers. The Board conducted a review of the continuing education providers in accordance with this rule, and voted to review the provider Dental Risk Solutions, LLC. The Board sent a notice to the mailing address of record for Dental Risk Solutions, LLC, informing it that the Board will consider whether to remove or reclassify it as a provider during its next scheduled meetings on February 20-21, 2025. The notice was returned to the Board as "Unable to Forward." The Board voted to remove Dental Risk Solutions, LLC as a continuing education provider at the February 2025 meeting.

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 proposed 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 the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect the state's economy.

COST TO REGULATED PERSONS: This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

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](mailto: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 statutes are affected by this proposed rule.

§104.2. *Providers.*

(a) - (d) (No change.)

(e) Continuing Education courses endorsed by the following providers will meet the criteria for acceptable continuing education hours if such hours are certified by the following providers:

(1) American Dental Association--Continuing Education Recognition Program (CERP);

(2) American Dental Association, its component, and its constituent organizations;

- (3) Academy of General Dentistry and its constituents and approved sponsors;
- (4) Dental/dental hygiene schools and programs accredited by the Commission on Dental Accreditation of the American Dental Association;
- (5) American Dental Association approved specialty organizations;
- (6) American Dental Hygienists' Association, its component, and its constituent organizations;
- (7) American Medical Association approved specialty organizations;
- (8) American Medical Association approved hospital courses;
- (9) National Dental Association, its constituent, and its component societies;
- (10) National Dental Hygienists' Association, its constituent, and its component societies;
- (11) Medical schools and programs accredited by the Standards of the Medical Specialties, the American Medical Association, the Advisory Board for Osteopathic Specialists and Boards of Certification, or the American Osteopathic Association;
- (12) The Commission on Dental Competency Assessments-The Western Regional Examining Board-The Council of Interstate Testing Agencies (CDCA-WREB-CITA), States Resources for Testing and Assessments (SRTA), and Central Regional Dental Testing Services Inc. (CRDTS);
- (13) American Academy of Dental Hygiene;
- (14) American Dental Education Association;
- (15) American Heart Association;
- (16) Texas Dental Hygiene Educators' Association;
- (17) Dental Laboratory Association of Texas;
- (18) Dental Assisting National Board;
- (19) American Dental Assistants Association and its constituent organizations;
- (20) The Compliance Division, LLC;
- (21) Dental Compliance Specialists, LLC; and
- (22) Other entities approved by the Board as shown in the attached graphic for this section.

Figure: 22 TAC §104.2(e)(22)

Figure: 22 TAC §104.2(e)(22)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 14, 2025.

TRD-202500938

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: April 27, 2025

For further information, please call: (737) 363-2333



## CHAPTER 107. DENTAL BOARD

### PROCEDURES

#### SUBCHAPTER E. DATA REPORTING

##### 22 TAC §107.400

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §107.400, concerning collection and reporting of enforcement and licensing data. The proposed amendment requires a yearly report to the Board instead of a quarterly report because a yearly report will provide a better snapshot of the data. The proposed amendment updates the rule to reflect that the Board no longer issues administrative citations, but rather administrative penalties. The proposed amendment also corrects a punctuation error.

**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](mailto: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 statutes are affected by this proposed rule.

§107.400. *Collection and Reporting of Enforcement and Licensing Data.*

(a) All information related to an investigation is confidential, except that the agency shall provide information on a yearly [quarterly] basis to the Board and the Anesthesia Committee of the Board, and to legislative offices upon request. This information shall consist of de-identified, case specific data reflecting information about jurisdictional, filed complaints involving sedation/anesthesia that were resolved during the reporting period, including, at a minimum, the following data points:

(1) Source of initial complaint -- public, other agency, self-report of death, self-report of hospitalization, or initiated by the Board.

(2) Information about licensee:

(A) Whether respondent is Medicaid provider;

(B) Respondent's highest sedation/anesthesia permit level;

(C) Whether respondent holds portability privileges; and

(D) Respondent's self-reported practice area.

(3) Information about patient:

(A) Patient ASA, as identified in respondent's dental records and/or determined by Dental Review Panel;

(B) Patient age -- 13 and under, between 13 and 18, between 19 and 75, and over 75;

(C) Location of the treatment investigated by the agency -- dental office, hospital, ASC, office of other practitioner;

(D) Level of sedation/anesthesia administered -- Local, Nitrous, I, II, III, IV (determined by Dental Review Panel);

(E) Sedation/anesthesia administrator -- respondent, other dentist, MD, CRNA (determined by Dental Review Panel); and

(F) Whether treatment investigated by the agency was paid by Medicaid.

(4) Information about investigation:

(A) Allegation categories identified in preliminary investigation;

(B) Disposition of official investigation -- Dismissed by Enforcement, Dismissed by Legal -- No Violation, Dismissed by Board Vote, Closed by Administrative Penalty [Citation]/Remedial Plan/Disciplinary Action; and

(C) If disposition is public action (Administrative Penalty [Citation], Remedial Plan, or Disciplinary Action), the violations identified in the public action resolving the official investigation.

(b) In addition, the agency shall publish on its website aggregate data related to the preceding fiscal year for each type of license it issues. This aggregate data shall include, at a minimum, the following data points related to the preceding fiscal year:

(1) Number of licensees at the end of the fiscal year;

(2) Average number of days to issue a license;

(3) Total number of complaints against licensees received by the agency;

(4) Total number of jurisdictional complaints against licensees filed by the agency;

(5) The resolution of all cases resolved in the fiscal year:

(A) Nonjurisdictional;

(B) Jurisdictional, Not Filed;

(C) Dismissed by Agency;

(D) Dismissed by Board Vote;

(E) Closed by Administrative Penalty [Citation];

(F) Closed by Remedial Plan;

(G) Warning;

(H) Reprimand;

(I) Probation;

(J) Suspension; and

(K) Revocation.

