

The Texas Board of Chiropractic Examiners (Board) proposes new 22 TAC §77.1 (Advertising and Public Communications). This rulemaking simply removes the language in the current 22 TAC §77.1 about the use of “D.C.” and similar terms, which will be placed into a stand-alone rule (proposed §77.3). The purpose of the change is make finding this information in the Board’s rules easier.

The Board's Executive Director, Patrick Fortner, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for state or local government. There will be no adverse effect on small businesses or rural communities, micro-businesses, or local or state employment. There will be no additional economic costs to persons required to comply with the new rule as proposed. An Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed new rule will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Mr. Fortner has determined that for each year of the first five years the proposed new rule will be in effect the public benefit is to make it easier to find the Board’s requirements on the use of “D.C.” and similar terms.

The Board provides this Government Growth Impact Statement, pursuant to Texas Government Code §2001.0221, for the new 22 TAC §77.1. For each year of the first five years the proposed new rule is in effect, Mr. Fortner has determined:

- (1) The proposed new rule does not create or eliminate a government program.
- (2) Implementation of the proposed new rule does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed new rule does not require an increase or decrease in future legislative appropriations to the Board.
- (4) The proposed new rule does not require a decrease in fees paid to the Board.
- (5) The proposed new rule does not create a new regulation.
- (6) The proposal new rule amends an existing Board rules for an administrative process.
- (7) The proposed new rule does not decrease the number of individuals subject to the rule's applicability.
- (8) The proposed new rule does not positively or adversely affect the state economy.

Comments on the proposed new rule or a request for a public hearing may be submitted to Christopher Burnett, General Counsel, Texas Board of Chiropractic Examiners, 333 Guadalupe, Suite 3-825, Austin, Texas 78701, via email: rules@tbce.state.tx.us; or fax: 512-305-6705, no later than 30 days from the date that this proposed new rule is published in the *Texas Register*. Please include the rule name and number in the subject line of any comments submitted by email.

The new rule is proposed under Texas Occupations Code §201.152 (which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic) and Texas Occupations Code §201.155 (which authorizes the Board to adopt rules to prohibit false, misleading, or deceptive advertising).

No other statutes or rules are affected by this proposed new rule.

<rule>

77.1. Advertising and Public Communications.

- (a) A licensee, or a licensee's employee, agent, or partner may not use or authorize the use of any public communication or advertising containing a false, misleading, deceptive, or fraudulent claim, or indicating the licensee provides services outside the scope of practice.
- (b) In any public communication or advertising, if a licensee makes a claim based on a research study, the licensee shall:
 - (1) clearly identify the research study; and
 - (2) provide the source of the research study to the Board or the public upon request.
- (c) In any public communication or advertising, a licensee may not state any service is free unless the communication or advertising clearly states all component services which are included.
- (d) A licensee shall be responsible for any agent, employee, or partner acting on the licensee's behalf who violates this section.
- (e) An individual violating this section is subject to disciplinary action.