

2018 school year. The earlier effective date will allow the agency to increase flexibility for test takers as soon as possible.

SUMMARY OF COMMENTS AND RESPONSES. Following is a summary of the public comment received and the corresponding response regarding the proposed amendment to 19 TAC §89.42.

Comment. An individual commented that requiring a separate but attached registration and admission room is unnecessary and prevents certain facilities from being used.

Response. The requirement for a separate but attached registration and admission room is necessary in order to ensure that all testing centers maintain adequate and consistent test security.

STATUTORY AUTHORITY. The amendment is adopted under the Texas Education Code, §7.111, which requires the State Board of Education to adopt rules to develop and deliver high school equivalency examinations and provide for the administration of the examinations online.

CROSS REFERENCE TO STATUTE. The amendment implements the Texas Education Code, §7.111.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on December 5, 2016.

TRD-201606147

Cristina De La Fuente-Valadez

Director, Rulemaking

Texas Education Agency

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TITLE 22. EXAMINING BOARDS

PART 5. STATE BOARD OF DENTAL EXAMINERS

CHAPTER 100. GENERAL PROVISIONS

22 TAC §100.9

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Kelly Parker

Executive Director

State Board of Dental Examiners

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22 TAC §100.12

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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CHAPTER 107. DENTAL BOARD PROCEDURES

SUBCHAPTER A. PROCEDURES GOVERNING GRIEVANCES, HEARINGS, AND APPEALS

22 TAC §107.49

The Texas State Board of Dental Examiners adopts amended rule §107.49, relating to proposals for decision. This rule is adopted with changes to correct a grammatical error in 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.

§107.49. Proposals for Decision.

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Kelly Parker

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State Board of Dental Examiners

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



22 TAC §107.50

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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Kelly Parker

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State Board of Dental Examiners

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22 TAC §107.51

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 6608).

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.