(6) For all jurisdictional, filed complaints resolved in the fiscal year, the allegation category of the complaints, as defined in §107.104;

(7) Number of cases that at the end of the fiscal year, have been filed with the agency for longer than one year;

(8) Average administrative penalty [~~assessed through administrative citations~~] issued in the fiscal year;

(9) Average administrative fine assessed through disciplinary actions taken in the fiscal year;

(10) Number of cases heard at Informal Settlement Conferences in the fiscal year;

(11) Number of cases resolved following Informal Settlement Conference, without referral to SOAH, in the fiscal year;

(12) Number of cases referred to SOAH in the fiscal year;

(13) Number of cases referred to SOAH and resolved following mediation, in the fiscal year;

(14) Number of cases returned to the Board for disposition on a default basis following referral to SOAH;

(15) Number of cases returned to the Board for consideration of a Proposal for Decision following a contested case hearing at SOAH;

(16) Number of cases resolved in the fiscal year that were appealed to District Court;

(17) Average number of days to investigate a complaint from complaint received to investigation completed, for all complaints received; and

(18) Average number of days to resolve a complaint from complaint received to final order issued, for all complaints received.

(c) In addition, the agency shall publish on its website aggregate data related to the preceding fiscal year that addresses adverse outcomes and complaints involving anesthesia. This aggregate data shall include, at a minimum, the following data points related to the preceding fiscal year:

(1) Number of jurisdictional, filed complaints involving mortality and morbidity. Morbidity is defined as life-threatening complications following a dental procedure or treatment;

(2) Total number of jurisdictional complaints against dentists related to the standard of care in anesthesia, by level of sedation/anesthesia permit held by the dentist, that were filed by the Board in the preceding fiscal year; and



(3) For all anesthesia-related jurisdictional, filed complaints identified in (2) above, the level of sedation/anesthesia permit held by the dentist, the anesthesia-related complication identified in the Board's investigation (if any), and the resolution of each complaint:

- (A) Nonjurisdictional;
- (B) Jurisdictional, Not Filed;
- (C) Dismissed by Agency;
- (D) Dismissed by Board Vote;
- (E) Closed by Administrative Penalty [Citation];
- (F) Closed by Remedial Plan;
- (G) Warning;
- (H) Reprimand;
- (I) Probation;
- (J) Suspension; or
- (K) Revocation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 14, 2025.

TRD-202500939

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: April 27, 2025

For further information, please call: (737) 363-2333



## CHAPTER 108. PROFESSIONAL CONDUCT

### SUBCHAPTER A. PROFESSIONAL RESPONSIBILITY

#### 22 TAC §108.8

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §108.8, concerning the records of a dentist. The proposed amendment removes the language that the use of radiographs should be in accordance with ADA guidelines, and instead requires dentists to use radiographs in accordance with the minimum standard of care.

**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 proposed 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 the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect the state's economy.

**COST TO REGULATED PERSONS:** This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

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](mailto: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 statutes are affected by this proposed rule.

#### §108.8. *Records of the Dentist.*

(a) The term dental records includes, but is not limited to: identification of the practitioner providing treatment; medical and dental history; limited physical examination; oral pathology examination; radiographs; dental and periodontal charting; diagnoses made; treatment plans; informed consent statements or confirmations; study models, casts, molds, and impressions, if applicable; cephalometric diagrams; narcotic drugs, dangerous drugs, controlled substances dispensed, administered or prescribed; anesthesia records; pathology and medical laboratory reports; progress and completion notes; materials used; dental laboratory prescriptions; billing and payment records; appointment records; consultations and recommended referrals; and post treatment recommendations.

(b) A Texas dental licensee practicing dentistry in Texas shall make, maintain, and keep adequate dental records for and upon each dental patient for reference, identification, and protection of the patient and the dentist. Records shall be kept for a period of not less than five years from the last date of treatment by the dentist. If a patient was younger than 18 years of age when last treated by the dentist, the records shall be maintained by the dentist until the patient reaches age 21 or for five years from the date of last treatment, whichever is longer. Dentists shall retain records for a longer period of time when mandated by other federal or state statute or regulation. Records must include documentation of the following:

- (1) Patients name;
- (2) Date of visit;

(3) Reason for visit;

(4) Vital signs, including, but not limited to, blood pressure and heart rate when applicable in accordance with §108.7 of this title (relating to Minimum Standard of Care, General); and

(5) If not recorded, an explanation why vital signs were not obtained.

(c) Further, records must include documentation of the following when services are rendered:

(1) Written review of medical history and limited physical evaluation;

(2) Findings and charting of clinical and radiographic oral examination:

(A) Documentation of radiographs taken and findings deduced from them, including radiograph films or digital reproductions.

(B) Use of radiographs must [; at a ~~minimum~~, ~~should~~] be in accordance with the minimum standard of care [ADA guidelines].

(C) Documentation of the findings of a tactile and visual examination of the soft and hard tissues of the oral cavity;

(3) Diagnosis(es);

(4) Treatment plan, recommendation, and options;

(5) Treatment provided;

(6) Medication and dosages given to patient;

(7) Complications;

(8) Written informed consent that meets the provisions of §108.7(7) of this title;

(9) The dispensing, administering, or prescribing of all medications to or for a dental patient shall be made a part of such patient's dental record. The entry in the patient's dental record shall be in addition to any record keeping requirements of the DPS or DEA prescription programs;

(10) All records pertaining to Controlled Substances and Dangerous Drugs shall be maintained in accordance with the Texas Controlled Substances Act;

(11) Confirmable identification of provider dentist, and confirmable identification of person making record entries if different from provider dentist;

(12) When any of the items in paragraphs (1) - (11) of this subsection are not indicated, the record must include an explanation why the item is not recorded.

