



**ARIZONA STATE BOARD OF DENTAL EXAMINERS**

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**This inspection is conducted under the authority of Arizona Revised Statutes (A.R.S.) §32-1207(C), A.R.S. §32-1264(C) or A.R.S. §32-1298(E). As part of this inspection you are being provided with a copy of the Small Business Bill of Rights as enumerated below:**

## Small Business Bill of Rights

You are entitled to all of the rights established in A.R.S. §41-1001.01 and A.R.S. §41-1009 (A)(1)-(7), as well as A.R.S. §32-1207(C), A.R.S. §32-1264(C), A.R.S. §32-1298(E), Arizona Administrative Code (A.A.C.) R4-11-1301(D)(2), A.A.C. R4-11-1302(D)(2), A.A.C. R4-11-1303(D)(2), A.A.C. R4-11-1304(C)(2), A.A.C. R4-11-1503(B)(1) and A.A.C. R4-11-1403(1)&(2). Copies of these statutes and rules are attached hereto.

If you have any questions or concerns regarding this **inspection**, please contact the following agency-designated employee:

Elaine Hugunin, Executive Director  
602.242.1492  
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[elaine.hugunin@dentalboard.az.gov](mailto:elaine.hugunin@dentalboard.az.gov)

**In the event that you have made a reasonable effort to resolve the problem with the agency and have not been successful, you may contact the Office of Ombudsman-Citizens Aide:**

Arizona Ombudsman-Citizens' Aide  
3737 N. 7<sup>th</sup> Street, Suite 209  
Phoenix, AZ 85014  
602.277.7292  
1-800-872-2879 (Arizona outside Phoenix metro area)  
FAX 602.277-7312  
Email [ombuds@azoca.gov](mailto:ombuds@azoca.gov)

### **Arizona Revised Statutes (ARS) 41-1001.01. Regulatory bill of rights**

- A. To ensure fair and open regulation by state agencies, a person:
1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in section 12-348.
  2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in section 41-1007.
  3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
  4. Is entitled to receive the information and notice regarding inspections and audits prescribed in section 41-1009.
  5. May review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in article 2 of this chapter.
  6. May participate in the rulemaking process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
    - (a) Providing written comments or testimony on proposed rules to an agency as provided in section 41-1023 and having the agency adequately address those comments as provided in section 41-1052, subsection D, including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
    - (b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.
    - (c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.
  7. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.
  8. Is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in section 41-1030, subsection C.
  9. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.
  10. May file a complaint with the administrative rules oversight committee concerning:
    - (a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.
    - (b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.
  11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.
  12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter and may appeal a final administrative decision by filing a notice of appeal pursuant to title 12, chapter 7, article 6.
  13. May have an agency approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter.

14. Is entitled to receive written notice from an agency on denial of a license application:
    - (a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076.
    - (b) That explains the applicant's right to appeal the denial as provided in section 41-1076.
  15. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in sections 41-1001.02 and 41-1079.
  16. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter.
  17. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in section 41-1091.
  18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title.
  19. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002.
  20. May have the person's administrative hearing on contested cases pursuant to title 23 chapter 2 or 4 heard by an independent administrative law judge as prescribed by title 23, chapter 2 or 4.
  21. Pursuant to section 41-1009, subsection E, may correct deficiencies identified during an inspection unless otherwise provided by law.
- B. The enumeration of the rights listed in subsection A of this section does not grant any additional rights that are not prescribed in the sections referenced in subsection A of this section.
- C. Each state agency that conducts audits, inspections or other regulatory enforcement actions pursuant to section 41-1009 shall create and clearly post on the agency's website a small business bill of rights. The agency shall create the small business bill of rights by selecting the applicable rights prescribed in this section and section 41-1009 and any other agency-specific statutes and rules. The agency shall provide a written document of the small business bill of rights to the authorized on-site representative of the regulated small business. In addition to the rights listed in this section and section 41-1009, the agency notice of the small business bill or rights shall include the process by which a small business may file a complaint with the agency employees who are designated to assist members of the public or regulated community pursuant to section 41-1006. The notice must provide the contact information of the agency's designated employees. The agency notice must also state that if the regulated person has already made a reasonable effort with the agency to resolve the problem and still has not been successful, the regulated person may contact the office of the ombudsman-citizens aide.

**ARS 41-1009. Inspections; applicability**

- A. An agency inspector, auditor or regulator who enters any premises of a regulated person for the purpose of conducting an inspection or audit shall, unless otherwise provided in law:
1. Present photo identification on entry of the premises.
  2. On initiation of the inspection or audit, state the purpose of the inspection or audit and the legal authority for conducting the inspection or audit.
  3. Disclose any applicable inspection or audit fees.

