

## CHAPTER 110. SEDATION AND ANESTHESIA 22 TAC §110.7 - PORTABILITY

CHAPTER 110. SEDATION AND ANESTHESIA 22 TAC §110.7 The Texas State Board of Dental Examiners adopts repeal of rule §110.7 relating to portability. This rule is adopted without changes to the proposed text as published in the March 9, 2018, issue of the Texas Register (43 TexReg 1373). This rule is being repealed because it was improperly adopted at the January 13, 2018 meeting. The repeal will allow for the proper adoption of a new rule. The Board received no comments. Rule §110.7 is repealed under Texas Occupations Code §254.001(a).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. Filed with the Office of the Secretary of State on April 20, 2018. TRD-201801758 Tyler Vance Interim Executive Director State Board of Dental Examiners Effective date: May 10, 2018 Proposal publication date: March 9, 2018 For further information, please call: (512) 475-0977

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22 TAC §110.7 The Texas State Board of Dental Examiners adopts new rule §110.7 relating to portability. This rule is adopted without changes to the proposed text as published in the March 9, 2018, issue of the Texas Register (43 TexReg 1373). This rule is being adopted to comply with Senate Bill 313 of the 85th Texas Legislature.

The Board received several comments to this rule: The Texas Dental Association and the Texas Academy of General Dentistry both support the rule as drafted. The Texas Society of Oral and Maxillofacial Surgeons requests that the rule include a requirement that portable dentists provide the addresses at which they administer sedation/anesthesia. **TXSOMS believes that not having those addresses will prevent TSBDE from inspecting offices and efficiently investigating anesthesia mishaps. They believe the Board's oversight of permit holders is weakened without the addresses, which in turn compromises patient safety. Drs. Larry Stewart, James Bates, James Clark, Thomas Schlieve, Wendell Edgin, and Mark Ranschaert all submitted nearly identical comments expressing their concern that not having an address requirement in this rule is inadvertently compromising patient safety by weakening the board's oversight of all permit holders. They believe we will be unable to conduct comprehensive office inspections and will be unable to quickly respond to incidents. Dr. Schlieve also adds that this rule does not improve access to care and does not improve dental care for Texans. The Board's response to these comments is that the statute requiring that this rule be created is very clear in requiring merely an attestation that one provides portable anesthesia and therefore does not give the Board the discretion to add any further requirements. Adding that requirement would open the Board up for a lawsuit.**

Rule §110.7 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. Filed with the Office of the

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