

NOTICE OF PROPOSED CHANGES ON ANESTHESIA AND SEDATION PERMITS BY DENTISTS, EXPIRATION AND RENEWAL OF PERMITS, SUSPENSION OR REVOCATION OF PERMIT, ON-SITE INSPECTIONS, LOCAL ANESTHESIA CERTIFICATION, NITROUS OXIDE SEDATION BY DENTAL HYGIENISTS, REGISTRY, MANDATORY REPORTING, AND DEFINITIONS IN THE REGULATIONS OF THE BOARD OF DENTAL EXAMINERS

BRIEF DESCRIPTION: The Board of Dental Examiners proposes to update various regulations including requirements for administering moderate sedation, deep sedation, or general anesthesia by a dentist, permit requirements, suspension or revocation of permit, on-site inspections, local anesthesia certification, administration of nitrous oxide sedation by dental hygienists, requirements for course of instruction in nitrous oxide sedation, registry, mandatory reporting, and definitions.

The Board of Dental Examiners (Board) proposes to adopt regulation changes in Title 12, Chapter 28 of the Alaska Administrative Code, dealing with anesthesia and sedation permits, requirements for administering moderate sedation, deep sedation, or general anesthesia by a dentist, permit holders, written consent, medical history, general anesthetic, expiration and renewal of certification and permits, suspension or revocation of permit, on-site inspections, local anesthesia certification, parenteral sedation, education, training, certification, equipment, facilities and staff standards, mandatory reporting, administration of nitrous oxide sedation by a dental hygienist, approval of course instruction in nitrous oxide sedation, nitrous oxide sedation certification, registry, and definitions, including the following:

1. **12 AAC 28.005, General provisions**, is a proposed new section that establishes requirements for administering moderate sedation, deep sedation, or general anesthesia by a dentist.
2. **12 AAC 28.010, Permit requirements for use of anesthetic agents**, is proposed to be changed to alter the section title to read “Permit requirements for deep sedation and general anesthesia,” and to amend the permit requirements for deep sedation and general anesthesia by a dentist.
3. **12 AAC 28.015, Permit requirements for moderate sedation**, is a proposed new section that establishes requirements for administering moderate sedation in a dental office or clinic by a dentist and for obtaining a permit to administer moderate sedation.
4. **12 AAC 28.030, Other than permit holders**, is proposed to be changed to alter the provisions related to persons who may administer moderate sedation, deep sedation, or general anesthesia other than a permit holder.
5. **12 AAC 28.040, Written consent**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.005.
6. **12 AAC 28.050, Medical history**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.005.
7. **12 AAC 28.060, Requirements for administering general anesthetic**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes to section 12 AAC 28.005.
8. **12 AAC 28.065, Expiration and renewal of permits**, is a proposed new section that establishes expiration and renewal of permit requirements to administer deep sedation, moderate sedation, and general anesthesia by a dentist.
9. **12 AAC 28.070, Suspension or revocation of permit**, is proposed to be changed to alter the provisions related to suspension or revocation of a permit to administer moderate sedation, deep sedation, or general anesthesia by a dentist.
10. **12 AAC 28.075, On-site inspections**, is a proposed new section that establishes on-site inspection requirements by the board or its designated representative to assess competence and compliance.
11. **12 AAC 28.350, Expiration and renewal of certification**, is proposed to be changed to alter the

section title to read “Local anesthesia certification,” and to amend the provisions related to certification to administer local anesthetic agents by a dental hygienist, as well as provisions for revocation.

12. **12 AAC 28.600, Administration of parenteral sedation**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.015.
13. **12 AAC 28.610, Parenteral sedation permit**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.015.
14. **12 AAC 28.620, Education, training, and certification requirements**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.015.
15. **12 AAC 28.630, Equipment, facilities, and staff standards**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.015.
16. **12 AAC 28.640, Mandatory reporting**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in section 12 AAC 28.903.
17. **12 AAC 28.650, Application to administer nitrous oxide sedation**, is a proposed new section that establishes regulations for the administration of nitrous oxide sedation by a dental hygienist.
18. **12 AAC 28.655, Approval of course of instruction**, is a proposed new section that addresses board approval of a course of instruction in the administration of nitrous oxide.
19. **12 AAC 28.660, Requirements for course of instruction in nitrous oxide sedation**, is a proposed new section that establishes requirements for course of instruction for administering nitrous oxide sedation.
20. **12 AAC 28.665, Nitrous oxide sedation certification**, is a proposed new section that establishes requirements for certification to administer nitrous oxide sedation by a dental hygienist and for revocation of such certification.
21. **12 AAC 28.670, Registry**, is a proposed new section that establishes registry of all board approved courses of instruction and all dental hygienists certified to administer nitrous oxide sedation.
22. **12 AAC 28.720, Administration of nitrous oxide**, is proposed to be repealed. The intended effect of this repeal is to conform to the proposed changes in sections 12 AAC 28.650 – 12 AAC 28.670.
23. **12 AAC 28.903, Mandatory reporting**, is a proposed new section that establishes mandatory reporting of incidents to the board.
24. **12 AAC 28.990, Definitions**, is proposed to be changed to further define terms used in AS 08.32, AS 08.36, and 12 AAC 28.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806. Additionally, the Board will accept comments by facsimile at (907) 465-2974, and by electronic mail at marilyn.zimmerman@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system at <http://notice.alaska.gov/181003>, and using the comment link. **The comments must be received not later than 4:30 p.m. on May 9, 2016.**