(d) Dental records are the sole property of the dentist who performs the dental service. However, ownership of original dental records may be transferred as provided in this section. Copies of dental records shall be made available to a dental patient in accordance with this section.

(e) A dentist who leaves a location or practice, whether by retirement, sale, transfer, termination of employment or otherwise, shall maintain all dental records belonging to him or her, make a written transfer of records to the succeeding dentist, or make a written agreement for the maintenance of records.

(1) A dentist who continues to maintain the dental records belonging to him or her shall maintain the dental records in accordance with the laws of the State of Texas and this chapter.

(2) A dentist who enters into a written transfer of records agreement shall notify the State Board of Dental Examiners in writing within fifteen (15) days of a records transfer agreement. The notification shall include, at a minimum, the full names of the dentists involved in the agreement, include the locations involved in the agreement, and specifically identify what records are involved in the agreement. The agreement shall transfer ownership of the records. A transfer of records agreement may be made by agreement at any time in an employment or other working relationship between a dentist and another entity. Such transfer of records may apply to all or any part of the dental records generated in the course of the relationship, including future dental records. A dentist who assumes ownership of the records pursuant to this paragraph shall maintain the records in a manner consistent with this section and is responsible for complying with subsections (f) and (g) of this section.

(3) A dentist who enters into a records maintenance agreement shall notify the State Board of Dental Examiners within fifteen (15) days of such event. The notification shall include the full names of the dentists involved in the agreement, the locations involved in the agreement, and shall identify what records are involved in the agreement. A maintenance agreement shall not transfer ownership of the dental records, but shall require that the dental records be maintained in accordance with the laws of the State of Texas and the Rules of the State Board of Dental Examiners. The agreement shall require that the dentist(s) performing the dental service(s) recorded in the records have access to and control of the records for purposes of copying and recording. The dentist transferring the records in a records maintenance agreement shall maintain a copy of the records involved in the records maintenance agreement. Such an agreement may be made by written agreement by the parties at any time in an employment or other working relationship between a dentist and another entity. A records maintenance agreement may apply to all or any part of the dental records generated in the course of the relationship, including future dental records.

(f) Dental records shall be made available for inspection and reproduction on demand by the officers, agents, or employees of the State Board of Dental Examiners. The patient's privilege against disclosure does not apply to the Board in a disciplinary investigation or proceeding under the Dental Practice Act. Copies of dental records submitted to the Board on demand of the officers, agents, or employees of the Board shall be legible and all copies of dental x-rays shall be of diagnostic quality. Non-diagnostic quality copies of dental x-rays and illegible copies of patient records submitted to the Board shall not fulfill the requirements of this section.

(g) A dentist shall furnish copies of dental records to a patient who requests his or her dental records. At the patient's option, the copies may be submitted to the patient directly or to another Texas dental licensee who will provide treatment to the patient. Requested copies, including radiographs, shall be furnished within 30 days of the date of the request. The copies may be withheld until copying costs have been paid. Records shall not be withheld based on a past due account for dental care or treatment previously rendered to the patient. Copies of dental records submitted in accordance with a request under this section shall be legible and all copies of dental x-rays shall be of diagnostic quality. Non-diagnostic quality copies of dental x-rays shall not fulfill the requirements of this section.

(1) A dentist providing copies of patient dental records is entitled to a reasonable fee for copying which shall be no more than \$25 for the first 20 pages and \$0.15 per page for every copy thereafter.

(2) Fees for radiographs, which if copied by an radiograph duplicating service, may be equal to actual cost verified by invoice.

(3) Reasonable costs for radiographs duplicated by means other than by a radiograph duplicating service shall not exceed the following charges:

- (A) a full mouth radiograph series: \$15.00;
- (B) a panoramic radiograph: \$15.00;
- (C) a lateral cephalometric radiograph: \$15.00;
- (D) a single extra-oral radiograph: \$5.00;
- (E) a single intra-oral radiograph: \$5.00; and
- (F) a CBCT scan: \$30.00.

(4) State agencies and institutions will provide copies of dental health records to patients who request them following applicable agency rules and directives.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 14, 2025.

TRD-202500940

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: April 27, 2025

For further information, please call: (737) 363-2333



## SUBCHAPTER E. BUSINESS PROMOTION

### 22 TAC §108.52

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §108.52, concerning names and responsibilities. The proposed amendment specifies that dental specialties are approved by the National Commission on Recognition of Dental Specialties and Certifying Boards. The proposed amendment also includes grammar 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 proposed 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 the number of individuals subject to the rule's applicability; and (8) the proposed rule does not positively or adversely affect the state's economy.

**COST TO REGULATED PERSONS:** This proposed rule does not impose a cost on a regulated person and, therefore, is not subject to Tex. Gov't. Code §2001.0045.

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](mailto: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 statutes are affected by this proposed rule.

#### §108.52. Names and Responsibilities.

##### (a) Disclosure of Full Name.

(1) Any person who practices dentistry under any name or trade name must provide full and outward disclosure of his or her full name as it appears on his or her license or renewal certificate issued by the board, or his or her commonly used name.

(2) Any person who owns, maintains, or operates an office or place of business in which the person employs or engages under any type of contract another person to practice dentistry, either directly or indirectly, under any name or trade name must provide full and outward disclosure of his or her full name as it appears on his or her license or renewal certificate issued by the board, or his or her commonly used name.

