AGENDA

1. CALL TO ORDER.

2. ROLL CALL.

3. DISCUSSION AND REVIEW OF MINUTES FROM THE AUGUST 12, 2016, BOARD MEETING.

4. DISCUSSION AND REVIEW OF MINUTES FROM THE AUGUST 31, 2016, BOARD MEETING.

5. DISCUSSION AND ACTION ON CASES HEARD BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH).
        Consideration of the Administrative Law Judge’s Proposal for Decision, Recommendations, and Board Action.
   5.2. Docket No. 504-16-1933, Bethaniel Jefferson, DDS, Texas Dental License No. 21310.
        Consideration of the Administrative Law Judge’s Proposal for Decision, Recommendations, and Board Action.
   5.3. Docket No. 504-15-0635, Raymond Rivera, RDA, RDA No. 9705.
        Consideration of the Administrative Law Judge’s Proposal for Decision, Recommendations, and Board Action.
   5.4. Docket No. 504-17-0575, Robert L. Beck, DDS, Texas Dental License No. 7913.
        Consideration of the Administrative Law Judge’s Proposal for Decision, Recommendations, and Board Action.
   5.5. Docket No. 504-16-5368, Travis Clarke, RDA, RDA No. 22708.
        Consideration of the Administrative Law Judge’s Order No. 1 Dismissing Case, Recommendations, and Board Action.
   5.6. Docket No. 504-16-5370, Madelin Martinez, RDA, RDA No. 43381.
        Consideration of the Administrative Law Judge’s Order No. 1 Dismissing Case, Recommendations, and Board Action.
   5.7. Docket No. 504-16-5367, Nora Woessner, RDA, RDA No. 28606.
        Consideration of the Administrative Law Judge’s Order No. 1 Dismissing Case, Recommendations, and Board Action.
        Consideration of the Administrative Law Judge’s Order No. 1 Dismissing Case, Recommendations, and Board Action.

6. DISCUSSION AND ACTION ON PROPOSED CASE RESOLUTIONS.
   6.1. Agreed Settlement Orders.
   6.2. Remedial Plans.
   6.3. Consent Orders.
   6.4. Modification Orders.
   6.5. Staff Recommendations of Dismissal.

7. PRESIDING OFFICER REPORT.

8. DISCUSSION AND ACTION CONCERNING COMMITTEES AND COMMITTEE REPORTS.
   8.1 Anesthesia Committee.
       8.1.1 Initial Education Requirements
       8.1.2 Continuing Education Requirements
       8.1.3 Additional Education Requirements for pediatric patients
   8.2 Licensing Committee
       8.2.1 Application 2017Q1RDA1.
       8.2.2 Application 2017Q1RDA2.
       8.2.3 Central Regional Dental Testing Service (CRDTS)

9. AGENCY ACTIVITY REPORTS.
   9.1 Executive Director’s Report.
   9.2 Finance and Administration Division Report.
   9.3 Licensing Division Report.
   9.5 Legal Division Report.

10. PUBLIC COMMENTS.

11. MISCELLANEOUS REPORTS.

12. DISCUSSION AND ACTION ON RULES.
   12.1 DISCUSSION AND ACTION ON ADOPTION OF PROPOSED RULES – REPEAL, AMENDMENT, AND NEW RULES
       12.1.1 New Rule 22 Tex. Admin. Code §100.12, Advisory Committee – Blue Ribbon Panel on Dental Sedation/Anesthesia Safety
       12.1.2 Amended Rule 22 Tex. Admin. Code §100.9, Advisory Committees and Workgroups Established by the Board
       12.1.3 Amended Rule 22 Tex. Admin. Code §107.49, Proposals for Decision
       12.1.4 Amended Rule 22 Tex. Admin. Code §107.50, Filing of Exceptions and Replies
       12.1.5 Amended Rule 22 Tex. Admin. Code §107.51, Findings of Fact and Conclusions of Law
       12.1.6 Amended Rule 22 Tex. Admin. Code §107.52, Oral Argument
       12.1.8 New Rule 22 Tex. Admin. Code §111.1, Additional Continuing Education Required
       12.1.9 New Rule 22 Tex. Admin. Code §111.2, Self-query of Prescription Monitoring Program
   12.2 DISCUSSION AND ACTION ON PROPOSAL OF RULES – REPEAL, AMENDMENT, AND NEW RULES
       12.2.1 Amendment of Chapter 110 of 22 Tex. Admin. Code, Sedation and Anesthesia
       12.2.2 New Rule 22 Tex. Admin. Code §107.400, Collection and Reporting of Enforcement and Licensing Data
       12.2.3 Amended Rule 22 Tex. Admin. Code §104.6, Audits

13. ANNOUNCEMENTS.

14. ADJOURN.

EXECUTIVE SESSION: The board reserves the right to conduct a closed meeting to discuss any posted agenda items as authorized by law. Specifically, the board may enter executive session to conduct a private consultation with its attorney to seek advice about pending or contemplated litigation or a settlement offer, pursuant to Section 551.071 of the Texas Government Code.
Currently, Oklahoma is on a 3 year reporting cycle for CE and only requires 6 hours every three years in anesthesia, sedation or medical emergencies to maintain a permit. That will likely change next summer to 18 hours per three year reporting cycle (6 hours per year). Oklahoma requires 60 hours per 3 year reporting cycle to maintain a dental license.

My personal opinion is 6 hrs. per year for maintenance of a moderate sedation or GA permit is adequate, reasonable and easily attainable. I believe those 6 hours per year should be in addition to time spent recertifying in BLS-HCP and/or ACLS/PALS.

Roy L. Stevens, D.D.S.
Special Care Dentistry of Oklahoma
Dentistry for Patients with Special Health Care Needs
Board of Directors American Dental Society of Anesthesiology
Editor-in-Chief The Pulse
8283 South Walker Avenue, Suite B
Oklahoma City, OK 73139
(405) 632-5562 Office
(405) 632-7717 Fax

As a general rule states require one day per year.
---
Ken Reed
President of American Dental Society of Anesthesiology: ADSA

California

1 day per year

(e) Each dentist licensee who holds a conscious sedation permit shall complete at least once every two years a minimum of 15 total units of coursework related to the administration of conscious sedation and to medical emergencies, as a condition of permit renewal, in continuing education requirements pursuant to Section 1647.5 of the Business and Professions Code. Refusal to execute the required assurance shall result in non-renewal of the permit.

Michael Mashni, DDS
Past President of American Dental Society of Anesthesiology: ADSA
September 30, 2016

Mr. Tyler Vance  
Assistant General Counsel  
333 Guadalupe, Suite 3-800  
Austin, Texas 78732

Sent via email to: rulecomments@tsbde.texas.gov

Dear Mr. Vance:

On behalf of the Texas Academy of General Dentistry’s (TAGD) Advocacy Council, I am writing regarding the proposed rules published in the September 2, 2016 edition of the Texas Register.

TAGD’s Advocacy Council supports the concept behind the proposed rule §108.15 Emergency Preparedness. However as drafted, the rule is very ambiguous. While we appreciate that a broad rule gives dentists flexibility in drafting an emergency plan, it may be helpful if the Board develops some guidance about basic criteria that should be included in such a plan. We also suggest that the Board have an effective date that gives offices time to develop written plans.

In terms of proposed rule §111.1 Additional Continuing Education Required, the TAGD Advocacy Council supports the idea of continuing education to prevent abuse of controlled substances and opioids. However, rather than mandating two hours of continuing education every three years, we believe that it may be more effective if TSBDE mandates an online exam similar to the jurisprudence exam to educate providers about this topic. Alternatively, we would suggest that the Board extend the timeframe for continuing education- perhaps to every four or more years - since the basic information about preventing abuse, such as safeguards to take when prescribing controlled substances or using of the Prescription Monitoring Program, does not change frequently. If the Board has not done so yet, we would also request that it determine whether two hours of continuing education is appropriate or if the topic can adequately be covered in one hour.

Finally, regarding proposed rule §111.2 Self-Query of Prescription Monitoring Program, I’d like to reiterate our support of measures to help combat abuse of opioids and other controlled substances. We believe that it would be helpful in educating providers about the importance of this rule if it contained some explanation about its intended purpose – presumably to ensure there are not fraudulent prescriptions under a dentist’s provider number. To help ensure compliance, we would also suggest that TSBDE consider sending an automatic email reminder to providers about this mandate.

Thank you for your consideration.

Sincerely,

/s/

Brooke Elmore, DDS  
Fellow of the Academy of General Dentistry  
Texas Academy of General Dentistry Advocacy Council Chair
October 4, 2016

Mr Tyler Vance  
General Counsel  
Texas State Board of Dental Examiners  
333 Guadalupe Tower 3 Ste 800  
Austin, Texas 78732  
Via Email: rulecomments@tsbde.texas.gov

Re: 22 Texas Administrative Code §108.15, Emergency Preparedness; §111.1, Additional Continuing Education Required; §111.2, Self-query of Prescription Monitoring Program

Dear Mr Vance:

The Texas Dental Association (TDA) is a professional association that represents over 9,000 dentists who are committed to delivering quality, comprehensive oral health services to all Texans.

The TDA appreciates the opportunity to comment on the Texas State Board of Dental Examiners (TSBDE) rule proposals as published in the September 2, 2016, issue of the Texas Register.

22 Texas Administrative Code §108.15, Emergency Preparedness
The TDA supports the proposed rule as written. Dentists are currently required to have emergency equipment in working order including positive pressure breathing apparatus with oxygen, and reversal drugs. Further, dentists are responsible to see that office staff are trained and competent in emergency procedures, know how to properly use emergency equipment, and have a Basic Life Support certification. Under the proposed rule, dentists will be required to write down the processes for responding to emergencies that should be in place, and to annually update those processes.

22 Texas Administrative Code §111.1, Additional Continuing Education Required
The TDA supports the proposed rule as written. Controlled substances have a valid and useful place in dentistry. Unfortunately, the misuse and abuse of opioid pain relievers has become a public health concern. Requiring continuing education specific to pharmacology and controlled substances provides dentists an opportunity to further their knowledge about how to safely prescribe controlled substances, and screen for patients that may be at risk for developing an opioid addiction.

22 Texas Administrative Code §111.2, Self-query of Prescription Monitoring Program
The TDA supports the proposed rule as written. As prescribers of controlled substances including opioid pain medications, dentists are well positioned to help keep these drugs from becoming a source of harm. The purpose of the self-query report is to ensure controlled substances being prescribed by dentists are valid prescriptions.

Thank you for considering the TDA’s views on these important issues.

Sincerely,

Rita M. Cammarata  
President

cc: Dr Steven J. Austin, Presiding Officer, Texas State Board of Dental Examiners  
Ms Kelly Parker, Executive Director, Texas State Board of Dental Examiners  
Ms Nycia Deal, Chief Legal Officer, Texas State Board of Dental Examiners
October 20, 2016

Tyler Vance
General Counsel
State Board of Dental Examiners
333 Guadalupe
Suite 3-800
Austin, Texas 78732

via email to: rulecomments@tsbde.texas.gov

RE: Proposed rules concerning the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety, 22 TAC § 100.12, as published in the Texas Register on September 23, 2016 at 41 Tex. Reg. 7396-7397

Dear Mr. Vance:

The Texas Medical Association (“TMA”) appreciates the opportunity to comment on the proposed rules of the State Board of Dental Examiners (“Board”) relating to the establishment of the advisory committee known as the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety (“Panel”).

TMA is a private, voluntary, nonprofit association of Texas physicians and medical students. The Texas Medical Association was founded in 1853 to serve the people of Texas in matters of medical care, prevention and cure of disease, and improvement of public health. Today, our maxim continues in the same direction: “Physicians Caring for Texans.” TMA’s diverse physician members practice in all fields of medical specialization.

I. Section 100.12. Advisory Committee – Blue Ribbon Panel on Dental Sedation/Anesthesia Safety

The Board proposes to establish an advisory committee designated as the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety.¹ The purpose of the Panel would be “to review, study, and report to the Legislature and the Sunset Commission findings and recommendations on the use

¹ Prop. 22 TEX. ADMIN. CODE § 100.12(a).
and misuse of sedation/anesthesia in dentistry.” The Panel is to “make recommendations to the Sunset Commission and the Texas Legislature” by January 2017.

In its 2016 staff report following its review of the Board, the Sunset Advisory Commission (“Commission”) staff made a finding that dental “[a]nesthesia can be high risk to patients, and related complaints to the [dental] board have increased.” The Commission cited several cases in Texas where a patient had suffered injury or death after receiving sedation/anesthesia in a dentist’s office. The Commission thereafter recommended that the Board be directed “to establish in an expedited rule an independent five to 10-member blue ribbon panel that would review de-identified data, including confidential investigative information, related to dental anesthesia deaths and mishaps over the last five years, as well as evaluate emergency protocols.” This panel would then be expected to “make recommendations to the Legislature by the Sunset Commission’s January 11, 2016 (sic.) meeting.”

According to its proposed rules, the Board or its presiding officer would be required to “appoint five to ten Texas-licensed dentists to serve as members of the advisory committee,” to be selected from among active participants of the Board’s Dental Review Panel. In contrast, the Commission’s recommendation did not suggest that the entire makeup of the panel be dentists only. It is important that the panel have the input and expertise of a physician who is an expert in anesthesia. TMA strongly recommends that the proposed rule be revised to provide that the panel have at least one member who is a Texas physician currently practicing as an anesthesiologist.

