

SUMMARY OF DRAFT ARSD 20:43:09 PROJECT

Project History:

- The process below is not required as part of the statutorily defined rule promulgation process. However, as it has done historically, the Board incorporated the process below to ensure ample opportunity for stakeholder feedback.
- The Anesthesia Credentials Committee (ACC) presented areas in ARSD 20:43:09 identified for update at the *public* Board of Dentistry meeting held on June 26, 2020.
- A draft of proposed updates to ARSD 20:43:09 was presented, section by section, at a *public* Board of Dentistry meeting held on October 23, 2020. Following that meeting, the process to solicit stakeholder feedback began.
- The goal of the informal feedback phase is to obtain feedback, identify areas of concern or consensus, and address areas of concern where possible. As part of the stakeholder feedback process:
 - An online form to sign up to receive future notification was posted to the Board’s website.
 - An online form to submit feedback was posted to the Board’s website.
 - An outline of the process and all updated information was posted on the Board’s website to keep stakeholders informed.
- A meeting to listen to stakeholder comments was held on December 17, 2020. A stakeholder meeting to outline the process moving forward was held on December 28, 2020.
- At its *public* Board of Dentistry meeting on January 8, 2021, the Board appointed a committee comprised of three Board members to further review the draft rules and work with stakeholders. The committee is comprised of a dentist that does not hold a sedation or anesthesia permit, a dentist that holds a general anesthesia and deep sedation permit, and a dentist that holds a moderate sedation permit and utilizes the services of a licensed anesthesia provider (LAP).
- The Board kept the public comment period open until January 29, 2021. After conclusion of the comment period, the Board appointed committee reviewed feedback that was received, and the draft rules were modified pursuant to that feedback.
- A second draft was released on May 7th. The Board solicited stakeholder feedback on the second draft and kept the public comment period open until June 1st. At the conclusion of the comment period, the Board appointed committee reviewed feedback that was received, and the draft rules were modified pursuant to that feedback.
- A third draft was released and presented at the June 18th *public* board meeting. Additional changes were incorporated at the meeting to address stakeholder feedback.
- The Board will now proceed with the formal rule promulgation process, as defined in statute. The rule promulgation process includes an additional opportunity to provide written and/or verbal feedback in support of or in opposition to the proposed rules. Information is posted on the Board’s website.

Future Project Considerations:

- If these anesthesia rules are promulgated, a review of the inspection process will be necessary. Stakeholders will have an opportunity to review and provide feedback regarding any proposed changes in the inspection process.

This is an educational summary only.

Please review the draft rules and/or current regulations for specific requirements and information.

Summary:

20:43:03:07 Continuing education requirements -- Dentists

- Includes host permit in anesthesia continuing education requirements.

20:43:09:01 Definitions.

- Updates definitions - ADA definitions. Places definitions in alphabetical order.

20:43:09:02 Prohibitions.

- Incorporates authority for host dentist to advertise sedation and anesthesia.

20:43:09:03 General anesthesia and deep sedation permit requirements.

- Updates permit requirements. Requires ACLS for all and PALS if sedating patient under 12 years old. Creates a path to obtain a permit both for those with recent anesthesia experience and those with gaps in practice.
- Specifies minimum anesthesia team when general anesthesia or deep sedation is being administered (1 provider, 2 monitors = 3). Expands anesthesia team to those with independent authority to monitor patients under anesthesia.

20:43:09:04 Moderate sedation permit requirements.

- Updates permit requirements. Requires ACLS. Creates a path to obtain a permit both for those with recent sedation experience and those with gaps in practice.
- Requires residency training, along with PALS, for those sedating pediatric patients under 12 years old.
- Requires PALS if utilizing a LAP to sedate pediatric patients under 12 years old.
- Specifies minimum anesthesia team when moderate sedation is being administered (1 provider, 1 monitor = 2). Expands anesthesia team to those with an independent scope of practice to monitor patients under anesthesia.

20:43:09:04.01 Employing or contracting with licensed anesthesia provider that provides general anesthesia, deep sedation, or moderate sedation in dental office.

- Helps ensure patient safety. Sets forth requirements for dentists that utilize a LAP. Incorporates areas based on patient safety issues identified in other states. Specifies minimum anesthesia team when general anesthesia or deep sedation is being administered (1 LAP, 1 host, 1 monitor = 3). Minimum anesthesia team required for administration of moderate sedation is 1 LAP, 1 host = 2.

20:43:09:04.02 Utilizing licensed anesthesia provider for general anesthesia and deep sedation or moderate sedation in ambulatory surgery center or hospital.

- Continues exemption for utilization of LAP in licensed ambulatory surgery centers or hospitals from permit requirements.