(3) Any person who holds himself or herself out to the public, directly or indirectly, as soliciting patronage or as being qualified to practice dentistry in the state of Texas under any name or trade name must provide full and outward disclosure of his or her full name as it appears on his or her license or renewal certificate issued by the board, or his or her commonly used name.

(4) Any person who operates, manages, or is employed in any facility where dental service is rendered or conducted under any name or trade name must provide full and outward disclosure of his or her full name as it appears on the license or renewal certificate issued by the board, or his or her commonly used name.

(5) Any person who practices dentistry must display his or her full name as it appears on his or her license or renewal certificate issued by the board, or his or her commonly used name, outside the primary entry of each location at which he or she practices dentistry.

(6) If the names of auxiliary personnel, such as dental hygienists or dental assistants, are displayed in any manner or in any advertising, the auxiliary personnel must be clearly identified by title, along with the name of a supervising dentist.

(b) Name of Practice.

(1) Each dental office shall post at or near the entrance of the office in an area visible to the public, the name of, each professional degree received by and each school attended by each dentist practicing in the office.

(2) The name of the owner shall be prominently displayed and only the names of the dentists who are engaged in the practice of the profession at a particular location shall be used.

(3) The name of a deceased or retired dentist leaving a practice shall not be used at such location more than one (1) year following departure from the practice. The name of a dentist leaving a location for any other reason or transferring his or her practice shall not be used at such location or practice for more than forty (40) days following departure from the location. However, if the transferring dentist remains actively engaged in the practice of dentistry in the transferred practice, the acquiring dentist may continue using the name of the transferring dentist.

(4) A licensed Texas dentist, in any professional communication concerning dental services, shall include the dentist's dental degree; the words "general dentist" or "general dentistry;" or a specialization approved by the National Commission on Recognition of Dental Specialties and Certifying Boards [an ADA approved dental specialty] if the dentist is a specialist in the field designated.

(5) A licensed Texas dentist who is also authorized to practice medicine in Texas may use the initials "M.D." or "D.O." along with the dentist's dental degree.

(c) Use of Trade Name.

(1) A dentist may practice under his or her own name, or use a corporation, company, association or trade name as provided by §259.003 of the Texas Occupations Code.

(2) A dentist practicing under a corporation, company, association or trade name shall give each patient the name and license number of the treating dentist, in writing, either before or after each office visit, upon request of a patient.

(3) An advertisement under a corporation, company, association or trade name must include prominently the name of the owner(s) and at least one dentist actually engaged in the practice of dentistry under that trade name at each location advertised. This provision does not apply to location signage.

(4) Each dentist practicing under a corporation, company, association or trade name shall file notice with the board of every corporation, company, association or trade name under which that dentist practices upon initial application for licensure and annual license renewal.

(5) Since the name under which a dentist conducts his or her practice may be a factor in the selection process of the patient, the use of a trade name or an assumed name that is false or misleading in any material respect is unethical.

(d) Responsibility. The responsibility for the form and content of an advertisement offering services or goods by a dentist shall be jointly and severally that of each licensed professional who is an owner, principal, partner, or officer of the firm or entity identified in the advertisement.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 14, 2025.

TRD-202500941

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: April 27, 2025

For further information, please call: (737) 363-2333



## PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

### CHAPTER 519. PRACTICE AND PROCEDURE SUBCHAPTER A. GENERAL PROVISIONS

#### 22 TAC §519.2

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.2, concerning Definitions.

#### Background, Justification and Summary

The current cite to the rule does not identify the specific relevant paragraph. The paragraph is added. The definition of contested case eliminates language that doesn't apply because "ratemaking" is not a responsibility of this agency.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the two proposed rule amendments will provide greater clarity.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed

rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.2. Definitions.

In this chapter:

- (1) "Address of record" means the last address provided to the board by a certificate or registration holder pursuant to §501.93(d) [~~§501.93~~] of this title (relating to Responses);
- (2) "ALJ" means SOAH administrative law judge;
- (3) "APA" means the Texas Administrative Procedure Act, Chapter 2001 of the Texas Government Code;
- (4) "Board staff" means the agency's employees;
- (5) "Committee" means an enforcement committee of the board;
- (6) "Complainant" means the person or entity who initiates a complaint with the board against a certificate or registration holder;
- (7) "Complaint" means information available to or provided to the board indicating that a certificate or registration holder may have violated the Act, board rules, or order of the board;
- (8) "Contested case" means a proceeding, including a ~~ratemaking or~~ licensing or disciplinary proceeding, in which the

legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing;

(9) "Deferred Adjudication" means the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court and at the end of the period of supervision, the judge dismissed the proceedings and discharged the person;

(10) "Direct Administrative Costs" means those costs actually incurred by the board through payment to outside vendors and the resources expended by the board in the investigation and prosecution of a matter within the board's jurisdiction, including but not limited to, staff salary, payroll taxes and benefits and other non-salary related expenses, expert fees and expenses, witness fees and expenses, filing fees and expenses of the support staff of the Office of the Attorney General, filing fees, SOAH utilization fees, court reporting fees, copying fees, delivery fees, case management fees, costs of exhibit creation, technical fees, travel costs and any other cost or fee that can reasonably be attributed to the matter;

(11) "Petitioner" means the Texas State Board of Public Accountancy;

(12) "PFD" means the proposal for decision prepared by an ALJ;

(13) "Respondent" means a licensee or certificate holder, individual or entity against whom a complaint has been filed; and

(14) "SOAH" means the State Office of Administrative Hearings.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 13, 2025.

TRD-202500905

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 305-7842



## 22 TAC §519.7

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.7 concerning Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License.