II. Conclusion

TMA thanks you for the opportunity to provide these comments. If you should have any questions or need additional information, please do not hesitate to contact me or Matt Wall, J.D., TMA Assistant General Counsel at TMA’s main number, 512-370-1300.

Sincerely,

Don Robert Read, M.D.
President
Texas Medical Association

2 Prop. 22 TEX. ADMIN. CODE § 100.12(b).
3 Prop. 22 TEX. ADMIN. CODE § 100.12(a).
5 Id.
7 Id. Probably should read “January 11, 2017,” which is listed as a tentative upcoming meeting date of the Commission. See https://www.sunset.texas.gov/meetings.
8 Prop. 22 TEX. ADMIN. CODE § 100.12(d).
Tyler Vance  
General Counsel  
State Board of Dental Examiners  
333 Guadalupe, Suite 3-800  
Austin, TX 78732  
Via email: TVance@TSBDE.texas.gov

Re: 22 TAC Chapter 110  
Section 110.12 Advisory Committee – Blue Ribbon Panel on Dental Sedation / Anesthesia Safety  
09.23.2016 Issue of Texas Register

Dear Mr. Vance:

The Texas Society of Anesthesiologists (“TSA”) is the Texas component of the American Society of Anesthesiologists and counts among its members over 3,000 physicians who practice the medical specialty of anesthesiology in health care facilities throughout Texas, including dental practice sites.

The Texas Society of Anesthesiologists appreciates the opportunity to provide comments as the State Board of Dental Examiners reviews 22 TAC Chapter 110, Sedation and Anesthesia. TSA has consistently supported the Board’s efforts to improve patient safety in connection with the administration of anesthetic agents during dental procedures. TSA believes that the reasons for the Board’s adoption of Chapter 110 remain valid, and encourages the Board to retain and enhance the rules.

The Board proposes to create a Blue Ribbon Panel on Dental Sedation / Anesthesia Safety, in response to the management direction of the Sunset Commission issued on August 22, 2016. Proposed Section 100.12(d) provides that five to ten licensed dentists who are members of the Dental Review Panel will be selected to serve on the Blue Ribbon Panel. Proposed Sections 110.12(i) and (j) address confidentiality issues, and place strict non-disclosure requirements on panel members regarding the panel’s work.

TSA has been informed that the Board has selected six licensed dentists as members of the Blue Ribbon Panel.

TSA believes the panel’s scope of work and responsibilities are important, for enhancement of patient safety. The Texas Medical Board has developed comprehensive patient
safety rules for office-based anesthesia. TSA believes that patient safety is best served by coordination between the Texas State Board of Dental Examiners and the Texas Medical Board, in regulating office-based anesthesia procedures provided by dentists, physicians, and healthcare providers administering anesthesia under the delegation and supervision of a dentist or physician. TSA believes it is important that the panel’s review and recommendations include a broad spectrum of experience and expertise. TSA also understands that appropriate steps must be taken to protect patient information disclosed to committee members. Proposed Section 100.12(j) precludes input from non-committee members, except during open meetings of the Advisory Committee. TSA recommends an amendment to this proposed rule that would allow the Advisory Committee to consult with physicians and other experts in the field of office-based anesthesia, with appropriate safeguards for protected patient information. TSA stands ready to assist the Advisory Committee, if requested.

Thank you for your consideration. Please advise if you have questions.

Sincerely,

[Signature]

Deborah Plagenhoef, M.D.
President
Texas Society of Anesthesiologists
The Texas State Board of Dental Examiners adopts new rule §100.12 relating to the Blue Ribbon Panel on Dental Sedation and Anesthesia Safety. This rule is adopted without changes to the proposed text as published in the September 23, 2016, issue of the Texas Register (41 TexReg 7396).

New rule §100.12 establishes and defines the role of the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety.

The Board received two comments regarding this rule:

- The Texas Medical Association commented that the rule as drafted improperly limits the presiding officer to appointing only dentists to the Blue Ribbon Panel. TMA notes that the Sunset Commission's recommendation as to the make-up of the Panel was not specifically limited to dentists. They believe that it is important that the panel have input and expertise of a physician who is an expert in anesthesia. They recommend that the rule be revised to provide for at least one panel member who is a Texas anesthesiologist.

  The Board disagrees with TMA's recommendation. As TMA's comment highlights, the Sunset Commission did not specify the professional make-up of the Panel. If the Commission thought it necessary to include an anesthesiologist, they would have directed the Board to appoint one. Moreover, the Board feels that TMA's concerns are unwarranted because the Panel includes a physician and a dental anesthesiologist.

- The Texas Society of Anesthesiologists commented that the Panel should be allowed to consult outside of public meetings with physicians and other experts in the field of office-based anesthesia with appropriate safeguards for protected patient information.

  The Board disagrees with TSA's comment. The Blue Ribbon Panel is a public committee and its work must be done in public. The Board strongly encourages TSA members and other physicians to attend public Panel meetings and offer their input for the consideration of Panel members.

Rule §100.12 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure
compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
Texas Register

TITLE 22    EXAMINING BOARDS
PART 5      STATE BOARD OF DENTAL EXAMINERS
CHAPTER 100 GENERAL PROVISIONS
RULE §100.12 Advisory Committee - Blue Ribbon Panel on Dental Sedation/Anesthesia Safety
ISSUE       09/23/2016
ACTION      Proposed

Preamble

(a) Pursuant to board rule 100.9, chapter 2110 of the Texas Government Code, and the management direction of the Sunset Commission issued on August 22, 2016, the board establishes an independent advisory committee: the Blue Ribbon Panel on Dental Sedation/Anesthesia Safety. The advisory committee shall make recommendations to the Sunset Commission and the Texas Legislature at or before the meeting of the Sunset Commission scheduled for January 11, 2017.

(b) Purpose. The purpose of the advisory committee is to review, study, and report to the Legislature and the Sunset Commission findings and recommendations on the use and misuse of sedation/anesthesia in dentistry. Specifically, the advisory committee shall review de-identified data compiled during board investigations in fiscal years 2012 through 2016 involving patient mortalities and patient harm during or following dental treatment at which sedation/anesthesia was administered and evaluate the appropriate substance and application of emergency protocols related to the administration of sedation/anesthesia.

(c) Tasks. The advisory committee shall review de-identified investigative data; report on trends and commonalities in the de-identified investigative data, including whether or not the patient mortalities or harms were related to the administration of sedation/anesthesia, related to another aspect of the dental treatments, or unrelated to the administration of sedation/anesthesia or another aspect of the dental treatments; review anesthesia laws, regulations, and studies from other jurisdictions; and review relevant published scientific literature. In its written report, the advisory committee shall opine on whether present laws, regulations, and board policies are sufficient to protect patients and recommend appropriate change to the laws, regulations, and board policies related to the administration of sedation/anesthesia to dental patients.

(d) Creation, dissolution, and membership. The board or its presiding officer shall appoint five to ten Texas-licensed dentists to serve as members of the advisory committee. The members shall be selected from active participants of the board’s Dental Review Panel. The members of the Dental Review Panel who participate in the advisory committee shall not evaluate pending investigations and provide written expert reports as Dental Review Panel members during their period of service on the advisory committee. The advisory committee is dissolved upon presentation of its final written report to the Sunset Commission on January 11, 2017. Upon the dissolution of the advisory committee, the members of the advisory committee may resume their roles on the Dental Review Panel.

(e) Chair. The advisory committee shall select from among its members a chairperson who shall preside over the advisory committee, report to the board as needed, and facilitate presentation of the final written report to the Sunset Commission.

(f) Reporting to the board. The advisory committee shall provide at least four status updates to the Executive Director of the board on or before October 12, 2016; November 11, 2016; November 23, 2016; and December 7, 2016.
(g) Final report. The chair of the advisory committee shall present the final written report at or before the meeting of the Sunset Commission scheduled for January 11, 2017.

(h) Meetings and Relationship to the Board. While the advisory committee is intellectually independent, it is a governmental body pursuant to paragraph 551.001(3)(A) of the Texas Government Code, as it is a committee in the executive branch of state government that is affiliated with and directed by the board. All meetings of the advisory committee shall be open to the public and noticed on the Secretary of State’s website.

(i) Confidential information. The board may require the members of the advisory committee to execute confidentiality agreements related to their membership on the advisory committee. The board shall provide confidential de-identified data to the members of the advisory committee as directed in the management recommendation of the Sunset Commission. Violation of the confidentiality agreement is grounds for immediate removal from the advisory committee.

(j) Communication with Other Parties. Members of the advisory committee shall not engage in private communications with non-advisory committee members about the subject matter of the advisory committee or its work, except that members of the advisory committee may communicate with board staff to facilitate the completion of tasks required by this rule. Advisory committee members may only consider communications from non-committee members that have been provided verbally in public comment during an open meeting of the advisory committee. An advisory committee member who engages in private communications with non-advisory committee members about the subject matter of the advisory committee or its work will be immediately removed from the advisory committee and subject to disciplinary action for dishonorable conduct.

(k) Reimbursement. The advisory committee may be reimbursed for expenses in accordance with section 2110.004 of the Texas Government Code.

(l) Commencement. The advisory committee may convene and commence its work prior to the effective date of this rule, as directed 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.

Filed with the Office of the Secretary of State on September 8, 2016

TRD-201604702

Kelly Parker

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 23, 2016

For further information, please call: (512) 475-0977
The State Board of Dental Examiners (board) published notice of new rule §100.12 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning Committees. The proposed new rule was published in the Texas Register at 41 TexReg 7396.

The board received two written comments regarding this rule.

The proposed new rule §100.12 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §100.12 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.
PREAMBLE

TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 100, General Provisions
22 TAC §100.9 Advisory Committees and Workgroups Established by the Board

The Texas State Board of Dental Examiners adopts amended rule §100.9 relating to advisory committees. This rule is adopted without changes to the proposed text as published in the September 16, 2016, issue of the Texas Register (41 TexReg 7237).

Amended rule §100.9 allows the Board to establish an advisory committee/Blue Ribbon Panel on dental sedation and anesthesia safety.

The Board received no written comments regarding these rules.

Rule §100.9 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
(a) In addition to any specific statutory authority to establish particular advisory committees, the board may authorize advisory committees from outside the board's membership to advise the board on rulemaking, pursuant to §2001.031 of the Texas Government Code and subject to chapter 2110 of the Texas Government Code, State Agency Advisory Committees.

(b) Creation and dissolution. The board, in a regularly scheduled meeting, may vote to establish advisory committees and workgroups from outside the board's membership to address specific subjects, purposes, or ends. Unless continued by a vote of the board, advisory committees and workgroups outside the board's membership are abolished the sooner of one year from the date of creation or when the specific subject, purpose, or end for which the advisory committee or workgroup was established, have been served.

(c) Chair. Each advisory committee or workgroup shall select from among its members a chairperson who shall preside over the advisory committee or workgroup and shall report to the board or agency as needed.

(d) Membership. The presiding officer shall determine the method by which members are designated to the advisory committee or workgroup. The membership of an advisory committee must provide a balanced representation between members of the dental industry and consumers of the dental industry. Advisory committee and workgroup members shall serve terms as determined by the board.

(e) Board member liaisons. The presiding officer may appoint board member or board members to serve as a liaison(s) to an advisory committee or workgroup and report to the board the recommendations of the advisory committee or workgroup for consideration by the board. The role of a board member liaison is limited to clarifying the board's charge and intent to the advisory committee or workgroup.

(f) Agency staff liaisons. The executive director of the agency may assign agency staff to assist the advisory committee and workgroup.

(g) Meetings and participation. All meetings shall be open to the public and noticed on the Secretary of State's website to allow the public an opportunity to participate.

(h) Purpose. The board rule establishing the advisory committee or workgroup shall state the purpose and tasks of the committee and describe the manner in which the committee will report to the board.

(i) Committee actions. The actions of advisory committees are recommendations only.

(j) The following are advisory committees and workgroups established by the board or established by statute:

(1) Dental Hygiene Advisory Committee, established by Subchapter B of Chapter 262 of the Texas Occupations Code; and[7]
(2) Advisory Committee- Blue Ribbon Panel on Dental Sedation/Anesthesia Safety, established by board rule 100.12.

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 September 1, 2016

TRD-201604614

kelly Parker

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 16, 2016

For further information, please call: (512) 475-0977
The State Board of Dental Examiners (board) published notice of amended rule §100.9 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning general provisions. The proposed amended rule was published in the Texas Register at 41 TexReg 7237.

The board received no written comments regarding this rule.

The proposed amended rule §100.9 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §100.9 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Member
PREAMBLE

TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 107, Dental Board Procedures
Subchapter A, Procedures Governing Grievances, Hearings, and Appeals
22 TAC §107.49 Proposals for Decision

The Texas State Board of Dental Examiners adopts amended rule §107.49 relating to proposals for decision. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6608).

Amended rule §107.49 provides how and when the Board may consider a Proposal for Decision issued by the State Office of Administrative Hearings.

The Board received no written comments regarding these rules.

Rule §107.49 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
A proposal for decision (PFD) issued by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) may not be considered by the board until the time period set out in SOAH rules for the filing of exceptions and replies has expired. If exceptions were filed in accordance with SOAH rules, the board may not consider the PFD until the ALJ has ruled on the exceptions. The PFD must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision prepared by the person who conducted the hearing or by one who has read the record.