4. Afford an opportunity to have an authorized on-site representative of the regulated person accompany the agency inspector, auditor or regulator on the premises, except during confidential interviews.
5. Provide notice of the right to have on request:
  - (a) Copies of any original documents taken by the agency during the inspection or audit if the agency is permitted by law to take original documents.
  - (b) A split of any samples taken during the inspection if the split of any samples would not prohibit an analysis from being conducted or render an analysis inconclusive.
  - (c) Copies of any analysis performed on samples taken during the inspection.
  - (d) Copies of any documents to be relied on to determine compliance with licensure or regulatory requirements if the agency is otherwise permitted by law to do so.
6. Inform each person whose conversation with the agency inspector, auditor or regulator during the inspection or audit is tape recorded that the conversation is being tape recorded.
7. Inform each person who is interviewed during the inspection or audit that:
  - (a) Statements made by the person may be included in the inspection or audit report.
  - (b) Participation in an interview is voluntary, unless the person is legally compelled to participate in the interview.
  - (c) The person is allowed at least twenty-four hours to review and revise any written witness statement that is drafted by the agency inspector, auditor or regulator and on which the agency inspector, auditor or regulator requests the person's signature.
  - (d) The inspector, auditor or regulator may not prohibit the regulated person from having an attorney or any other experts in their field present during the interview to represent or advise the regulated person.

## **Dental Practice Act Statutes**

### **ARS § 32-1207 Powers and duties; Executive Director; immunity; fees; definition**

- E. The Board by rule shall require that a licensee obtain a permit for the application of general anesthesia, semiconscious sedation or conscious sedation, shall establish and collect a fee of not more than three hundred dollars to cover administrative costs connected with issuing the permit and shall conduct inspections to assure compliance.

### **ARS § 32-1264 Maintenance of records**

- C. On request, the licensee or certificate holder shall allow properly authorized Board personnel to have access to the licensee's or certificate holder's place of practice to conduct an inspection and must make the licensee's or certificate holder's records, books and documents available to the Board as part of an investigation process.

### **ARS § 32-1298 Dispensing of drugs and devices; conditions; definition**

- E. This section shall be enforced by the Board which shall establish rules regarding labeling, record keeping, storage and packaging of drugs that are consistent with the requirements of Chapter 18 of this title. The Board may conduct periodic inspections of dispensing practices to assure compliance with this section and applicable rules.

## Dental Practice Act Rules

### Arizona Administrative Code (AAC) R4-11-1301. General Anesthesia and Deep Sedation

- D. After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer general anesthesia or deep sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, a Section 1301 permit shall be issued to the applicant.
2. The onsite team shall evaluate the following:
- a. The availability of equipment and personnel as specified in subsection (B)(2);
  - b. Proper administration of general anesthesia or deep sedation to a patient by the applicant in the presence of the evaluation team;
  - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
  - d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances;
  - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient specified in subsection (D)(2)(b); and

### AAC R4-11-1302. Parenteral Sedation

- D. After submitting the application and written evidence of compliance with requirements outlined in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board during which the applicant shall administer parenteral sedation. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1302 permit to the applicant.
2. The onsite team shall evaluate the following:
- a. The availability of equipment and personnel as specified in subsection (B)(2);
  - b. Proper administration of parenteral sedation to a patient by the applicant in the presence of the evaluation team;
  - c. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
  - d. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of all controlled substances;
  - e. Proper recordkeeping as specified in subsection (E) by reviewing the records generated for the patient receiving parenteral sedation as specified in subsection (D)(2)(b); and
  - f. For renewal applicants, records supporting continued competency as specified in R4-11-1306.

### AAC R4-11-1303. Oral Sedation

- D. After submitting the application and written evidence of compliance with requirements in subsection (B) and, if applicable, subsection (C) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue a Section 1303 permit to the applicant.

2. The onsite team shall evaluate the following:
  - a. The availability of equipment and personnel as specified in subsection (B)(2);
  - b. Successful responses by the applicant to oral examination questions from the evaluation team about patient management, medical emergencies, and emergency medications;
  - c. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing and destruction of controlled substances;
  - d. Proper recordkeeping as specified in subsection (E) by reviewing the forms that document the oral sedation record; and
  - e. For renewal applicants, records supporting continued competency as specified in R4-11-1306.

**AAC R4-11-1304. Permit to Employ or Work with a Physician Anesthesiologist or Certified Registered Nurse Anesthetist (CRNA)**

- C. After submitting the application and written evidence of compliance with requirements in subsection (B) to the Board, the applicant shall schedule an onsite evaluation by the Board. After the applicant completes the application requirements and successfully completes the onsite evaluation, the Board shall issue the applicant a Section 1304 permit.
  2. The onsite team shall evaluate the following:
    - a. The availability of equipment and personnel as specified in subsection (B)(2);
    - b. Proper documentation of controlled substances, that includes a perpetual inventory log showing the receipt, administration, dispensing, and destruction of controlled substances; and
    - c. Proper record keeping as specified in subsection (E) by reviewing previous anesthesia or sedation records.

**ARTICLE 14. DISPENSING DRUGS AND DEVICES**

**AAC R4-11-1403. Storage and Packaging**

A dentist shall:

1. Keep all prescription-only drugs and devices secured in a secured area and control access to the secured area by written procedure. The dentist shall make the written procedure available to the Board or its authorized agents on demand for inspection or copying;
2. Keep all controlled substances secured in a locked cabinet or room, control access to the cabinet or room by written procedure, and maintain an ongoing inventory of the contents. The dentist shall make the written procedure available to the Board or its authorized agents on demand for inspection or copying;

**AAC R4-11-1503. Initial Complaint Review**

- B. The Board's procedures for complaints referred to clinical evaluation are:
  1. Except as provided in subsection (B)(1)(a), the president's designee shall appoint one or more dental consultants to perform a clinical evaluation. If there is more than one dental consultant, the dental consultants do not need to be present at the same time.