You may submit written questions relevant to the proposed action to Marilyn Zimmerman, Paralegal, Division of Corporations, Business and Professional Licensing, P.O. Box 110806, Juneau, AK 99811-0806, or by e-mail at marilyn.zimmerman@alaska.gov. **The questions must be received at least 10 days before the end of the public comment period.** The Board will aggregate its response to

substantially similar questions and make the questions and responses available on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofDentalExaminers.aspx> or on the Alaska Online Public Notice System. The Board may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Marilyn Zimmerman at (907) 465-2532 or marilyn.zimmerman@alaska.gov not later than May 2, 2016 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Marilyn Zimmerman at the address or phone number above, or go to <https://www.commerce.alaska.gov/web/portals/5/pub/DEN-0416.pdf>.

A copy of material proposed for adoption by reference is available on the Board's website at <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/BoardofDentalExaminers.aspx>.

To view the current statutes and regulations of the Board of Dental Examiners, go to <https://www.commerce.alaska.gov/web/portals/5/pub/DentalStatutes.pdf>.

After the public comment period ends, the Board will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments and questions received are public records and are subject to public inspection.

Statutory Authority: AS 08.01.075; AS 08.01.087; AS 08.32.085; AS 08.32.110; AS 08.36.070; AS 08.36.247; AS 08.36.315; AS 08.36.320; AS 08.36.342; AS 08.36.344; AS 08.36.346

Statutes Being Implemented, Interpreted, or Made Specific: AS 08.01.075; AS 08.01.087; AS 08.32.085; AS 08.32.110; AS 08.36.070; AS 08.36.247; AS 08.36.315; AS 08.36.320; AS 08.36.342; AS 08.36.344; AS 08.36.346

Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 4/7/16

/s/
Jun Maiquis, Regulations Specialist
Division of Corporations, Business and
Professional Licensing

For each occupation regulated under the Division of Corporations, Business and Professional Licensing, the Division keeps a list of individuals or organizations who are interested in the regulations of that occupation. The Division automatically sends a Notice of Proposed Regulations to the parties on the appropriate list each time there is a proposed change in an occupation's regulations in Title 12 of the Alaska Administrative Code. If you would like your address added to or removed from such a list, send your request to the Division at the address above, giving your name, either your e-mail address or mailing address (as you prefer for receiving notices), and the occupational area in which you are interested.

ADDITIONAL REGULATION NOTICE INFORMATION (AS 44.62.190(d))

- 1. Adopting agency:** Board of Dental Examiners – Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing.
- 2. General subject of regulation:** General provisions for administering moderate sedation, deep sedation, or general anesthesia, permit requirements, administration of anesthesia by persons other than permit holders, written consent, medical history, administering general anesthetic, expiration and renewal of permits and certification, suspension or revocation of permit, on-site inspections, parenteral sedation,

education, training, certification requirements, equipment, facilities, staff standards, nitrous oxide sedation by dental hygienists, application to administer nitrous oxide sedation, approval of course instruction, requirements for course of instruction in nitrous oxide sedation, nitrous oxide sedation certification, registry, mandatory reporting, and definitions.

3. **Citation of regulation:** 12 AAC 28.005 through 12 AAC 28.990.
4. **Department of Law file number:** To be assigned.
5. **Reason for the proposed action:** Update and clarification of current regulations, compliance with state statutes.
6. **Appropriation/Allocation:** Corporations, Business and Professional Licensing – #2360.
7. **Estimated annual cost to comply with the proposed action to:**
A private person:

Type of Sedation Provider	Expected Costs
Dentist administering no sedation in office	No additional cost
Dentist providing mild or nitrous oxide sedation to adults or children older than 12 years old	No additional cost
Dentist administering mild oral sedation to a child age 12 and younger	Costs of training and equipment to obtain moderate conscious sedation permit required
Dentist with sedation permit trained to perform moderate sedation on adults	No additional cost or possible cost of monitor with capnography capability if not practicing at standard of care
	If sedation provider intends to provide sedation to a patient age 12 and younger, the cost for additional training will be required
Dentist with sedation permit trained to perform moderate sedation on children age 12 and younger	No additional cost or possible cost of monitor with capnography capability if not practicing at standard of care
	If sedation provider intends to provide sedation to an adult or patient older than 12 years old, the cost for additional training will be required
Dentist with deep sedation or general anesthesia permit	No additional cost or possible cost of monitor with capnography capability if not practicing at standard of care

Another state agency: None known.

A municipality: None known.

8. **Cost of implementation to the state agency and available funding (in thousands of dollars):**
 No costs are expected in FY 2016 or in subsequent years.
9. **The name of the contact person for the regulations:**
 Jun Maiquis, Regulations Specialist
 Division of Corporations, Business and Professional Licensing
 Department of Commerce, Community, and Economic Development
 (907) 465-2537
 jun.maiquis@alaska.gov
10. **The origin of the proposed action:** Board of Dental Examiners.
11. **Date:** 4/7/16 **Prepared by:** _____ /s/

Jun Maiquis
 Regulations Specialist
 (907) 465-2537