[(a) If in a contested case a majority of the members of the Board who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, may not be made until a proposal for decision is served on the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs to the members of the board who are to render the decision. The proposal for decision must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision prepared by the person who conducted the hearing or by one who has read the record. The parties by written stipulation may waive compliance with this section.]

[(b) Upon the expiration of the twentieth day following the time provided for the filing of exceptions and briefs in §107.50 of this title (Relating to Filing of Exceptions, Briefs, and Replies), the proposal for decision may be adopted by written order of the agency, unless exceptions and briefs shall have been filed in the manner required in §107.50 of this title (Relating to Filing of Exceptions, Briefs, and Replies).]

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 August 17, 2016

TRD-201604215

Kelly Parker

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING AMENDED RULE §107.49

The State Board of Dental Examiners (board) published notice of amended rule §107.49 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning Procedures Governing Grievances, Hearings, and Appeals. The proposed amended rule was published in the Texas Register at 41 TexReg 6608.

The board received no written comments regarding this rule.

The proposed amended rule §107.49 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §107.49 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President     Board Secretary

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Member                  Member

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Member
PREAMBLE

TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 107, Dental Board Procedures
Subchapter A, Procedures Governing Grievances, Hearings, and Appeals
22 TAC §107.50 Filing of Exceptions and Replies

The Texas State Board of Dental Examiners adopts amended rule §107.50 relating to the filing of exceptions. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6608).

Amended rule §107.50 provides that all exceptions and replies in a contested case shall be filed in accordance with the State Office of Administrative Hearings rules.

The Board received no written comments regarding these rules.

Rule §107.50 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
All exceptions to proposals for decision and replies to exceptions shall be filed in accordance with State Office of Administrative Hearings rules. [Exceptions shall be filed within fifteen (15) days after the date of service of the Proposal for Decision. A reply to the exceptions shall be filed within fifteen (15) days of the filing of the exceptions. All SOAH rules regarding exceptions and replies shall govern this section.]

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 August 17, 2016

**TRD-201604215**

Kelly Parker

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977

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STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING AMENDED RULE §107.50

The State Board of Dental Examiners (board) published notice of amended rule §107.50 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning Procedures Governing Grievances, Hearings, and Appeals. The proposed amended rule was published in the Texas Register at 41 TexReg 6608.

The board received no written comments regarding this rule.

The proposed amended rule §107.50 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §107.50 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President                 Board Secretary

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TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 107, Dental Board Procedures
Subchapter A, Procedures Governing Grievances, Hearings, and Appeals
22 TAC §107.51 Findings of Fact and Conclusions of Law

The Texas State Board of Dental Examiners adopts amended rule §107.51 relating to findings of fact and conclusions of law in a proposal for decision. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6609).

Amended rule §107.51 clarifies how and when the Board may change a finding of fact or conclusion of law made by the State Office of Administrative Hearings rules.

The Board received no written comments regarding these rules.

Rule §107.51 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
Preamble

(a) The board [agency] may change a finding of fact or conclusion of law in a proposal for decision made by the administrative law judge if the board [agency] determines:

(1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions;

(2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or

(3) that a technical error in a finding of fact should be changed.

(b) The board [agency] shall state in writing the specific reason and legal basis for a change made under this section.

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 August 17, 2016

TRD-201604215

Kelly Parker
Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING AMENDED RULE §107.51

The State Board of Dental Examiners (board) published notice of amended rule §107.51 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning Procedures Governing Grievances, Hearings, and Appeals. The proposed amended rule was published in the Texas Register at 41 TexReg 6608.

The board received no written comments regarding this rule.

The proposed amended rule §107.51 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §107.51 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President     Board Secretary

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Member        Member

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Member
PREAMBLE

TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 107, Dental Board Procedures
Subchapter A, Procedures Governing Grievances, Hearings, and Appeals
22 TAC §107.52 Oral Argument

The Texas State Board of Dental Examiners adopts amended rule §107.52 relating to oral arguments before the board. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6609).

Amended rule §107.52 clarifies how and when a Respondent may present oral argument before the Board regarding a proposal for decision.

The Board received no written comments regarding these rules.

Rule §107.52 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
Texas Register

TITLE 22  EXAMINING BOARDS
PART 5  STATE BOARD OF DENTAL EXAMINERS
CHAPTER 107  DENTAL BOARD PROCEDURES
SUBCHAPTER A  PROCEDURES GOVERNING GRIEVANCES, HEARINGS, AND APPEALS
RULE §107.52  Oral Argument
ISSUE  09/02/2016
ACTION  Proposed

Preamble

All parties shall be given notice of the scheduling of a proposal for decision (PFD) for consideration by the board. The notice shall include a statement that the parties may attend the meeting of the board and provide oral argument concerning the PFD before the board. Board staff shall send notice by electronic mail or regular mail to the attorneys of record, or if a party is not represented by an attorney, by regular mail to the party's address of record with the board. Notice shall be sent by board staff no later than seven days prior to the meeting of the board at which the PFD is scheduled to be considered by the board. [Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only in the sound discretion of the agency. A request for oral argument may be incorporated in exceptions, briefs, replies to exceptions, motions for rehearing, or in separate pleadings.]

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 August 17, 2016

TRD-201604215

Kelly Parker
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING AMENDED RULE §107.52

The State Board of Dental Examiners (board) published notice of amended rule §107.52 of Chapter 100 of Title 22 of the Texas Administrative Code, concerning Procedures Governing Grievances, Hearings, and Appeals. The proposed amended rule was published in the Texas Register at 41 TexReg 6609.

The board received no written comments regarding this rule.

The proposed amended rule §107.52 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed amended rule §107.52 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President                      Board Secretary

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Member                               Member

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Member                               Member
The Texas State Board of Dental Examiners adopts new rule §108.15 relating to the Blue Ribbon Panel on Dental Sedation and Anesthesia safety. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6609).

New rule §108.15 establishes a requirement that dentists maintain and update written policies and procedures for responding to emergency situations.

The Board received two written comments regarding the new rule:

- The Texas Academy of General Dentistry submitted a comment relating to emergency preparedness requirement. TAGD supports the concept of the rule, but believes the rule as drafted is ambiguous, and that it would be helpful if the Board provided guidance on the basic requirements of a plan and the effective date that offices are required to have a plan.

  The Board disagrees with the recommendation that the rule requirements be more specific. The Board has chosen to give dentists flexibility in drafting their plan. The Board also disagrees with the effective date request because dentists should already have an emergency plan as part of their standard of care – this rule only makes that necessity explicit.

- The Texas Dental Association submitted a comment in support of the rule as written, noting that dentists are currently required to have emergency equipment and to have properly trained staff in emergency procedures. The rule merely requires that dentists write down their policies and review them annually.

  The Board agrees with TDA’s comment.

Rule §108.15 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
A dentist shall maintain and annually update written policies and procedures for responding to emergency situations.

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 August 17, 2016

**TRD-201604210**

Kelly Parker

Executive Director

State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING NEW RULE §108.15

The State Board of Dental Examiners (board) published notice of new rule §108.15 of Chapter 108 of Title 22 of the Texas Administrative Code, concerning professional conduct. The proposed new rule was published in the Texas Register at 41 TexReg 6609.

The board received two written comments regarding this rule.

The proposed new rule §108.15 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed new rule §108.15 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President                        Board Secretary

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TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 111, Standards for Prescribing Controlled Substances and Dangerous Drugs
22 TAC §111.1 Additional Continuing Education Required

The Texas State Board of Dental Examiners adopts new rule §111.1 relating to additional continuing education requirements. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6609).

New rule §111.1 establishes a requirement that dentists who prescribe controlled substances shall complete every three years at least 2 hours of continuing education in the abuse and misuse of controlled substances.

The Board received two written comments on this rule:

- The Texas Academy of General Dentistry commented that they support the idea of continuing education to prevent controlled substance abuse, but they believe that it would be more effective to mandate an online exam similar to the jurisprudence exam. Alternative, they ask that the time-frame for CE compliance to be extended to four or more years because the basic information about preventing drug abuse does not change. TAGD also asks that the Board consider reducing the CE requirement from 2 hours to 1 hour.

  The Board disagrees with TAGD's comments. The Board believes that education is a better tool than examination for keeping dentists abreast of the current trends in controlled substance abuse and drug seeking behavior. For a similar reason, the Board disagrees with requiring the CE every four years – the Board believes it is more useful to have the education more frequently to stay current with developments in the area. The Board also believes that the two hours of education every three years is unburdensome and necessary to keep practitioners up to date.

- The Texas Dental Association commented that they support the rule as written and that the rule provides dentists with an opportunity to further their knowledge about how to safely prescribe controlled substances and how to screen for patients at risk of opioid addiction.

  The Board agrees with TDA's comments.

Rule §111.1 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
Texas Register

TITLE 22 EXAMINING BOARDS
PART 5 STATE BOARD OF DENTAL EXAMINERS
CHAPTER 111 STANDARDS FOR PRESCRIBING CONTROLLED SUBSTANCES AND DANGEROUS DRUGS
RULE §111.1 Additional Continuing Education Required
ISSUE 09/02/2016
ACTION Proposed

Preamble

Each dentist who is permitted by the Drug Enforcement Agency to prescribe controlled substances shall complete every three years a minimum of two hours of continuing education in the abuse and misuse of controlled substances, opioid prescription practices, and/or pharmacology. This continuing education may be utilized to fulfill the continuing education requirements of annual renewal.

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 August 17, 2016

TRD-201604208

Kelly Parker
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
The State Board of Dental Examiners (board) published notice of new rule §111.1 of Chapter 111 of Title 22 of the Texas Administrative Code, concerning standards for prescribing controlled substances and dangerous drugs. The proposed new rule was published in the Texas Register at 41 TexReg 6609.

The board received two written comments regarding this rule.

The proposed new rule §111.1 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed new rule §111.1 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.
PREAMBLE

TITLE 22 EXAMINING BOARDS
Part 5 State Board of Dental Examiners
Chapter 111, Standards for Prescribing Controlled Substances and Dangerous Drugs
22 TAC §111.2 Self-query of Prescription Monitoring Program

The Texas State Board of Dental Examiners adopts new rule §111.2 relating to self-query of the prescription monitoring program. This rule is adopted without changes to the proposed text as published in the September 2, 2016, issue of the Texas Register (41 TexReg 6610).

New rule §111.2 establishes a requirement that dentists perform an annual self-query with the Prescription Monitoring Program of controlled substances issued under their DEA registration.

The Board received two written comments on this rule:

- The Texas Academy of General Dentistry commented that they generally support the rule and its aims but they request that the rule state its intended purpose and that the Board consider sending an automatic email reminder to providers about this mandate.

  The Board disagrees with TAGD's requests because it believes the purpose of the self-query is self-evident and practitioners are capable of performing the query annually without direction from Board Staff's, which has limited resources.

- The Texas Dental Association commented that they support the rule as written, noting that the purpose of the self-query report is to ensure controlled substances being prescribed by dentists are valid prescriptions.

  The Board agrees with TDA's comments.

Rule §111.2 is adopted under Texas Occupations Code §254.001(a). The Board interprets §254.001(a) to give the Board authority to adopt rules necessary to perform its duties and ensure compliance with state law relating to the practice of dentistry to protect the public health and safety. No other statutes, articles, or codes are affected by the rule.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to propose.

Kelly Parker
Executive Director
State Board of Dental Examiners
Texas Register

TITLE 22    EXAMINING BOARDS
PART 5    STATE BOARD OF DENTAL EXAMINERS
CHAPTER 5    STATE BOARD OF DENTAL EXAMINERS
111    STANDARDS FOR PRESCRIBING CONTROLLED SUBSTANCES AND DANGEROUS DRUGS
RULE §111.2    Self-query of Prescription Monitoring Program
ISSUE    09/02/2016
ACTION    Proposed

Preamble

Each dentist who is permitted by the Drug Enforcement Agency to prescribe controlled substances shall annually conduct a minimum of one self-query regarding the issuance of controlled substances through the Prescription Monitoring Program of the Texas State Board of Pharmacy.

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 August 17, 2016

TRD-201604209

Kelly Parker
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption: October 2, 2016

For further information, please call: (512) 475-0977
STATE BOARD OF DENTAL EXAMINERS

ORDER ADOPTING NEW RULE §111.2

The State Board of Dental Examiners (board) published notice of new rule §111.2 of Chapter 111 of Title 22 of the Texas Administrative Code, concerning standards for prescribing controlled substances and dangerous drugs. The proposed new rule was published in the Texas Register at 41 TexReg 6610.

The board received two written comments regarding this rule.

The proposed new rule §111.2 is published and the preamble attached to this order are incorporated by this reference as though set forth at length herein verbatim.

IT IS HEREBY ORDERED that proposed new rule §111.2 is adopted without changes to the proposed text.

The effective date is 20 days after filing notice hereof with the Secretary of State.

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Board President                                      Board Secretary

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Member
Rule §110.1 Definitions

Unless the context clearly indicates otherwise, the following words and terms shall have the following meaning when used in this chapter.

(1) Analgesia--the diminution or elimination of pain.

(2) Anxiolytic--

(2) Behavioral management--the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment can be performed effectively and efficiently.

(3) Board/Agency--the Texas State Board of Dental Examiners, also known as the State Board of Dental Examiners, and, for brevity, the Dental Board, the Agency, or the Board.

(4) Child/children--a patient twelve (12) years of age or younger.

(5) Competent--displaying special skill or knowledge derived from training and experience.