### Background, Justification and Summary

The word Sight Order is misspelled and this revision corrects the spelling.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule amendment will provide greater clarity.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

§519.7. *Criminal Offenses that May Subject a Licensee or Certificate Holder to Discipline or Disqualify a Person from Receiving a License.*

(a) Final conviction or placement on deferred adjudication for a felony, or final conviction or placement on deferred adjudication for the following misdemeanors, may subject a licensee or certificate holder to disciplinary action pursuant to §501.90 of this title (relating to Discreditable Acts) or disqualify a person from receiving a license or certificate, or deny a person the opportunity to take the UCPAE pursuant to §511.70 of this title (relating to Grounds for Disciplinary Action of Applicants). Licensees and certificate holders are often placed in a position of trust with respect to client funds and assets. The public including the business community relies on the integrity of licensees and certificate holders in providing professional accounting services or professional accounting work. The board considers a conviction or placement on deferred adjudication for a felony or conviction or placement on deferred adjudication for the following misdemeanor offenses to be evidence of an individual lacking the integrity necessary to be trusted with client funds and assets. The repeated failure to follow state and federal criminal laws directly relates to the integrity required to practice public accountancy. The board has determined that the following list of misdemeanor offenses evidence violations of law that involve integrity and directly relate to the duties and responsibilities involved in providing professional accounting services or professional accounting work, pursuant to the provisions of Chapter 53 of the Occupations Code:

(1) dishonesty or fraud:

- (A) Unlawful Use of Criminal Instrument;
- (B) Unlawful Access to Stored Communications;
- (C) Illegal Divulgence of Public Communications;
- (D) Burglary of Coin-Operated or Coin Collection Machines;
- (E) Burglary of Vehicles;
- (F) Theft;
- (G) Theft of Service;
- (H) Tampering with Identification Numbers;
- (I) Theft of or Tampering with Multichannel Video or Information Services;
- (J) Manufacture, Distribution, or Advertisement of Multichannel Video or Information Services Device;
- (K) Sale or Lease of Multichannel Video or Information Services Device;
- (L) Possession, Manufacture, or Distribution of Certain Instruments Used to Commit Retail Theft;
- (M) Forgery;
- (N) Criminal Simulation;
- (O) Trademark Counterfeiting;
- (P) Stealing or Receiving Stolen Check or Similar Sight Order [Sight Order];

(Q) False Statement to Obtain Property or Credit or in the Provision of Certain Services;

(R) Hindering Secured Creditors;

(S) Fraudulent Transfer of a Motor Vehicle;

(T) Credit Card Transaction Record Laundering;

(U) Issuance of a Bad Check;

(V) Deceptive Business Practices;

(W) Rigging Publicly Exhibited Contest;

(X) Misapplication of Fiduciary Property or Property of Financial Institution;

(Y) Securing Execution of Document by Deception;

(Z) Fraudulent Destruction, Removal, or Concealment of Writing;

(AA) Simulating Legal Process;

(BB) Refusal to Execute Release of Fraudulent Lien or Claim;

(CC) Fraudulent, Substandard, or Fictitious Degree;

(DD) Breach of Computer Security;

(EE) Unauthorized Use of Telecommunications Service;

(FF) Theft of Telecommunications Service;

(GG) Publication of Telecommunications Access Device;

(HH) Insurance Fraud;

(II) Medicaid Fraud;

(JJ) Coercion of Public Servant or Voter;

(KK) Improper Influence;

(LL) Acceptance of Honorarium (by restricted government employees);

(MM) Gift to Public Servant by Person Subject to his Jurisdiction;

(NN) Offering Gift to Public Servant;

(OO) Perjury;

(PP) False Report to Police Officer or Law Enforcement Employee;

(QQ) Tampering with or Fabricating Physical Evidence;

(RR) Tampering with Governmental Record;

(SS) Fraudulent Filing of Financial Statement;

(TT) False Identification as Peace Officer;

(UU) Misrepresentation of Property;

(VV) Record of a Fraudulent Court;

(WW) Bail Jumping and Failure to Appear;

(XX) False Alarm or Report;

(YY) Engaging in Organized Criminal Activity;

(ZZ) Violation of Court Order Enjoining Organized Criminal Activity;

(AAA) Failing to file license holder's own tax return; and

(BBB) Evading arrest;

(2) moral turpitude:

(A) Public Lewdness;

(B) Indecent Exposure;

(C) Enticing a Child;

(D) Improper Contact with Victim;

(E) Abuse of Corpse;

(F) Prostitution;

(G) Promotion of Prostitution;

(H) Obscene Display or Distribution;

(I) Obscenity;

(J) Sale, Distribution, or Display of Harmful Material to Minor; and

(K) Employment Harmful to Children;

(3) alcohol abuse or controlled substances:

(A) Possession of Substance in Penalty Group 3 (less than 28 grams), under the Texas Health and Safety Code;

(B) Possession of Substance in Penalty Group 4 (less than 28 grams), under the Texas Health and Safety Code;

(C) Manufacture, Delivery, or Possession with Intent to Deliver Miscellaneous Substances, under the Texas Health and Safety Code;

(D) Manufacture, Delivery, or Possession of Miscellaneous Substances, under the Texas Health and Safety Code;

(E) Delivery of Marijuana, under the Texas Health and Safety Code;

(F) Possession of Marijuana, under the Texas Health and Safety Code;

(G) Possession or Transport of Certain Chemicals with Intent to Manufacture Controlled Substance (for substance listed in a Schedule but not in a Penalty Group), under the Texas Health and Safety Code;

(H) Possession or Delivery of Drug Paraphernalia, under the Texas Health and Safety Code;

(I) Obstructing Highway or Other Passageway; and

(J) Any misdemeanor involving intoxication under the influence of alcohol or a controlled substance.

