TEXAS MEDICAL BOARD RULES Texas Administrative Code, Title 22, Part 9 Proposed Changes

Chapter 164
Physician Advertising

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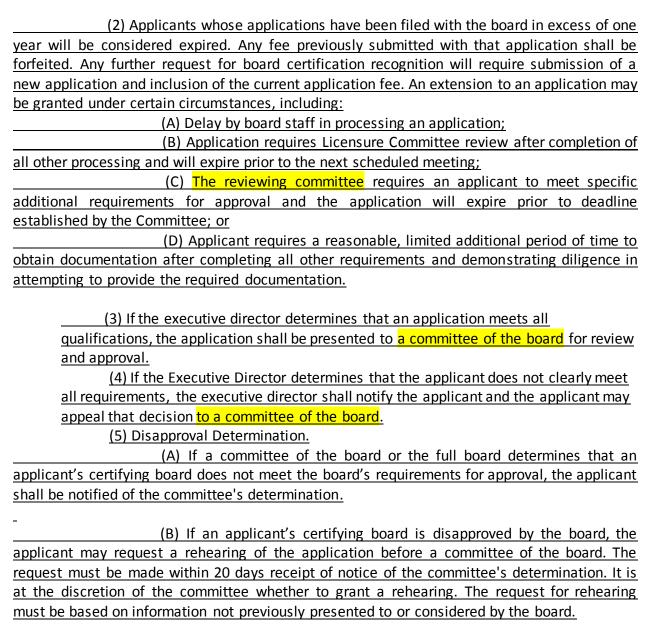
§164.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the contents clearly indicate otherwise.

- (1) Advertising and advertisement Informational communication to the public in any manner designed to attract public attention to the practice of a physician. Advertising may include oral, written, broadcast, and other types of communications disseminated by or at the behest of a physician. The communications covered include, but are not limited to, those made to patients, prospective patients, professionals or other persons who might refer patients, and to the public at large. The communications covered include signs, nameplates, professional cards, announcements, letterheads, listings in telephone directories and other directories, brochures, radio and television appearances, and information disseminated on the Internet or Web.
- (2) A testimonial An attestation or implied attestation to the competence of a physician's service or treatment. Testimonials also include expressions of appreciation or esteem, a character reference, or a statement of benefits received. Testimonials are not limited to patient comments but may also include comments from colleagues, friends, family, actors, models, fictional characters, or other persons or entities.
- (3) Applicant--an individual physician requesting recognition of his or her certifying board for the physician's advertising purposes or a certifying board requesting recognition as an entity for its diplomates.
- (4) Application--An application is all documents and information necessary to complete an applicant's request including the following:
- (A) forms or addenda furnished by the board, completed by the applicant, typed, printed in ink, or completed online if requiring a written response;
 - (B) documentation furnished by the certifying board as required; and (C) the required fee.

§164.4 Board Certification

- (a)-(i) (No change)
- (j) Application for board certification approval.
- (1) Applicants for recognition of board certification under subsection (b) shall complete a written application and payment of an application fee as set out in Section 175.1 of this title (relating to Application Fees).



(6) A certifying board approved by the board under this subsection must be reviewed every five years from the date of initial approval and the board must obtain information of any substantive changes in the certifying board's requirements for diplomates since the certifying board was last reviewed by the board. In addition, a renewal fee as set out Section 175.2 (relating to Registration and Renewal Fees) must be paid by an applicant to have the certifying board reviewed.

§164.6.Required Disclosures on Websites.

- (a) Disclosure. Physician medical practice sites must clearly disclose:
 - (1) ownership of the website;
 - (2) specific services provided;

- (3) office address and contact information;
- (4) licensure and qualifications of physician(s) and associated health care providers;
 - (5) fees for online consultation and services and how payment is to be made;
 - (6) financial interest in any information, products, or services;
- (7) appropriate uses and limitations of the site, including providing health advice and emergency health situations;
- (8) uses and response times for e-mails, electronic messages, and other communications transmitted via the site;
 - (9) to whom patient health information may be disclosed and for what purpose;
 - (10) rights of patients with respect to patient health information; and
 - (11) information collected and any passive tracking mechanisms utilized.
 - (b) Accountability. Medical practice sites must provide patients with a clear mechanism to:
 - (1) access, supplement, and amend patient-provided personal health information;
- (2) provide feedback regarding the site and the quality of information and services; and
 - (3) register complaints, including information regarding filing a complaint with the <u>Texas Medical Board</u>[Texas State Board of Medical Examiners] as provided for in Chapter 178 of this title (relating to Complaints).
- (c) Advertising/Promotion of Goods or Products. Advertising or promotion of goods or products from which the physician receives direct remuneration or incentives is prohibited.
 - (d) This section applies only to licensees who bill for services provided via the Internet.