(6) Deep sedation--a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(7) Direct supervision--the dentist responsible for the sedation/anesthesia procedure shall be physically present in the facility and shall be continuously aware of the patient's physical status and well-being.

(8) Enteral--any technique of administration of sedation in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual).

(9) Facility--the location where a permit holder practices dentistry and provides anesthesia/sedation services.

(10) Facility inspection--an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia/sedation is supplied, equipped, staffed and maintained in a condition to support provision of anesthesia/sedation services that meet the minimum standard of care.

(11) General anesthesia--a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and
positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(12) Immediately available--on-site in the facility and available for immediate use.

(13) Incremental dosing--administration of multiple doses of a drug until a desired effect is reached, but not to exceed the maximum recommended dose (MRD).

(14) Local anesthesia--the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

(15) Maximum recommended dose (applies to minimal sedation)--FDA maximum recommended dose (MRD) of a drug, as printed in FDA-approved labeling for unmonitored home use.

(16) Minimal sedation--a minimally depressed level of consciousness, produced by a pharmacological method, which retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Medication administered for the purpose of minimal sedation shall not exceed the maximum doses recommended by the drug manufacturer. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation. During longer periods of minimal sedation in which the total amount of time of the procedures exceeds the effective duration of the sedative effect of the drug used, the supplemental dose of the sedative shall not exceed total safe dosage levels based on the effective half-life of the drug used. The total aggregate dose must not exceed one and one-half times the MRD on the day of treatment. The use of prescribed, previsit sedatives for children aged twelve (12) or younger should be avoided due to the risk of unobserved respiratory obstruction during the transport by untrained individuals.

(17) Moderate sedation--drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. A Level 2 permit is required for moderate sedation limited to enteral routes of administration. A Level 3 permit is required for moderate sedation including parenteral routes of administration. In accordance with this particular definition, the drugs or techniques used shall carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Repeated dosing of an agent before the effects of previous dosing can be fully appreciated may result in a greater alteration of the state of consciousness than is the intent of the dentist. A patient whose only response is reflex withdrawal from a painful stimulus is not considered to be in a state of moderate sedation.

(18) Parenteral--the administration of pharmacological agents intravenously, intraosseously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally.
(19) Patient Physical Status Classification:

(A) ASA--American Society of Anesthesiologists

(B) ASA I--a normal health patient

(C) ASA II--a patient with mild systemic disease

(D) ASA III--a patient with severe systemic disease

(E) ASA IV--a patient with severe systemic disease that is a constant threat to life

(F) ASA V--a moribund patient who is not expected to survive without the operation

(G) ASA VI--a declared brain-dead patient whose organs are being removed for donor purposes

(H) E--emergency operation of any variety (used to modify ASA I - ASA VI).

(20) Pediatric patient—a patient who is under the age of 13 at the time of a dental procedure

(2021) Portability—the ability of a permit holder to provide permitted anesthesia services in a location other than a facility or satellite facility.

(224) Protective reflexes—includes the ability to swallow and cough effectively.

(232) Satellite facility—an additional office or offices owned or operated by the permit holder, or owned or operated by a professional organization through which the permit holder practices dentistry, or a licensed hospital facility.

(243) Supplemental dosing (applies to minimal sedation)—during minimal sedation, supplemental dosing is a single additional dose of the initial dose of the initial drug that may be necessary for prolonged procedures. The supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The aggregate dose must not exceed one and one-half times the MRD on the day of treatment.

(254) Time-oriented anesthesia record—documentation at appropriate time intervals of drugs, doses, and physiologic data obtained during patient monitoring. Physiologic data for moderate sedation, deep sedation and general anesthesia must be taken and recorded at required intervals unless patient cooperation interferes or prohibits compliance.

(265) Titration (applies to moderate sedation)—administration of incremental doses of a drug until the desired effect is reached. Knowledge of each drug's time of onset, peak response and duration of action is essential to avoid over-sedation. When the intent is moderate sedation, one
must know whether the previous dose has taken full effect before administering an additional drug increment.
110.2 Sedation/Anesthesia Permit

(a) A dentist licensed under Chapter 101 of this title shall obtain a sedation/anesthesia permit for the following anesthesia procedures used for the purpose of performing dentistry:

(1) Nitrous Oxide/Oxygen inhalation sedation;

(2) Level 1: Minimal sedation;

(3) Level 2: Moderate sedation limited to enteral routes of administration;

(4) Level 3: Moderate sedation which includes parenteral routes of administration; or

(5) Level 4: Deep sedation or general anesthesia.

(bb) A dentist licensed to practice in Texas who desires to administer nitrous oxide/oxygen inhalation sedation or Level 1, Level 2, Level 3 or Level 4 sedation must obtain a permit from the State Board of Dental Examiners (Board). A permit is not required to administer Schedule II drugs prescribed for the purpose of pain control or post-operative care.

(1) A permit may be obtained by completing an application form approved by the Board.

(2) The application form must be filled out completely and appropriate fees paid.

(3) A dentist applying for a sedation/anesthesia permit must meet the requirements of the highest permit level sought and all permit levels below the highest permit level sought.

(3) Prior to issuance of a sedation/anesthesia permit, the Board may require that the applicant undergo a facility inspection or further review of credentials. The Board may direct an Anesthesia Consultant, who has been appointed by the Board, to assist in this inspection or review. The applicant will be notified in writing if an inspection is required and provided with the name of an Anesthesia Consultant who will coordinate the inspection. The applicant must make arrangements for completion of the inspection within 180 days of the date the notice is mailed. An extension of no more than ninety (90) days may be granted if the designated Anesthesia Consultant requests one.

(4) An applicant for a sedation/anesthesia permit must be licensed by and should be in good standing with the Board. For purposes of this chapter "good standing" means that the dentist's license is not suspended, whether or not the suspension is probated. Applications from licensees who are not in good standing shall not be approved.
Rule 110.3 Nitrous Oxide/Oxygen Inhalation Sedation

(a) Education and Professional Requirements. Initial Application Requirements for Nitrous Oxide/Oxygen Inhalation Sedation. A dentist applying for a nitrous oxide/oxygen inhalation sedation permit shall meet one of the following educational/professional criteria:

(1) current certification in Basic Life Support (BLS) for Healthcare Providers; and

(2) satisfactory completion of one of the following education programs:

   (12) satisfactory completion of an American Dental Association (ADA)* Commission on Dental Accreditation (CODA) approved or recognized predoctoral dental or postdoctoral dental training program which affords comprehensive training necessary to administer and manage administering and managing nitrous oxide/oxygen inhalation sedation, commensurate with the ADA’s Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

   (24) satisfactory completion of a comprehensive training program consistent with that described for nitrous oxide/oxygen inhalation sedation administration in the American Dental Association (ADA) Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students. This includes a minimum of fourteen (14) hours of training, including a clinical component of at least four hours of in-person clinical experience in the administration and management of nitrous oxide, during which competency in inhalation sedation technique is achieved. Acceptable courses include those obtained from academic programs of instruction recognized by the ADA Commission on Dental Accreditation (CODA); or courses approved and recognized by the ADA Continuing Education Recognition Program (CERP); or courses approved and recognized by the Academy of General Dentistry (AGD) Program Approval for Continuing Education (PACE);

(2) satisfactory completion of an ADA/CODA approved or recognized predoctoral dental or postdoctoral dental training program which affords comprehensive training necessary to administer and manage nitrous oxide/oxygen inhalation sedation; or

(3) is a Texas licensed dentist, has a current Board-issued nitrous oxide/oxygen inhalation sedation permit, and has been using nitrous oxide/oxygen inhalation sedation in a competent manner immediately prior to the implementation of this chapter on June 1, 2011. Any dentist whose Board-issued nitrous oxide/oxygen inhalation sedation permit is active on June 1, 2011 shall automatically continue to hold this permit.
(b) Maintenance of Permit. A dentist must comply with the requirements of rule 110.9 to qualify for annual renewal of a nitrous oxide/oxygen inhalation sedation permit.

(c) Administration of Nitrous Oxide/Oxygen Inhalation Sedation to Pediatric Patients. A dentist shall comply with all requirements regarding the treatment of pediatric patients, including those described in rule 110.11. Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(db) Standard of Care Delegation and Supervision Requirements. A dentist performing nitrous oxide/oxygen inhalation sedation shall maintain the minimum standard of care, including but not limited to the requirements outlined in (e) below, and in addition, shall:

1. Adhere to the clinical requirements as detailed in this section;
2. Maintain under continuous direct supervision auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of nitrous oxide/oxygen inhalation sedation;
3. Maintain current certification in Basic Life Support (BLS) for Healthcare Providers for the assistant staff by having them pass a course that includes a written examination and a hands-on demonstration of skills; and
4. Not supervise a Certified Registered Nurse Anesthetist (CRNA) performing a nitrous oxide/oxygen inhalation sedation procedure unless the dentist holds a permit issued by the Board for the sedation procedure being performed. This provision and similar provisions in subsequent sections address dentists and are not intended to address the scope of practice of persons licensed by any other agency or any level of sedation unless the dentist holds a permit issued by the board for the level of sedation to be administered during the dental procedure being performed.

(ec) Standard of Care and Clinical Requirements. A dentist must maintain the minimum standard of care in the administration of sedation/anesthesia in accordance with rule 108.7, including but not limited to the following requirements:

1. Administration of Nitrous Oxide Following Anxiolysis or Analgesia. A dentist, who does not hold a Level 1 Minimal Sedation permit or higher, shall not administer nitrous oxide to a patient if the patient was treated with anxiolysis or analgesia administered by the dentist within the twelve hours prior to the dental treatment at which nitrous oxide will be administered.

meet the following clinical requirements to utilize nitrous oxide/oxygen inhalation sedation:
(24) Patient Evaluation. Patients considered for nitrous oxide/oxygen inhalation sedation must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II), this may consist of a review of their current medical history and medication use. However, patients with significant medical considerations (ASA III, IV) may require review of their current medical history and medication use, as well as documented verbal or written consultation with the patient’s primary care physician or consulting medical specialist.

(32) Pre-Procedure Preparation and Informed Consent.

   (A) The patient, parent, guardian, or care-giver must be advised of the risks associated with the delivery of nitrous oxide/oxygen inhalation sedation and must provide written, informed consent for the proposed sedation.

   (B) The dentist shall determine that an adequate oxygen supply is available and evaluate equipment for proper operation and delivery of inhalation agents prior to use on each patient.

   (C) Baseline vitals must be obtained in accordance with rules §108.7 and §108.8 of this title.

(43) Personnel and Equipment Requirements.

   (A) In addition to the dentist, at least one member of the assistant staff should be present during the administration of nitrous oxide/oxygen inhalation sedation in nonemergency situations.

   (B) The inhalation equipment must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either:

      (i) a functioning device that prohibits the delivery of less than 30% oxygen; or

      (ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm.

   (C) If nitrous oxide and oxygen delivery equipment capable of delivering less than 30% oxygen is used, an in-line oxygen analyzer must be utilized.

   (D) The equipment must have an appropriate nitrous oxide/oxygen scavenging system.

   (E) The ability of the provider and/or the facility to deliver positive pressure oxygen must be maintained.
Monitoring.

(A) The dentist must induce the nitrous oxide/oxygen inhalation sedation and must remain in the room with the patient during the maintenance of the sedation until pharmacologic and physiologic vital sign stability is established.

(B) After pharmacologic and physiologic vital sign stability has been established, the dentist may delegate the monitoring of the nitrous oxide/oxygen inhalation sedation to a dental auxiliary who has been certified to monitor the administration of nitrous oxide/oxygen inhalation sedation by the State Board of Dental Examiners.

Documentation.

(A) Pre-operative baseline vitals must be documented.

(B) Individuals present during administration must be documented.

(C) Maximum concentration administered must be documented.

(D) The start and finish times of the inhalation agent must be documented.

(E) The dentist’s record of the patient’s treatment shall include all records created by or for the sedation provider.

Recovery and Discharge.

(A) Recovery from nitrous oxide/oxygen inhalation sedation, when used alone, should be relatively quick, requiring only that the patient remain in an operatory chair as needed.

(B) Patients who have unusual reactions to nitrous oxide/oxygen inhalation sedation should be assisted and monitored either in an operatory chair or recovery room until stable for discharge.

(C) The dentist must determine that the patient is appropriately responsive prior to discharge. The dentist shall not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

Emergency Management. Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. If a patient enters a deeper level of sedation than the dentist is qualified to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation. The dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of the nitrous oxide, and providing the
equipment and protocols for patient rescue. A dentist must be able to rescue patients who enter a deeper state of sedation than intended. The dentist, personnel and facility must be prepared to treat emergencies that may arise from the administration of nitrous oxide/oxygen inhalation sedation.

(8) Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(9) A dentist who holds a nitrous oxide/oxygen inhalation sedation permit shall not intentionally administer minimal sedation, moderate sedation, deep sedation, or general anesthesia.
Rule 110.4 Minimal Sedation – Level 1

(a) Education and Professional Requirements

Initial Application Requirements for Level 1 Minimal Sedation. A dentist applying for a Level 1 Minimal Sedation permit shall meet one of the following educational/professional criteria:

(1) current certification in Basic Life Support (BLS) for Healthcare Providers; and

(2) satisfactory completion of one of the following education programs:

(A) satisfactory completion of an advanced education program accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) that affords comprehensive training necessary to administer and manage minimal sedation, commensurate with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(B) a board-approved education program of at least

This includes a minimum of sixteen (16) hours of didactic training and instruction in which competency in enteral and/or combined inhalation-ental minimal sedation technique is demonstrated; or. A board-approved education program shall include, at a minimum, the following components: training in pharmacology; pre-procedure evaluation, patient selection, anatomy, and ASA classification; anesthesia technique and monitoring, equipment, and emergency preparedness, including running scenarios and management of complications; and managing special needs patients.