(4) physical injury or threats of physical injury to a person:

(A) Assault;

(B) Deadly Conduct;

(C) Terroristic Threat; and

(D) Leaving a Child in a Vehicle.

(b) A licensee or certificate holder is often placed in a position of trust with respect to client funds; and the public, including the business community, relies on the integrity of licensees and certificate holders in preparing reports and providing professional accounting services or professional accounting work. The board considers repeated

violations of criminal laws to relate directly to a licensee or certificate holder providing professional accounting services or professional accounting work.

(c) A conviction or placement on deferred adjudication for a violation of any state or federal law that is equivalent to an offense listed in subsection (a)(1) - (4) of this section is considered to directly relate to a licensee or certificate holder providing professional accounting services or professional accounting work and may subject a certificate or registration holder to discipline by the board.

(d) Misdemeanor convictions in another state will be analyzed by the general counsel to determine if such out of state misdemeanor has an equivalency to Texas law prior to opening a complaint investigation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 13, 2025.

TRD-202500906

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 305-7842



## 22 TAC §519.9

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.9 concerning Administrative Penalty Guidelines.

### Background, Justification and Summary

The purpose of the graphic in the board's rules is to publish the criteria for the basis of sanctions for specific rule violations. The specific sanctions for violating board Rule §527.6 has been added to the graphic which concerns failing to report peer review and PROB inspection reports.

### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

### Public Benefit

The adoption of the proposed rule amendment will notice the sanction for violating required reporting requirements.

### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on

small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

### §519.9. Administrative Penalty Guidelines.

(a) The following table contains guidelines for the assessment of administrative penalties in disciplinary matters. In determining whether a violation is minor, moderate or major, the board will apply the factors to be considered set forth in §901.552(b) of the Act (relating to Amount of Penalty). In all cases where the board has determined a violation has occurred, administrative costs may be assessed, regardless of any other sanction imposed by the board.



Figure: 22 TAC §519.9(a)  
[Figure: 22 TAC §519.9(a)]

(b) The amounts specified in subsection (a) of this section are guidelines only. The board retains the right to increase or decrease the amount of an administrative penalty based on the circumstances of each case it considers.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 13, 2025.

TRD-202500907

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: April 27, 2025

For further information, please call: (512) 305-7842



## SUBCHAPTER B. COMPLAINTS AND INVESTIGATIONS

### 22 TAC §519.20

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.20 concerning Complaints.

#### Background, Justification and Summary

Enhances the board's ability to contain the complainant and respondent by requesting from the complainant the respondent's address. It also identifies that the firm referred to in subsection (f) of the rule is an out-of-state firm.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed revision will make it easier for the Board to communicate with the parties in a complaint. The revision to paragraph (f) makes it clearer that its only out of state firms that may not be subject to disciplinary actions when the out of state firm is disciplined by another state.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-busi-

nesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.20. Complaints.

(a) Written complaints should contain information necessary for the proper processing of the complaint by the board, including:

- (1) complainant's name, address, email when available, and phone number;
- (2) name, address, email and phone number of the licensee or certificate holder against whom the complaint is filed;
- (3) description of the alleged violation;
- (4) supporting information and factual evidence;

- (5) names and addresses of witnesses; and
- (6) sources of other pertinent information.

(b) The board has discretion whether or not to open an investigative file. A complaint that does not contain all of the information requested in subsection (a) of this section may be pursued if the missing information can be obtained from another source. For the board to proceed it must have jurisdiction over the person and the subject matter. Once the board has received a complaint, board staff shall conduct an initial screening of the complaint within 30 days. The board staff shall notify the complainant whether or not the board will proceed with an investigation.

(c) The board may accept anonymous complaints. Anonymous complaints may not be investigated if insufficient information is provided, the allegations are vague, appear to lack factual foundation, or cannot be proved for lack of a witness or other evidence.

(d) The board will periodically provide an update on the status of the complaint investigation to the complainant when there has been a substantive change of status. A substantive change would include the scheduling of the complaint investigation before an enforcement committee, the execution of an agreed consent order, a decision to refer the matter to litigation for prosecution at SOAH, any subsequent settlement agreement and the issuance of a proposal for decision.

(e) The board may open a complaint investigation on:

- (1) an individual licensee and the individual's firm when it has evidence that the individual licensee participated in a possible violation of the Act or board rule; and
- (2) a firm when there is evidence that the firm, in the practice of public accountancy, may have caused harm to a Texas resident or entity.

(f) Interpretive comment: The CPA firm may contact the board to determine if there is a nexus to Texas regarding the issue in subsections (e)(1) and (e)(2) of this section. The board will not open a complaint investigation on an out-of-state office [a firm] unless the firm, in the practice of public accountancy, has caused harm to a person or entity located in Texas.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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 TRD-202500909  
 J. Randel (Jerry) Hill  
 General Counsel  
 Texas State Board of Public Accountancy  
 Earliest possible date of adoption: April 27, 2025  
 For further information, please call: (512) 305-7842



**22 TAC §519.21**

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.21 concerning Investigations.

**Background, Justification and Summary**

Recognizes that the board may communicate with all available persons with information helpful to the board in a complaint investigation and not just the complainant and respondent.

**Fiscal Note**

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

**Public Benefit**

The adoption of the proposed rule amendment will make it clear of the scope of the board's investigations.

**Probable Economic Cost and Local Employment Impact**

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

**Small Business, Rural Community and Micro-Business Impact Analysis**

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

**Government Growth Impact Statement**

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

**Takings Impact Assessment**

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

**Public Comment**

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small busi-

nesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.21. Investigations.

(a) A board investigative file may be opened when the board determines that there may be a potential violation of the Act, board rules, or board order and the subject matter of the complaint is within the board's jurisdiction.