20:43:09:04.03 Moderate sedation course requirements.

- Specifies requirements for moderate sedation educational courses and provides for an annual review.
- The ADA does not accredit moderate sedation courses, so this rule incorporates criteria set forth in the current ADA Guidelines for Teaching Pain Control to Dentists and Dental Students.

20:43:09:04.04 Host permit requirements.

- Reduces barriers and increases access to care. ARSD currently in effect requires dentists to hold a moderate sedation permit to administer moderate sedation or to utilize a LAP.
- This draft rule creates and sets forth requirements for a new host permit that would be available for dentists that would like to utilize a LAP, but not administer moderate

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sedation themselves. The host permit also incorporates authority to monitor patients as part of the anesthesia team.

- Although a host dentist will not be administering sedation, he or she is part of the overall anesthesia team. The host dentist will most often be selecting a LAP to come into his or her office, will be involved with patient selection, and will be operating in the open (unsecured) airway of the sedated patient. The training required for a host dentist is outlined in the next rule.

20:43:09:04.05 Host course requirements.

- Outlines requirements for host permit educational courses and provides for an annual review. Any course that meets these requirements would be eligible for review and approval on an annual basis. Two initial courses have been identified that would provide this training, each require approximately 6-8 hours of training, involve a relatively small financial investment, and are available online.

20:43:09:04.06 Anesthesia or sedation education – Other.

- Increases portability. Allows the Board to approve sedation or anesthesia training accepted in any state or jurisdiction that resulted in an equivalent permit being issued or maintained in that state or jurisdiction.

20:43:09:05 Nitrous oxide sedation and analgesia permit requirements -- Dentists.

- Helps ensure patient safety and regulatory consistency. Updates permit requirements, incorporates scavenger system requirement, and incorporates timeline for education or training to maintain consistency in regulation. Allows the administration of nitrous oxide + MRD of one enteral drug to patients 12 years and older. If a patient is under 12 years old, nitrous oxide can be administered.

20:43:09:06 Nitrous oxide sedation and analgesia permit requirements -- Dental hygienists and registered dental assistants.

- Helps ensure patient safety and regulatory consistency. Updates permit requirements, incorporates equipment requirements to maintain consistency in regulation.

20:43:09:06.02 Minimal sedation.

- Helps ensure pediatric patient safety. Specifies that a dentist may administer, without a sedation or anesthesia permit, up to the MRD of one enteral drug to patients 12 years or older to achieve a state of minimal sedation.

20:43:09:08 Application for permits -- Renewal.

- Incorporates host permit into renewal process.
- Helps ensure patient safety. Requires a dentist that holds a general anesthesia or deep sedation permit complete at least 50 cases of general anesthesia or deep sedation annually. Requires a dentist that holds a moderate sedation permit complete at least 12 cases of moderate sedation annually. Allows completion of continuing education in lieu of cases if a dentist is unable to complete the requisite number of cases annually. Does not have a case requirement for host permit. Requires a dentist that holds a host, moderate, or general anesthesia and deep sedation permit document completion of team training on emergency response protocols in the setting where the anesthesia or sedation is being provided.
- Data has been shared freely with stakeholders throughout the process highlighting that a small minority of states have an annual case requirement. However, other models and constructs were review and considered - including the medical model, maintenance of certification for anesthesia providers, credentialing requirements within licensed

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healthcare facilities, and maintenance of non-core privileges. Case requirements is a consistent component of these models and has been incorporated in this draft to help ensure active practice and recent experience for not just the anesthesia provider, but the entire functioning anesthesia team.

- Note, the current advisory opinion recommends 25 moderate sedation cases per year. The current draft has reduced that number to 12.

20:43:09:09 Reports of adverse conditions.

- Requires reporting of adverse conditions and incorporates host permit.

20:43:09:11 Inspection.

- Incorporates criteria for anesthesia inspectors that would allow a variety of professions to act as inspectors, if they have the requisite education and experience in a dental office. Clarifies the timing of inspections currently required.

20:43:09:12 Requirements of inspection.

- Lists the components of a facility, host, moderate and general anesthesia and deep sedation inspection. Allows the flexibility to evaluate alternative inspection models and formats, as it removes the live patient procedure and monitoring requirement.

20:43:09:13 Equipment -- Moderate sedation.

- Updates equipment requirements for moderate sedation.

20:43:09:13.01 Equipment -- General anesthesia and deep sedation.

- Updates equipment requirements for general anesthesia and deep sedation.

20:43:09:14 Clinical guidelines.

- Broadens guidelines and references general standard of care.

20:43:09:17 Emergency response protocol.

- Incorporates requirement that a written emergency response protocol be in place for all patients undergoing moderate sedation, deep sedation or general anesthesia.