(b) Maintenance of Permit. A dentist must comply with the requirements of rule 110.9 to qualify for annual renewal of a Level 1 sedation/anesthesia permit.

(c) Administration of Level 1 Sedation/Anesthesia to Pediatric Patients. A dentist shall comply with all requirements regarding the treatment of pediatric patients, including those described in rule 110.11. Additionally, the Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(1) satisfactory completion of training to the level of competency in minimal sedation consistent with that prescribed in the American Dental Association (ADA) Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, or a comprehensive training program in minimal sedation that satisfies the requirements described in the
ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students. This includes a minimum of sixteen (16) hours of didactic training and instruction in which competency in enteral and/or combined inhalation enteral minimal sedation technique is demonstrated; or

(2) satisfactory completion of an advanced education program accredited by the ADA Commission on Dental Accreditation (CODA) that affords comprehensive training necessary to administer and manage minimal sedation, commensurate with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(3) is a Texas licensed dentist, has a current Board-issued enteral permit, and has been using minimal sedation in a competent manner immediately prior to the implementation of this chapter on June 1, 2011. Any Texas licensed dentist who was issued an enteral sedation permit before June 1, 2011 and whose enteral sedation permit was active on June 1, 2011 shall automatically have the permit reclassified as a Level I Minimal Sedation permit on June 1, 2011. A Texas licensed dentist whose permit is reclassified from an enteral sedation permit to a Level 1 Minimal Sedation permit on June 1, 2011 may continue to administer enteral sedation until January 1, 2013. On or before January 1, 2013, the dentist shall either provide proof that adequate education has been obtained by submitting an application for a Level 2 permit on or before that date, or shall comply with the requirements of a Level 1 permit after that date. A dentist shall always follow the standard of care and clinical requirements for the level of sedation he or she is performing.

(db) Standard of Care Requirements
Delegation and Supervision Requirements. A dentist must maintain the minimum standard of care, including, but not limited to the requirements outlined in (e) below, and in addition, shall:

(2) maintain under continuous direct supervision auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of minimal sedation;

(3) maintain current certification in Basic Life Support (BLS) for Healthcare Providers for the assistant staff by having them pass a course that includes a written examination and a hands-on demonstration of skills; and

(4) not supervise a Certified Registered Nurse Anesthetist (CRNA) performing a minimal sedation procedure at any level of sedation unless the dentist holds a permit issued by the Board for the level of sedation to be administered during the dental procedure being performed.
(e) Standard of Care and Clinical Requirements. A dentist must maintain the minimum standard of care in the administration of sedation/anesthesia in accordance with rule 108.7, including, but not limited to the following requirements:

A dentist performing minimal sedation shall maintain the minimum standard of care for anesthesia, and in addition shall:

1. Adhere to the clinical requirements as detailed in this section;
2. Maintain under continuous direct supervision auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of minimal sedation;
3. Maintain current certification in Basic Life Support (BLS) for Healthcare Providers for the assistant staff by having them pass a course that includes a written examination and a hands-on demonstration of skills; and
4. Not supervise a Certified Registered Nurse Anesthetist (CRNA) performing a minimal sedation procedure unless the dentist holds a permit issued by the Board for the sedation procedure being performed.

(c) Clinical Requirements. A dentist must meet the following clinical requirements for utilization of minimal sedation:

1. Patient Evaluation. Patients considered for minimal sedation must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II), this may consist of a review of the patients' current medical history and medication use. However, patients with significant medical considerations (ASA III, IV) require review of the patients' current medical history and medication use, as well as a required verbal or written consultation with their primary care physician or consulting medical specialist.

2. Pre-Procedure Preparation and Informed Consent.
   (A) The patient, parent, guardian, or care-giver must be advised regarding the procedure associated with the delivery of any sedative agents and must provide written, informed consent for the proposed sedation.
   (B) The dentist shall determine that an adequate oxygen supply is available and evaluate equipment for proper operation and delivery of adequate oxygen under positive pressure.
   (C) Baseline vital signs must be obtained in accordance with rules §108.7 and §108.8 of this title.
(D) A focused physical evaluation must be performed as deemed appropriate.

(E) Pre-procedure dietary restrictions must be considered based on the sedative technique prescribed.

(F) Pre-procedure verbal and written instructions must be given to the patient, parent, escort, guardian, or care-giver.

(3) Personnel and Equipment Requirements.

(A) In addition to the dentist, at least one additional person trained in Basic Life Support (BLS) for Healthcare Providers must be present.

(B) A positive-pressure oxygen delivery system suitable for the patient being treated must be immediately available.

(C) When inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either:
   
   (i) a functioning device that prohibits the delivery of less than 30% oxygen; or
   
   (ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm.

(D) An appropriate scavenging system must be available if gases other than oxygen or air are used.

(4) Monitoring. The dentist administering the sedation must remain in the operatory room to monitor the patient until the patient meets the criteria for discharge to the recovery area. Once the patient meets the criteria for discharge to the recovery area, the dentist may delegate monitoring to a qualified dental auxiliary. Monitoring during the administration of sedation must include:

(A) Oxygenation.

   (i) Color of mucosa, skin, or blood must be evaluated continually.

   (ii) Oxygen saturation monitoring by pulse-oximetry should be used when a single drug minimal sedative is used. The additional use of nitrous oxide has a greater potential to increase the patient's level of sedation to moderate sedation, and a pulse oximeter must be used.

(B) Ventilation. The dentist (or appropriately qualified individual) must observe chest excursions and must verify respirations continually.
(C) Circulation. Blood pressure and heart rate should be evaluated preprocedurally, post-procedurally and intra-procedurally as necessary.

(5) Documentation.

(A) Documentation must be made in accordance with rules §108.7 and §108.8 of this title and must include the names and dosages of all drugs administered and the names of individuals present during administration of the drugs.

(B) A time-oriented sedation record may be considered for documentation of all monitoring parameters.

(C) Pulse oximetry, heart rate, respiratory rate, and blood pressure are the parameters which may be documented at appropriate intervals of no more than 10 minutes.

(D) The dentist’s record of the patient’s treatment shall include all records created by or for the sedation provider.

(6) Recovery and Discharge.

(A) Oxygen and suction equipment must be immediately available in the recovery area if a separate recovery area is utilized.

(B) The qualified dentist must monitor the patient during recovery until the patient is ready for discharge by the dentist. The dentist may delegate this task to an appropriately qualified dental auxiliary.

(C) The dentist must determine and document that the patient's level of consciousness, oxygenation, ventilation, and circulation are satisfactory prior to discharge. The dentist shall not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

(D) Post-procedure verbal and written instructions must be given to the patient, parent, escort, guardian, or caretaker. Post-procedure, patients should be accompanied by an adult caregiver for an appropriate period of recovery.

(7) Emergency Management. Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. If a patient enters a deeper level of sedation than the dentist is qualified to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation. The dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of minimal sedation, and providing the equipment and protocols for patient rescue. A dentist must be able to rescue patients who enter a deeper state of sedation than intended.
Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

A dentist who holds a minimal sedation permit shall not intentionally administer moderate sedation, deep sedation, or general anesthesia.
110.5 Moderate Sedation – Levels 2 and 3

(a) Education and Professional Requirements: Initial Application Requirements for Level 2 Moderate Sedation (enteral).

(1) A dentist applying for a Level 2 Moderate Sedation permit (limited to enteral route of administration) must satisfy at least one of the following educational/professional criteria shall demonstrate the following:

(1) current certification in Basic Life Support (BLS) for Healthcare Providers;
(2) current certification in Advanced Cardiac Life Support (ACLS); and
(3) satisfactory completion of one of the following education programs:

(A) (B) satisfactory completion of an advanced education program accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) that affords comprehensive and appropriate training necessary to administer and manage enteral moderate sedation, commensurate with the ADA’s Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(B) completion of a board-approved education program that includes a minimum of sixty (60) hours of didactic training and instruction, and satisfactory management of at least twenty (20) case experiences in moderate sedation, consistent with that described for moderate enteral sedation in the American Dental Association (ADA) Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students. This includes a minimum of twenty-four (24) hours of instruction, plus management of at least ten (10) case experiences in enteral moderate sedation. These ten-twenty (240) case experiences must include at least three-ten live clinical dental experiences managed by participants in groups of no larger than five (5). The remaining cases may include simulations and/or video presentations, but must include one experience in returning (rescuing) a patient from deep to moderate sedation. A board-approved education program shall include, at a minimum, the following components:

(i) Eight hours pharmacology;
(ii) 12 hours pre-procedure evaluation, patient selection, anatomy, and ASA classification;
(iii) Four hours anesthesia technique, monitoring, and equipment.
(iv) 12 hours inter-operative management and recognition of emergencies and complications;

(v) Six hours emergency preparedness, including running scenarios and management of complications; and

(vi) Four hours management of geriatric patients.

(B) Satisfactory completion of an advanced education program accredited by the ADA Commission on Dental Accreditation (CODA) that affords comprehensive and appropriate training necessary to administer and manage enteral moderate sedation, commensurate with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(C) Is a Texas licensed dentist who was issued an enteral sedation permit before June 1, 2011 and whose enteral sedation permit was active on June 1, 2011. Dentists in this category shall automatically have their permit reclassified as a Level 1 Minimal Sedation permit on June 1, 2011. A Texas licensed dentist whose permit is reclassified from an enteral sedation permit to a Level 1 Minimal Sedation permit on June 1, 2011 may continue to administer enteral sedation until January 1, 2013. On or before January 1, 2013, the dentist shall either provide proof that adequate education has been obtained by submitting an application for a Level 2 permit on or before that date, or shall comply with the requirements of a Level 1 permit after that date. A dentist shall always follow the standard of care and clinical requirements for the level of sedation he or she is performing.

(b2) Initial Application Requirements for Level 3 Moderate Sedation (parenteral). A dentist applying for a Level 3 Moderate Sedation permit shall demonstrate the following: (inclusive of parenteral routes of administration) must satisfy at least one of the following educational/professional criteria:

(1) Current certification in Basic Life Support (BLS) for Healthcare Providers;

(2) Current certification in Advanced Cardiac Life Support (ACLS); and

(3) Satisfactory completion of one of the following education programs:

(BA) Satisfactory completion of an advanced education program accredited by the ADA CODA that affords comprehensive and appropriate training necessary to administer and manage enteral moderate sedation, commensurate with the ADA's Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(B) An internship or residency that included intravenous moderate sedation training equivalent to that defined in this subsection; or
(C) satisfactory completion of a comprehensive board-approved training education program consistent with that described for parenteral moderate sedation in the ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students. This includes a minimum of sixty (60) hours of didactic training and instruction and satisfactory management of a minimum of twenty (20) dental patients, under supervision, using intravenous sedation. A board-approved education program shall include, at a minimum, the following components:

(i) Eight hours pharmacology;

(ii) 12 hours pre-procedure evaluation, patient selection, anatomy, and ASA classification;

(iii) Four hours anesthesia technique, monitoring, and equipment;

(iv) 12 hours inter-operative management and recognition of emergencies and complications;

(v) Six hours emergency preparedness, including running scenarios and management of complications; and

(vi) Four hours management of geriatric patients; or

(c) Maintenance of Permit. A dentist must comply with the requirements of rule 110.9 to qualify for annual renewal of a Level 2 or Level 3 sedation/anesthesia permit.

(d) Administration of Level 2 or Level 3 Sedation/Anesthesia to Pediatric Patients. A dentist shall comply with all requirements regarding the treatment of pediatric patients, including those described in rule 110.11. Additionally, (B) Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(B) satisfactory completion of an advanced education program accredited by the ADA/CODA that affords comprehensive and appropriate training necessary to administer and manage parenteral moderate sedation, commensurate with the ADA’s Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students; or

(C) satisfactory completion of an internship or residency which included intravenous moderate sedation training equivalent to that defined in this subsection; or
(D) is a Texas licensed dentist who had a current parenteral sedation permit issued by the Board and has been using parenteral sedation in a competent manner immediately prior to the implementation of this chapter on June 1, 2011. A Texas licensed dentist whose Board-issued permit to perform parenteral sedation is active on June 1, 2011 shall automatically have the permit reclassified as a Level 3 Moderate Sedation (inclusive of parenteral routes of administration) permit.

(3) A dentist applying for a Level 2 or 3 Moderate Sedation permit must satisfy the following emergency management certification criteria:

(A) Licensees holding moderate sedation permits shall document:

(i) Current (as indicated by the provider), successful completion of Basic Life Support (BLS) for Healthcare Providers; AND

(ii) Current (as indicated by the provider), successful completion of an Advanced Cardiac Life Support (ACLS) course, OR current (as indicated by the provider), successful completion of a Pediatric Advanced Life Support (PALS) course.

(B) Licensees holding Level 2 or Level 3 Moderate Sedation permits who provide anesthesia services to children (age twelve (12) or younger) must document current, successful completion of a PALS course.