(b) The board may open an investigative file on its own initiative.

(c) A licensee or certificate holder shall cooperate with the board in its investigation of a complaint. The respondent will receive notice of the investigation by certified mail return receipt requested at the respondent's mailing address on file with the board. Upon notice of an investigation from the board, the respondent shall respond to the investigation and any request by the board for information or records concerning the investigation in accordance with §501.93 of this title (relating to Responses).

(d) The respondent must provide the board with a detailed response to each allegation and the request for background information contained in the notice of investigation. The response must be in writing and delivered to the board within 30 days of the date of the notice of the investigation. The respondent's response may include any additional information the respondent wants the board to consider. Failure to provide the detail sought by the board to each allegation or to the records or documents requested will be considered a non-substantive response as also required in §501.93 of this title.

(e) The board may request information from an individual, business entity, association, governmental subdivision or agency, or public or private organization [a person] who is not the subject of an investigation.

(f) Withdrawal of a complaint by a complainant does not automatically cease an ongoing investigation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.23

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.23 concerning Informal Conferences.

#### Background, Justification and Summary

The change is grammatical to arrange the wording in a logical sequence.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will help the reader better understand the purpose of the chronological order of the investigation process.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the pro-

posed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.23. *Informal Conferences.*

(a) The committee, at its sole discretion, may invite the respondent and/or the complainant to an informal conference. The purpose of the conference is to assist the committee in the investigation. An informal conference is voluntary and is not a prerequisite to a hearing in a disciplinary action.

(b) If the committee determines that the complainant's presence will aid in the investigation, then the committee will invite the complainant to appear at the informal conference. The committee will request the respondent to appear at a specified time and place for an informal conference. [~~If the committee determines that the complainant's presence will aid in the investigation, then the committee will invite the complainant to appear at the informal conference.~~]

(c) The notice of an informal conference will state the date, time and place. The notice will be mailed and emailed to a correct address on file with the board to the respondent and complainant at least 10 days prior to the informal conference.

(d) At an informal conference, the respondent may appear with legal representation but the respondent must agree to be the person responding to the committee's questions.

(e) During an informal conference, each party is given the opportunity to make a brief presentation to the committee. The committee may ask questions regarding the matter being investigated and any matter of interest to the committee related to the investigation. The committee chair may call upon board staff at any time for assistance during the informal conference.

(f) The committee may invite a non-party who has relevant information to the investigation to participate in the informal conference but the committee will determine who may attend and the process of the informal conference.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.24

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.24 concerning Committee Recommendations.

#### Background, Justification and Summary

Recognizes that communications between the board and respondent licensee may be electronic as well as postal mail. It also recognizes that a hearing before the Executive Director will follow the normal rules of hearing as provided for in the rules of the State Office of Administrative Hearings and the board's rules.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will educate the public and participants in the board's hearings on the hearing process before the Executive Director.

#### Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.24. *Committee Recommendations.*

(a) At the conclusion of its investigation the committee may make a recommendation to the board regarding the disposition of the investigation.

(b) The committee may recommend dismissal of the complaint if the committee determines:

- (1) the board lacks jurisdiction; or
- (2) there is insufficient evidence of a violation of the Act, board rules or board order; or
- (3) the respondent came into compliance with the Act, board rules or board order.

(c) The committee will inform the respondent of its recommendation but may, in its discretion, issue a confidential letter of comment stating the committee's concerns about respondent's practice and make suggestions that may improve respondent's practice. The committee's recommendation of dismissal is not final until it is ratified by the board in an open meeting.

(d) If the committee determines that there is a violation of the Act, board rules or board order, the committee may recommend disciplinary action. The committee may recommend any disciplinary sanction provided in §901.501 of the Act (relating to Disciplinary Powers of Board), singularly or in any combination. The respondent shall be notified of the committee's action.

(e) Upon a determination by the committee that there is a violation of the Act, board rule, or board order, the committee may offer respondent an agreed consent order containing the committee's findings of fact and conclusions of law, and proposed sanctions, administrative penalties and costs. The respondent shall be notified of the committee's determination by certified mail and by email at the respondent's physical address and correct email address on file with the board. The respondent shall have 20 calendar days to provide in writing Respondent's acceptance of the agreed consent order or request a hearing to contest the committee's determination in accordance with §519.3 of this chapter (relating to Computation of Time). Upon a showing of good cause, the 20 days may be extended. Failure to accept the proposed agreed consent order within the required time to respond shall be deemed a rejection.

(f) If the respondent does not accept the proposed agreed consent order and fails to request a hearing in writing within the required time, the executive director, after providing notice of hearing before the executive director and respondent failing to appear, may offer a proposed order containing the committee's findings of fact and conclusions of law and imposing disciplinary sanctions, and administrative penalties and costs for the board's consideration and ratification. The hearing shall be conducted in the manner of a contested case pursuant to the Act, the APA, the board's rules and SOAH's rules. A proposed order offered by the executive director is not final until it has been approved by the board.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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For further information, please call: (512) 305-7842



## 22 TAC §519.25

The Texas State Board of Public Accountancy (Board) proposes an amendment to §519.25 concerning Mediation and Alternative Dispute Resolution.

#### Background, Justification and Summary

Provides additional information regarding the responsibilities of the board staff during mediation.

#### Fiscal Note

William Treacy, Executive Director of the Board, has determined that for the first five-year period the proposed amendment is in effect, there will be no additional estimated cost to the state, no estimated reduction in costs to the state and to local governments, and no estimated loss or increase in revenue to the state, as a result of enforcing or administering the amendment.

#### Public Benefit

The adoption of the proposed rule amendment will provide persons participating or attending mediation with the board a better understanding of the responsibilities of the board in the mediation.