(eb) Standard of Care Requirements; Delegation and Supervision Requirements. A dentist must maintain the minimum standard of care, including, but not limited to the requirements outlined in (f) below, and in addition shall as outlined in §108.7 of this title and in addition shall:

(1) adhere to the clinical requirements as detailed in this section;

(2) maintain under continuous personal supervision auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of moderate sedation;

(3) maintain current certification in Basic Life Support (BLS) for Healthcare Providers for the assistant staff by having them pass a course that includes a written examination and a hands-on demonstration of skills; and

(4) not supervise a Certified Registered Nurse Anesthetist (CRNA) performing any level of sedation moderate sedation procedure unless the dentist holds a permit issued by the Board for the level of sedation to be administered during the dental procedure being performed.
Standard of Care and Clinical Requirements. A dentist must maintain the minimum standard of care in the administration of sedation/anesthesia in accordance with rule 108.7, including but not limited to the following requirements:

(1) Patient Evaluation. Patients considered for moderate sedation must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II) this <strong>should</strong> consist of at least a review of the patient's current medical history and medication use. However, patients with significant medical considerations (ASA III, IV) <strong>may</strong> require review of their <em>current</em> medical history and medication use, as well as documented verbal or written consultation with the patient’s primary care physician or consulting medical specialist.

(2) Pre-Procedure Preparation and Informed Consent.

(A) The patient, parent, guardian, or care-giver must be advised regarding the procedure associated with the delivery of any sedative agents and must provide written, informed consent for the proposed sedation. The informed consent must be specific to the procedure being performed and must specify that the risks related to the procedure include cardiac arrest, brain injury, and death.

(B) The dentist shall determine that an adequate oxygen supply is available and evaluate equipment for proper operation and delivery of adequate oxygen under positive pressure.

(C) Baseline vital signs must be obtained in accordance with <a>rules</a> §108.7 and §108.8 of this title.

(D) A focused physical evaluation must be performed as deemed appropriate.

(E) Pre-procedure dietary restrictions must be considered based on the sedative technique prescribed.

(F) Pre-procedure verbal or written instructions must be given to the patient, parent, escort, guardian, or care-giver.

(3) Personnel and Equipment Requirements.

(A) In addition to the dentist, at least one additional person trained in Basic Life Support (BLS) for Healthcare Providers must be present.

(B) A positive-pressure oxygen delivery system suitable for the patient being treated must be immediately available.

(C) When inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either:
(i) a functioning device that prohibits the delivery of less than 30% oxygen; or

(ii) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm.

(D) An appropriate scavenging system must be available if gases other than oxygen or air are used.

(E) The equipment necessary to establish intravenous access must be available.

(4) Monitoring. The dentist administering moderate sedation must remain in the operatory room to monitor the patient continuously until the patient meets the criteria for recovery. When active treatment concludes and the patient recovers to a minimally sedated level, the dentist may delegate a qualified dental auxiliary to remain with the patient and continue to monitor the patient until he/she is discharged from the facility. The dentist must not leave the facility until the patient meets the criteria for discharge and is discharged from the facility. Monitoring must include:

(A) Consciousness. Level of consciousness (e.g., responsiveness to verbal command) must be continually assessed.

(B) Oxygenation.

   (i) Color of mucosa, skin, or blood must be evaluated continually.

   (ii) Oxygen saturation must be evaluated by pulse-oximetry continuously.

(C) Ventilation.

   (i) Chest excursions must be continually observed.

   (ii) Ventilation must be continually evaluated. This can be accomplished by auscultation of breath sounds, monitoring end-tidal CO2 or by verbal communication with the patient.

(D) Circulation.

   (i) Blood pressure and heart rate must be continually evaluated.

   (ii) Continuous EKG monitoring of patients sedated under moderate parenteral sedation is required.

(5) Documentation.
(A) Documentation must be made in accordance with §108.7 and §108.8 of this title.

(B) A written time-oriented anesthetic record must be maintained and must include the names and dosages of all drugs administered and the names of individuals present during administration of the drugs.

(C) Pulse-oximetry, heart rate, respiratory rate, and blood pressure must be continually monitored and documented at appropriate intervals of no more than ten (10) minutes.

(D) The dentist’s record of the patient’s treatment shall include all records created by or for the sedation provider.

(6) Recovery and Discharge.

(A) Oxygen and suction equipment must be immediately available if a separate recovery area is utilized.

(B) While the patient is in the recovery area, the dentist or qualified clinical staff must continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness.

(C) The dentist must determine and document that the patient's level of consciousness, oxygenation, ventilation, and circulation are satisfactory for discharge. The dentist shall not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

(D) Post-procedure verbal and written instructions must be given to the patient, parent, escort, guardian, or care-giver. Post-procedure, patients should be accompanied by an adult caregiver for an appropriate period of recovery.

(E) If a reversal agent is administered before discharge criteria have been met, the patient must be monitored until recovery is assured.

(7) Emergency Management.

(A) The dentist is responsible for the sedation management, adequacy of the facility and staff, diagnosis and treatment of emergencies associated with the administration of moderate sedation, and providing the equipment and protocols for patient rescue. This includes immediate access to pharmacologic antagonists and equipment for establishing a patent airway and providing positive pressure ventilation with oxygen.
(B) Advanced airway equipment and resuscitation medications must be available.

(C) A defibrillator should be available when ASA I and II patients are sedated under moderate sedation. A defibrillator must be available when ASA III and IV patients are sedated under moderate sedation.

(D) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. If a patient enters a deeper level of sedation than the dentist is qualified to provide, the dentist must stop the dental procedure until the patient returns to the intended level of sedation. The dentist administering moderate sedation must be able to recover patients who enter a deeper state of sedation than intended.

(8) Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(gd) A dentist who holds a moderate sedation permit shall not intentionally administer deep sedation or general anesthesia.
110.6 Deep Sedation or General Anesthesia – Level 4

(a) Education and Professional Initial Application Requirements for Level 4 Deep Sedation or General Anesthesia. A dentist applying for a Level 4 Deep Sedation or General Anesthesia permit shall demonstrate the following:

(1) current certification in (i) Current (as indicated by the provider), successful completion of Basic Life Support (BLS) for Healthcare Providers;

(2) current certification in AND

(ii) Current (as indicated by the provider), successful completion of an Advanced Cardiac Life Support (ACLS) course, or OR current (as indicated by the provider), successful completion of a Pediatric Advanced Life Support (PALS) course; and

(3) satisfactory completion of:

(A) satisfactory completion of an advanced education program accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) that affords comprehensive and appropriate training necessary to administer and manage deep sedation or general anesthesia; or

(B) is a Texas licensed dentist who holds a current permit to administer deep sedation or general anesthesia issued by the Board and who has been using deep sedation or general anesthesia in a competent manner immediately prior to the implementation of this chapter on June 1, 2011. A Texas licensed dentist whose Board-issued permit to perform deep sedation or general anesthesia is active on June 1, 2011 shall automatically have the permit reclassified as a Level 4 Deep Sedation or General Anesthesia permit.

(2) A dentist applying for a permit to administer deep sedation or general anesthesia must satisfy one of the following criteria:

(A) satisfactory completion of an advanced education program accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) that affords comprehensive and appropriate training necessary to administer and manage deep sedation or general anesthesia; or

(B) is a Texas licensed dentist who holds a current permit to administer deep sedation or general anesthesia issued by the Board and who has been using deep sedation or general anesthesia in a competent manner immediately prior to the implementation of this chapter on June 1, 2011. A Texas licensed dentist whose Board-issued permit to perform deep sedation or general anesthesia is active on June 1, 2011 shall automatically have the permit reclassified as a Level 4 Deep Sedation or General Anesthesia permit.

(2) A dentist applying for a permit to administer deep sedation or general anesthesia must satisfy the following emergency management certification criteria:
(A) Licensees holding deep sedation or general anesthesia permits shall document:

(i) Current (as indicated by the provider), successful completion of Basic Life Support (BLS) for Healthcare Providers; AND

(ii) Current (as indicated by the provider), successful completion of an Advanced Cardiac Life Support (ACLS) course, OR current (as indicated by the provider), successful completion of a Pediatric Advanced Life Support (PALS) course.

(B) Licensees holding deep sedation or general anesthesia permits who provide anesthesia services to children (age twelve (12) or younger) must document current, successful completion of a PALS course.

(b) Maintenance of Permit. A dentist must comply with the requirements of rule 110.9 to qualify for annual renewal of a Level 4 sedation/anesthesia permit.

(c) Administration of Level 4 Sedation/anesthesia to Pediatric Patients. A dentist shall comply with all requirements regarding the treatment of pediatric patients, including those described in rule 110.11. Additionally the (B) Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(db) Standard of Care Delegation and Supervision Requirements. A dentist must maintain the minimum standard of care, including, but not limited to the requirements outlined in (e) below, for the administration of anesthesia as outlined in §108.7 of this title and in addition shall:

(1) adhere to the clinical requirements as detailed in this section;

(12) maintain under continuous direct supervision a minimum of two qualified dental auxiliary personnel who shall be capable of reasonably assisting in procedures, problems, and emergencies incident to the use of deep sedation and/or general anesthesia;

(23) maintain current certification in Basic Life Support (BLS) for Healthcare Providers for the assistant staff by having them pass a course that includes a written examination and a hands-on demonstration of skills; and

(34) not supervise a Certified Registered Nurse Anesthetist (CRNA) performing any level of sedation unless the dentist holds a permit issued by the board for the level of sedation
to be administered during the dental procedure being performed deep sedation/general anesthesia procedure unless the dentist holds a permit issued by the Board for the sedation procedure being performed.

(ce) Standard of Care and Clinical Requirements. A dentist must maintain the minimum standard of care in the administration of sedation/anesthesia in accordance with rule 108.7, including but not limited to the following requirements:

(1) Patient Evaluation. Patients considered for deep sedation or general anesthesia must be suitably evaluated prior to the start of any sedative procedure. In healthy or medically stable individuals (ASA I, II) this must consist of at least a review of their current medical history, medication use, and NPO status. However, patients with significant medical considerations (ASA III, IV) may require review of their current medical history, medication use, and NPO status, as well as documented verbal or written consultation with the patient's primary care physician or consulting medical specialist.

(2) Pre-Procedure Preparation and Informed Consent.

(A) The patient, parent, guardian, or care-giver must be advised regarding the procedure associated with the delivery of any sedative or anesthetic agents and must provide written, informed consent for the proposed deep sedation or general anesthesia procedure. The informed consent must be specific to the deep sedation and/or general anesthesia procedure being performed and must specify that the risks related to the procedure include cardiac arrest, brain injury, and death.

(B) The dentist shall determine that an adequate oxygen supply is available and evaluate equipment for proper operation and delivery of adequate oxygen under positive pressure.

(C) Baseline vital signs must be obtained in accordance with §108.7 and §108.8 of this title.

(D) A focused physical evaluation must be performed as deemed appropriate.

(E) Pre-procedure dietary restrictions must be considered based on the sedative/anesthetic technique prescribed.

(F) Pre-procedure verbal and written instructions must be given to the patient, parent, escort, guardian, or care-giver.

(G) An intravenous line, which is secured throughout the procedure, must be established except as provided in paragraph (7) of this subsection, regarding Pediatric Special Situations and Special Needs Patients.

(3) Personnel and Equipment Requirements.
(A) Personnel. A minimum of three (3) individuals must be present during the procedure:

(i) a dentist who is qualified to administer the deep sedation or general anesthesia who is currently certified in ACLS and/or PALS; and

(ii) two additional individuals who have hold current certification of successfully completing a course in Basic Life Support (BLS) for Healthcare Providers, one of which must be dedicated to assisting with patient monitoring.

(B) Equipment.

(i) A positive-pressure oxygen delivery system suitable for the patient being treated must be immediately available.

(ii) When inhalation equipment is used, it must have a fail-safe system that is appropriately checked and calibrated. The equipment must also have either:

   (I) a functioning device that prohibits the delivery of less than 30% oxygen; or

   (II) an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm.

(iii) An appropriate scavenging system must be available if gases other than oxygen are used.

(iv) The equipment necessary to establish intravenous access must be available.

(v) Equipment and drugs necessary to provide advanced airway management and advanced cardiac life support must be immediately available.

(vi) If volatile anesthetic agents are utilized, an inspired agent analysis monitor and capnograph should be considered.

(vii) Emergency medications and a defibrillator must be immediately available.

(4) Monitoring. A qualified dentist administering deep sedation or general anesthesia must remain in the operatory room to monitor the patient continuously until the patient meets the criteria for discharge to the recovery area. The dentist must not leave the
facility until the patient meets the criteria for discharge and is discharged from the facility. Monitoring must include:

(A) Oxygenation.
   (i) Color of mucosa, skin, or blood must be continually evaluated.
   (ii) Oxygenation saturation must be evaluated continuously by pulse oximetry.

(B) Ventilation.
   (i) Intubated patient: End-tidal CO2 must be continuously monitored and evaluated.
   (ii) Non-intubated patient: Breath sounds via auscultation and/or end-tidal CO2 must be continually monitored and evaluated.
   (iii) Respiration rate must be continually monitored and evaluated.

(C) Circulation.
   (i) Heart rate and rhythm via EKG and pulse rate via pulse oximetry must be evaluated throughout the procedure.
   (ii) Blood pressure must be continually monitored.

(D) Temperature.
   (i) A device capable of measuring body temperature must be readily available during the administration of deep sedation or general anesthesia.
   (ii) The equipment to continuously monitor body temperature should be available and must be performed whenever triggering agents associated with malignant hyperthermia are administered.

(5) Documentation.

(A) Documentation must be made in accordance with §108.7 and §108.8 of this title and must include the names, times and dosages of all drugs administered and the names of individuals present during administration of the drugs.

(B) A written time-oriented anesthetic record must be maintained.

(C) Pulse oximetry and end-tidal CO2 measurements (if taken with an intubated patient), heart rate, respiratory rate, and blood pressure must be continually recorded at five (5) minute intervals.
(D) The dentist’s record of the patient’s treatment shall include all records created by or for the sedation provider.

(6) Recovery and Discharge.

(A) Oxygen and suction equipment must be immediately available if a separate recovery area is utilized.

(B) The dentist or clinical staff must continually monitor the patient's blood pressure, heart rate, oxygenation, and level of consciousness.

(C) The dentist must determine and document that the patient's level of consciousness, oxygenation, ventilation, and circulation are satisfactory prior to discharge. The dentist shall not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.

(D) Post-procedure verbal and written instructions must be given to the patient, parent, escort, guardian, or care-giver. Post-procedure, patients should be accompanied by an adult caregiver for an appropriate period of recovery.

(7) Special Situations

(A) Special Needs Patients. Because many dental patients undergoing deep sedation or general anesthesia are mentally and/or physically challenged, it is not always possible to have a comprehensive physical examination or appropriate laboratory tests prior to administering care. When these situations occur, the dentist responsible for administering the deep sedation or general anesthesia shall document the reasons preventing the pre-procedure management.

(B) Management of Children. For children twelve (12) years of age and under, the dentist should observe the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(8) Emergency Management.

(A) The dentist is responsible for the sedation management, adequacy of the facility and staff, diagnosis and treatment of emergencies associated with the administration of deep sedation or general anesthesia, and providing the equipment and protocols for patient rescue. This includes immediate access to pharmacologic antagonists and equipment for establishing a patent airway and providing positive pressure ventilation with oxygen.
(B) Advanced airway equipment, emergency medications and a defibrillator must be immediately available.

(C) Appropriate pharmacologic agents must be immediately available if known triggering agents of malignant hyperthermia are part of the anesthesia plan.
110.7 Portability

(a) A sedation/anesthesia permit is valid for the dentist's facility, if any, as well as any satellite facility.

(b) A Texas licensed dentist who holds the Board-issued privilege of portability on or before June 1, 2011 will automatically continue to hold that privilege provided the dentist complies with the renewal requirements of this section.

(c) Portability of a sedation/anesthesia permit will be granted to a dentist who, after June 1, 2011, applies for portability, if the dentist:

   (1) holds a Level 4 Deep Sedation/General Anesthesia permit;

   (2) holds a Level 3 Moderate Parenteral Sedation permit and the permit was granted based on education received in conjunction with the completion of a oral and maxillofacial specialty education program or a dental anesthesia program; or

   (3) holds a Level 3 Moderate Parenteral Sedation permit and if:

      (A) the training for the permit was obtained on the basis of completion of any of the following American Dental Association (ADA) Commission on Dental Accreditation (CODA) recognized or approved programs:

         (i) a specialty program;

         (ii) a general practice residency;

         (iii) an advanced education in general dentistry program; or

         (iv) a continuing education program. Dentists seeking a portability privilege designation based on this method of education shall also successfully complete no less than sixty (60) hours of didactic instruction and manage no less than twenty (20) dental patients by the intravenous route of administration; and

      (B) the applicant provides proof of administration of no less than thirty (30) cases of personal administration of Level 3 sedation on patients in a primary or satellite practice location within the six (6) month period preceding the application for portability, but following the issuance of the sedation permit. Acceptable documentation shall include, but not be limited to, patient records demonstrating the applicant's anesthetic technique, as well as provision of services by the applicant within the minimum standard of care.
(d) A dentist providing anesthesia services utilizing a portability permit remains responsible for providing these services in strict compliance with all applicable laws and rules. The dentist shall ascertain that the location is supplied, equipped, staffed, and maintained in a condition to support provision of anesthesia services that meet the standard of care.

(e) Any applicant whose request for portability status is not granted on the basis of the application will be provided an opportunity for hearing pursuant to Texas Government Code, Chapter 2001 et seq.
110.8 Provisional Anesthesia and Portability Permits

(a) The Board may elect to issue a temporary sedation/anesthesia and/or portability permit that will expire on a stated date. A full sedation/anesthesia or portability permit may be issued after the dentist has complied with requests of the Board which may include, but shall not be limited to, review of the dentist's anesthetic technique, facility inspection, and/or review of patient records to ascertain that the minimum standard of care is being met. If a full permit is not issued, the temporary permit will expire on the stated date.

(b) A dentist licensed by the Board who is enrolled and approaching graduation in a specialty or General Practice Residency/Advanced Education in General Dentistry (GPR/AEGD) program as detailed in this chapter may, upon approval of the Board or its designees, obtain a provisional permit from the Board to administer moderate parenteral sedation and/or deep sedation and general anesthesia. A dentist licensed by the Board who holds a Level IV permit issued by the Board may, upon approval of the Board or its designees, obtain a provisional permit from the Board to provide anesthesia on a portable basis. To qualify for a provisional permit the applicant must:

1. meet all requirements under this chapter;
2. have a letter submitted on the applicant's behalf:
   (A) on the letterhead of the school administering the program;
   (B) signed by the director of the program;
   (C) specifying the specific training completed; and
   (D) confirming imminent graduation as a result of successful completion of all requirements in the program.
3. For the purposes of this chapter, "completion" means the successful conclusion of all requirements of the program in question, but not including the formal graduation process.
4. Any provisional permit issued under this section shall remain in effect until the next-scheduled regular Board meeting, at which time the Board will consider ratifying the provisional permit.
5. On ratification of a provisional permit, the status of the permit will change to that of a regular permit under this section.
Rule 110.9  **Sedation/Anesthesia Permit Renewal**

(a) The Board shall renew an anesthesia/sedation permit annually if required fees are paid and the required emergency management training and continuing education requirements are satisfied. The Board shall consider disciplinary history in Texas and in other jurisdictions in its review of a sedation/anesthesia permit renewal application. The Board shall not renew an anesthesia/sedation permit if, after notice and opportunity for hearing, the Board finds the permit holder has provided, or is likely to provide, anesthesia/sedation services in a manner that does not meet the minimum standard of care. If a hearing is held, the Board shall consider factors including patient complaints, morbidity, mortality, and anesthesia consultant recommendations.

(b) Fees. Annual dental license renewal certificates shall include the annual permit renewal, except as provided for in this section. The licensee shall be assessed an annual renewal fee in accordance with the fee schedule in Chapter 102 of this title.

(c) Emergency Management Training. To renew a sedation/anesthesia permit, a dentist shall demonstrate maintenance of competency in emergency management. Specifically, a dentist must provide proof of the emergency management certification required of the dentist’s highest sedation/anesthesia permit level, as follows:

(A) Nitrous Oxide/Oxygen Inhalation Sedation and Level 1 Minimal Sedation – current certification in Basic Life Support (BLS)

(B) Levels 2 and 3: Moderate Sedation – current certification in BLS and current certification in Advanced Cardiac Life Support (ACLS)

(C) Level 4: Deep Sedation/General Anesthesia – current certification in BLS and current certification in ACLS

(2) The continuing education requirements under this section shall be in addition to any additional courses required for licensure. Advanced Cardiac Life Support (ACLS) course and Pediatric Advanced Life Support (PALS) course may not be used to fulfill the continuing education requirement for renewal of the permit under this section.

(d) Continuing Education. In addition to the continuing education required for renewal of dental licensure, a

(1) In conjunction with the annual renewal of a dental license, a dentist seeking to renew a minimal sedation, moderate sedation, or deep sedation/general anesthesia permit must submit proof of completion of additional continuing education to maintain a sedation/anesthesia permit. A dentist shall, at a minimum, complete the following hours of continuing education every two years on the administration of or medical emergencies associated with the permitted level of sedation:
(A) Level 1: Minimal Sedation - six eight (86) hours, including four hours of sedation/anesthesia emergency preparedness training.

(B) Levels 2 and 3: Moderate Sedation - eight twelve (12) hours, including eight hours of sedation/anesthesia emergency preparedness training.

(C) Level 4: Deep Sedation/General Anesthesia - twelve (12) hours, including eight hours of sedation/anesthesia preparedness training.

e) The emergency management training and continuing education requirements required by this rule shall be in addition to any additional continuing education required to maintain dental licensure. ACLS, BLS, and Pediatric Advanced Life Support (PALS) courses may not be used to fulfill continuing education required for renewal of dental licensure or renewal of a sedation/anesthesia permit under this section.

f) A licensee’s emergency management and continuing education is subject to audit in Board investigation and as described in rule 104.5.

2) The continuing education requirements under this section shall be in addition to any additional courses required for licensure. Advanced Cardiac Life Support (ACLS) course and Pediatric Advanced Life Support (PALS) course may not be used to fulfill the continuing education requirement for renewal of the permit under this section.

g) Continuing education courses must meet the provider endorsement requirements of §rule 104.2 of this title.
Rule 110.10 Use of General Anesthetic Agents

(a) No dentist shall administer or employ the general anesthetic agent(s) listed in subsection (b) of this section, which has a narrow margin for maintaining consciousness, unless the dentist possesses a valid Level 4 - General Anesthesia or Deep Sedation permit issued by the Board.

(b) The following drugs are general anesthesia agents with a narrow margin for maintaining consciousness and must only be used by a dentist holding a Level 4 - General Anesthesia or Deep Sedation permit:

   (1) short acting barbiturates including, but not limited to thiopental, sodium methohexital, and thiamylal;

   (2) short acting analogues of fentanyl including, but not limited to remifentanil, alfentanil, and sufentanil;

   (3) alkylphenols including precursors or derivatives, which includes, but not limited to propofol and fospropofol;

   (4) etomidate;

   (5) dissociative anesthetics - ketamine;

   (6) volatile inhalation anesthetics including, but not limited to sevoflurane, desflurane and isoflurane; and

   (7) similarly acting drugs or quantity of agent(s), or technique(s), or any combination thereof that would likely render a patient deeply sedated, generally anesthetized or otherwise not meeting the conditions of the definition of moderate sedation as stated in §110.1 of this chapter (relating to Definitions).

(c) No permit holder shall have more than one person under general anesthesia at the same time exclusive of recovery.
110.11 Sedation of Pediatric Patients

(a) Pediatric patients include all patients under the age of 13.

(b) Initial Requirement for Pediatric Sedation Privileges. A dentist may obtain pediatric
privileges on a Level 1, Level 2, Level 3, or Level 4 sedation/anesthesia permit by demonstrating
compliance with one of the following requirements at the time the dentist renews or seeks a
sedation/anesthesia permit:

(1) completion of an advanced education program accredited by the ADA Commission
on Dental Accreditation that provided didactic and clinical education in pediatric
sedation;

(2) successful administration of sedation to at least 20 pediatric patients, in the six
months preceding the effective date of this rule; or

(3) completion of an in-person board-approved education program of at least twenty four
hours of training in pediatric sedation. The board-approved education program shall
include, at a minimum, the following 21 hours of training:

(i) A minimum of three hours of training in pharmacology;

(ii) A minimum of three hours of training in pre-procedure evaluation, patient
selection, anatomy, and ASA classification;

(iii) A minimum of six hours of training in anesthesia technique and monitoring,
equipment;

(iv) A minimum of six hours in emergency preparedness, including running
scenarios and management of complications; and

(v) A minimum of three hours of training in special needs pediatric patients.

(c) For the time period from September 1, 2017 through a dentist’s next sedation/anesthesia
permit renewal occurring prior to September 1, 2018, a dentist may sedate pediatric patients
pursuant to the dentist’s underlying sedation/anesthesia permit without demonstrating to the
agency compliance with (b) above.

(d) If a dentist does not demonstrate compliance with (b) above at the time of the
sedation/anesthesia permit renewal occurring between September 1, 2017, and August 31, 2018,
the dentist does not hold pediatric sedation privileges and may no longer sedate pediatric
patients, as of the date of the dentist’s sedation/anesthesia permit renewal.

(e) A dentist may seek pediatric sedation privileges at any time by completing an application and
demonstrating compliance with (b) above and any other requirements.
(f) Continuing Education Requirements for Pediatric Sedation Privileges. In addition to continuing education required by other rules, a dentist who administers Level 1, 2, 3, or 4 sedation to a pediatric patient must complete a minimum of eight hours of continuing education in pediatric sedation/anesthesia every two years. This continuing education is in addition to continuing education required for license renewal, renewal of sedation/anesthesia permits, or any other continuing education requirement. BLS, ACLS, or PALS do not satisfy the continuing education requirement for renewal of sedation/anesthesia permits under this section. A dentist must submit proof of compliance at the time of permit renewal.

(g) The initial training requirements in subsection (b) and the continuing education requirements in subsection (f) are subject to audit by the agency.

(b) Emergency Preparedness. In addition to the requirements of emergency preparedness in other sections of these rules, a dentist administering sedation/anesthesia to a pediatric patient must be prepared to rescue a child from a deeper level of sedation than intended, and comply with the following requirements:

1. A dentist administering sedation to a pediatric patient must maintain current certification in Pediatric Advanced Life Support (PALS). A dentist delegating the administration of sedation to a pediatric patient must maintain current certification in PALS or Advanced Cardiac Life Support (ACLS). A dentist must submit proof of compliance at the time of permit renewal.