Probable Economic Cost and Local Employment Impact

Mr. Treacy, Executive Director, has determined that there will be no probable economic cost to persons required to comply with the amendment and a Local Employment Impact Statement is not required because the proposed amendment will not affect a local economy.

#### Small Business, Rural Community and Micro-Business Impact Analysis

William Treacy, Executive Director, has determined that the proposed amendment will not have an adverse economic effect on small businesses, rural communities or micro-businesses because the amendment does not impose any duties or obligations upon small businesses, rural communities or micro-businesses; therefore, an Economic Impact Statement and a Regulatory Flexibility Analysis are not required.

#### Government Growth Impact Statement

William Treacy, Executive Director, has determined that for the first five-year period the amendment is in effect, the proposed rule: does not create or eliminate a government program; does not create or eliminate employee positions; does not increase or decrease future legislative appropriations to the Board; does not increase or decrease fees paid to the Board; does not create a new regulation; limits the existing regulation; does not increase or decrease the number of individuals subject to the proposed rule's applicability; and does not positively or adversely affect the state's economy.

#### Takings Impact Assessment

No takings impact assessment is necessary because there is no proposed use of private real property as a result of the proposed rule revision.

The requirement related to a rule increasing costs to regulated persons does not apply to the Texas State Board of Public Accountancy because the rule is being proposed by a self-directed semi-independent agency. (§2001.0045(c)(8))

#### Public Comment

Written comments may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 505 E. Huntland Dr., Suite 380, Austin, Texas 78752 or faxed to his attention at (512) 305-7854, no later than noon on April 28, 2025.

The Board specifically invites comments from the public on the issues of whether or not the proposed amendment will have an adverse economic effect on small businesses. If the proposed rule is believed to have an adverse effect on small businesses, estimate the number of small businesses believed to be impacted by the rule, describe and estimate the economic impact of the rule on small businesses, offer alternative methods of achieving the purpose of the rule; then explain how the Board may legally and feasibly reduce that adverse effect on small businesses considering the purpose of the statute under which the proposed rule is to be adopted; and finally, describe how the health, safety, environmental, and economic welfare of the state will be impacted by the various proposed methods. See Texas Government Code, §2006.002(c).

#### Statutory Authority

The amendment is proposed under the Public Accountancy Act ("Act"), Texas Occupations Code §901.151, which authorizes the Board to adopt rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by this proposed amendment.

#### §519.25. *Mediation and Alternative Dispute Resolution.*

(a) It is the board's policy to encourage the resolution and early settlement of all disputed matters, internal and external, through voluntary settlement procedures.

(b) The executive director shall designate a board employee as the board's Alternative Dispute Resolution Director to perform the following functions:

(1) maintain necessary agency records of alternative dispute resolution procedures while maintaining the confidentiality of participants;

(2) establish a method for the appointment of impartial third party mediators, moderators or arbitrators for alternative dispute resolution proceedings;

(3) provide information about available alternative dispute resolution processes to agency employees, potential users, and users of the alternative dispute resolution program;

(4) arrange training or education necessary to implement alternative dispute resolution processes; and

(5) establish a system to evaluate the alternative dispute resolution program and mediators.

(c) The board, a committee of the board, a respondent in a disciplinary matter pending before the board, the executive director of the board or a board employee engaged in a dispute with the executive director may request that a contested matter be submitted for alternative dispute resolution through mediation as described in §154.023 of the Texas Civil Practice and Remedies Code, moderated settlement conference as described in §154.025 of the Texas Civil Practice and Remedies Code, and non-binding arbitration as described in §154.027 of the Texas Civil Practice and Remedies Code by making a written request for alternative dispute resolution that states the type of alternative dispute resolution requested and sets forth the issues to be submitted for alternative dispute resolution. A respondent in a disciplinary proceeding may not request mediation until a recommendation regarding that disciplinary matter has been made to a committee of the board. The request must be delivered to the Alternative Dispute Resolution Director at the board's office.

(d) The party who requests alternative dispute resolution shall pay the cost of the impartial third-party [third party] mediator, moderators or arbitrators and shall otherwise bear their own costs of alternative dispute resolution.

(e) The board's alternative dispute resolution director is responsible for locating an impartial third-party mediator, moderator or arbitrator and arranging for a location and time for mediation. The mediator, moderator or arbitrator must be agreed to by all the parties.

(f) The mediation date shall be established by agreement with the parties but shall be no later than 45 days of the board's receipt of the request. The 45-day time limitation may be extended by the executive director following a demonstration of good cause.

(g) [(e)] Any resolution reached as a result of an alternative dispute resolution procedure is intended to be through the voluntary agreement of all of the parties. The resolution of a contested matter reached as a result of an alternative dispute resolution procedure must be in writing, signed by all of the parties, and is enforceable in the same manner as any other written contract; provided however, that any signed resolution that purports to bind the board must be ratified by the

board and may be made public depending upon the terms of the agreed resolution.

(h) [(f)] A communication relating to the subject matter made by a party in an alternative dispute resolution procedure is confidential, is not subject to disclosure, and may not be used as evidence in any further proceeding. Any notes or record made of an alternative dispute resolution procedure are confidential, and parties, including impartial third party mediators, moderators, or arbitrators may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute or under consideration. An oral communication or written material used in or made a part of an alternative dispute resolution procedure is admissible or discoverable only if it is admissible or discoverable independent of the procedure. If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to a judge or administrative law judge in Travis County, Texas to determine, in camera, whether the facts, cir-

cumstances, and context of the communications or materials sought to be disclosed warrant a protective order or whether the communications or materials are subject to disclosure.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

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