2. A dentist administering sedation to a pediatric patient or delegating the administration of sedation to a pediatric patient must maintain a protocol for immediate access to back-up emergency services, including, for nonhospital facilities a protocol for the immediate activation of the EMS system for life-threatening complications. The practitioners must be prepared to provide initial rescue for life-threatening complications.

3. A dentist administering sedation to a pediatric patient or delegating the administration of sedation to a pediatric patient must ensure that an emergency cart or kit is immediately accessible and contains the necessary age- and size-appropriate equipment and emergency drugs to resuscitate a non-breathing and unconscious child. The contents of the kit must allow for the provision of continuous life support while the pediatric patient is being transported to a medical/dental facility or to another area within the facility. All equipment and drugs must be checked and maintained on a scheduled basis.

   (i) An emergency cart or kit accompanying a pediatric sedation at Level 1 or 2 must include, at a minimum, the following components: oral and nasal airways, bag-valve-mask device, laryngeal mask airways or other supraglottic devices, face masks, blood pressure cuffs; and
(ii) An emergency cart or kit accompanying a pediatric sedation at Level 3 or 4 must include, at a minimum, the following components: oral and nasal airways, bag-valve-mask device, laryngeal mask airways or other supraglottic devices, laryngoscope blades, tracheal tubes, face masks, blood pressure cuffs, and intravenous catheters.

(i) Pediatric Standard of Care and Monitoring.

(1) Nitrous oxide shall not be administered to a pediatric patient at a concentration of greater than 50% unless the person administering the nitrous oxide holds a Level 2 or higher sedation/anesthesia permit and meets all other requirements of this rule.

(2) Monitoring of a pediatric patient undergoing minimal sedation must include the use of pulse oximetry and precordial stethoscope.

(3) Monitoring of a pediatric patient undergoing moderate sedation must include the use of pulse oximetry and either capnography or a precordial stethoscope.

(4) Monitoring of a pediatric patient undergoing deep sedation/general anesthesia must include the use of pulse oximetry and either capnography or a precordial stethoscope.
## Current Requirements for Initial Permits

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<tr>
<th>Nitrous Oxide – Rule 110.3</th>
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<td><strong>Emergency Management Training</strong></td>
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<td>Current BLS</td>
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<td>PALS required if sedating pediatric patients</td>
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<td><strong>Alternative Education Pathway</strong></td>
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| 14 hours of instruction, including clinical component | Comprehensive training commensurate with ADA Guidelines for Teaching Pain Control and Sedation that includes 16 hours of didactic training and instruction in enteral and/or inhalation-enteral | Comprehensive training commensurate with ADA Guidelines for Teaching Pain Control and Sedation that includes:  
- 24 hours of instruction  
- 10 case experiences in enteral moderate  
  - At least 3 live clinical dental experiences  
  - Remaining 7 may include sim/video  
  - At least one returning/rescuing patient from deep sedation | Comprehensive training commensurate with ADA Guidelines for Teaching Pain Control and Sedation that includes:  
- 60 hours of didactic training and instruction  
- Satisfactory management of 20 dental patients, under supervision, using IV sedation | N/A |
| **Formal Education Pathway** | | | | |
| CODA approved pre-doctoral dental or post-doctoral dental program with training to administer and manage N2O | CODA approved advanced education program that affords “comprehensive training” commensurate with ADA Guidelines for Teaching Pain Control and Sedation | CODA approved advanced education program that affords “comprehensive and appropriate training” to administer and manage moderate enteral sedation, commensurate with ADA Guidelines for Teaching Pain Control and Sedation | CODA approved advanced education program that affords “comprehensive and appropriate training necessary to administer and manage parenteral moderate sedation, commensurate with ADA Guidelines for Teaching Pain Control and Sedation” | CODA approved advanced education program that affords comprehensive and appropriate training necessary to administer and manage deep sedation |
| **Internship/Residency Pathway** | | | | |
| N/A | N/A | N/A | Satisfactory completion of internship or residency that included moderate parenteral training “equivalent to that defined in this subsection” | N/A |
## Recommended Requirements for Initial Permits

### Nitrous Oxide – Rule 110.3

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<td><strong>Emergency Management Training</strong></td>
<td><strong>Alternate Education Pathway</strong></td>
<td><strong>Board-approved education program of at least 16 hours of didactic training and instruction, including at a minimum, the following components:</strong>&lt;br&gt;• Pharmacology&lt;br&gt;• Pre-procedure evaluation, patient selection, anatomy, and ASA classification&lt;br&gt;• Anesthesia technique, monitoring, and equipment&lt;br&gt;• Emergency preparedness, including running scenarios and management of complications&lt;br&gt;• Special needs patients</td>
<td><strong>Board-approved education program of at least 16 hours of didactic training and instruction, including at a minimum, the following components:</strong>&lt;br&gt;• 60 hours of didactic training and instruction, including at a minimum, the following components:&lt;br&gt;  o 8 hours pharmacology&lt;br&gt;  o 12 hours pre-procedure evaluation, patient selection, anatomy, and ASA classification&lt;br&gt;  o 4 hours anesthesia technique, monitoring, and equipment&lt;br&gt;  o 12 hours inter-operative management and recognition of emergencies and complications&lt;br&gt;  o 6 hours emergency preparedness, including running scenarios and management of complications&lt;br&gt;  o 4 hours geriatric patients&lt;br&gt;• 20 case experiences in enteral moderate&lt;br&gt;  o At least 10 live clinical dental experiences&lt;br&gt;  o Other 10 may include simulation/video&lt;br&gt;  • At least 1 return/rescue from deep sedation</td>
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### Formal Education Pathway

| CODA approved pre-doctoral dental or post-doctoral dental program with training to administer and manage N2O | CODA approved advanced education program that affords “comprehensive training” commensurate with ADA Guidelines for Teaching Pain Control and Sedation | CODA approved advanced education program that affords “comprehensive and appropriate training” to administer and manage moderate enteral sedation, commensurate with ADA Guidelines for Teaching Pain Control and Sedation | CODA approved advanced education program that affords “comprehensive and appropriate training necessary to administer and manage parenteral moderate sedation, commensurate with ADA Guidelines for Teaching Pain Control and Sedation | CODA approved advanced education program that affords comprehensive and appropriate training necessary to administer and manage deep sedation |

### Internship/Residency Pathway

|  |  |  | Satisfactory completion of internship or residency that included moderate parenteral training “equivalent to that defined in this subsection” |  |
### Current Permit Renewal Requirements

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<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Continuing Education Requirements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None</td>
<td>6 hours</td>
<td>8 hours</td>
<td>8 hours</td>
<td>12 hours</td>
</tr>
<tr>
<td>Current Emergency Management Training Requirements</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BLS</td>
<td>BLS</td>
<td>BLS or ACLS</td>
<td>BLS or ACLS</td>
<td>BLS or ACLS</td>
</tr>
</tbody>
</table>

### Recommended Permit Renewal Requirements

<table>
<thead>
<tr>
<th>Nitrous Oxide</th>
<th>Level 1</th>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended Continuing Education Requirements</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>None</td>
<td>8 hours, including 4 hours of sedation/anesthesia emergency preparedness training</td>
<td>12 hours, including eight hours of sedation/anesthesia emergency preparedness training</td>
<td>12 hours, including eight hours of sedation/anesthesia emergency preparedness training</td>
<td>12 hours, including eight hours of sedation/anesthesia emergency preparedness training</td>
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<tr>
<td>Recommended Emergency Management Training Requirements</td>
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<tr>
<td>BLS</td>
<td>BLS</td>
<td>BLS or ACLS</td>
<td>BLS or ACLS</td>
<td>BLS or ACLS</td>
</tr>
<tr>
<td>PALS required if pediatric</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
1. Initial Education and Continuing Education
   - Require dental emergency preparedness course to obtain/renew permits
     o Rationale: PALS/ACLS not specific to dental emergencies
     o Establish curriculum and require course to obtain/renew permit
       ▪ General support for increase in CE requirements. Example:
         - Level 1 – 12 hours with 8 hours emergency
         - Levels 2 and 3 – 24 hours with 16 hours emergency
         - Level 4 – 24 hours with 16 hours emergency
     o Require staff to complete emergency preparedness course – require all dentists?
   - Board approval/audit of education and sedation/anesthesia CE
     o General support for Board review and approval of sedation/anesthesia initial education and CE providers
     o Perception that (1.) training cannot be accomplished in the hours required by rule and (2.) courses do not provide training for the hours advertised. EX: no eight-day level 3 course (60 hours didactic + 20 IV cases) should exist
   - Consider provisional permitting
     o Rationale: initial training not sufficient to attain and maintain competency without continued “practice”
     o Issue provisional permit based on meeting initial education requirements for provision period of one year
     o Then require satisfactory case completion in provisional permit year prior to issuance of full permit

2. Pediatric Designation
   - General support for creation of “pediatric designation”
   - Renewal of pediatric designation requires successful completion of set number of pediatric sedation cases each year to maintain designation
     o If cannot meet case number requirement, then additional education to renew/maintain competency
     o Q: require records to be submitted and reviewed or require attestation as to number of cases?
   - Concern that limitations on practice will create access to care issues
   - Geriatric and pediatric should remain distinct

3. Clinical concerns
   - Discussed Level 2 permit holders and IV training
   - General support for pre-cardial stethoscope over capnography and end-tidal CO2 monitoring
   - General lack of support for limitations on N2O concentrations and specific clinical requirements

4. Enforcement issues
   - Perception that the rules are sufficient but the Board’s enforcement is weak
   - Make clear that self-reports are not traditional “complaints” in reporting aggregate data
STAKEHOLDER MEETING
22 TEX. ADMIN. CODE 110
November 7, 2016
STAFF NOTES

1. Standard of Care
   - Concern that SOC requirements in current rule are not sufficient
   - Concern over speed of proposal and adoption – requested additional public comment period; ie: 60 days of formal public comment rather than 30
   - Concern over duplication/overlapping BRP efforts
   - Concern over the “41” patient “deaths” identified in Sunset Staff report – requested data related to the causes of death
   - Concern with use of term “qualified dental auxiliary” in current rules – specify training
   - Concern with clarity in monitoring and evaluating for discharge – make clear that dentist determines
   - Concern with limiting anxiolysis and N2O – make clear that limitation refers to anxiolysis administered by dentist

2. Pediatric Designation
   - Concern that requirements will affect access to care. Remote dentists may 4.5 weeks out of the office to maintain license, permit, and pediatric privileges
     o 12 license renewal; 60 L3 permit; 30 PALS and ACLS; 24 pedo
   - Recommendation does not distinguish different pediatric education for distinct permit levels
     o Concern with “one-size-fits-all” approach permit levels – a dentist who holds a level 3 permit can qualify to sedate pediatric patients by demonstrating treating 20 pediatric patients with minimal sedation, though the dentist has never sedated a pedo patient with moderate sedation.
     o Training could stairstep
   - Recommendation requires 24 hours of education, and specifies the content of 21 hours
     o Concern that remaining three hours should be specified
       ▪ 3 hours could be behavior management
     o Concern that nothing replaces hands-on experience – allowing didactic education to meet requirements without clinical experience
     o Concern that recommendation offers no greater protection than current rules
       ▪ 24 hours of education could be coupled with observation/administration to 20 pediatric patients
       ▪ Dental schools moving to case-based curriculum
       ▪ Support for didactic curriculum because sometimes classroom education provides the necessary sliver of insight to resolve an unexpected issue later
     o Concern that recommendation does not contemplate age range of pediatric patients
   - Recommendation requires 20 cases
     o Concern that 20 cases is not sufficient
     o Could incorporate age distinction in casework; “successful sedation of 10 patients under the age of 6”
Could 20 cases required for L2 or L3 apply for pediatric privilege if those 20 cases were pediatric cases?

3. Pediatric Standard of Care and Monitoring
   - Concern that new nitrous masks require greater concentrations of nitrous
   - Could be more flexible rather than 50% hard limit
   - Example: with only nitrous permit a dentist can sedate pediatric patient, but not with nitrous at greater than 50% (even if they weigh 160). This situation would require L1 AND pedo privilege
   - Support for options in monitoring

4. Required Medical Consult for ASA III and IV
   - Some dentists have taken a month or more of internal medicine – 540 hours acting as an MD
   - Could create exception for those have completed internal medicine residency
§ 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 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

    (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)

    (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 Citation/Remedial Plan/Disciplinary Action

(C) If disposition is public action (Administrative 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 Citation

   (F) Closed by Remedial Plan

   (G) Warning

   (H) Reprimand

   (I) Probation

   (J) Suspension

   (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

(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 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
(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 Citation

(F) Closed by Remedial Plan

(G) Warning

(H) Reprimand

(I) Probation

(J) Suspension

(K) Revocation
(a) All licensees are subject to audit by the State Board of Dental Examiners for purposes of ensuring compliance with the continuing education requirements as outlined in this chapter and any other rules (Continuing Education).

(b) Board staff will randomly audit 5% of all licensees for compliance with the continuing education requirements as outlined in this chapter. Licensees who have been selected for an audit will be notified at least 90 days prior to the expiration of their license. A licensee selected for audit may not renew their license until they have submitted proof of compliance with the continuing education requirements. Extensions may be granted at the discretion of the Executive Director only in extraordinary circumstances, such as demonstrated health issues that prevent a licensee from completing the audit requirements.