

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number Den 304

<p>1. Agency Name & Address:</p> <p>Board of Dental Examiners c/o Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 317-A:12, XII; RSA 317-A:12, XIV</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal <u>X</u></p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: Use of General Anesthesia and Sedation by Dentists

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

The Board of Dental Examiners is proposing to adopt, repeal, or readopt with amendment all of the rules in Part Den 304 in on the use of general anesthesia, deep sedation, and moderate sedation, moderate sedation only, and moderate sedation with pediatric qualification. The Board is proposing the following changes:

- **Readopt with amendment Den 304.01 by modifying all definition currently provided and adding the definition of “facility hosting permit”, “facility inspection”, “facility permit”, “general anesthesia, deep sedation, and moderate sedation permit”, “hosting dentist”, “moderate sedation only permit”, “moderate sedation permit with pediatric qualification”, “operating dentist”, “qualified consultant”, “qualified dentist”, “qualified provider”, “simulated emergency management evaluation”, and “single dose”;**
- **Adopt Den 304.02 “Requirements for All Permits Issued Under this Chapter” and replace Den 304.03 “Permits for Use of General Anesthesia, Deep Sedation and Moderate Sedation” which is being repealed. Replacing Den 304.03 which describes each type of permit being issued and is not limited to just “Permits for Use of General Anesthesia, Deep Sedation and Moderate Sedation”;**
- **Adopt Den 404.03 describing permit types: facility permits, facility hosting permits, general anesthesia, deep sedation, and moderate sedation permits, moderate sedation only permits, and moderate sedation with pediatric qualifications permits;**
- **Repeal Den 304.04 describing permits for moderate sedation only;**
- **Adopt Den 304.04 describing the qualification for each type of permit issued;**

- **Repeal Den 304.05 describing the permit application procedures and evaluations for the use of general anesthesia, deep sedation and moderate sedation, and moderate sedation only;**
- **Adopt Den 304.05 describing the application and permit procedures for facility permits, facility hosting permits, general anesthesia, deep sedation, and moderate sedation permits, moderate sedation only permits, and moderate sedation with pediatric qualifications permits and including forms, fees, and required documents;**
- **Readopt with amendment Den 304.02, renumbered as Den 304.06, describing anesthesia deep sedation or sedation exclusively by a NH license physician anesthesiologist or certified registered nurse anesthetist. The amendments remove the requirements to provide the name of the individual to be provided to the board, inspection requirements, and audit requirements and adding that the hosting dentist must first obtain an anesthesia facility permit or facility hosting permit before the physician or registered nurse administers anesthesia at the facility;**
- **Adopt Den 304.07 describing the facility or hosting facility equipment and supplies to be kept on-site;**
- **Adopt Den 304.08 describing the administering of general anesthesia, deep sedation, or moderate sedation including any manufacturer’s guidelines to be followed, drugs used, tasks not to be delegated to a dental assistant or hygienist, treating patients under the age of 13, treating patient between the ages of 9 and 12, the use of a separate dedicated anesthesia provider, and how and when to obtain a waiver of the requirement for a separate dedicated anesthesia provider;**
- **Adopt Den 304.09 describing the facility or hosting facility documentation requirements;**
- **Adopt Den 304.10 describing inspections of the facility or facility hosting permit holder;**
- **Readopt with amendment Den 304.06, renumbered as Den 304.11, describing minimal sedation and is being renumbered as Den 304.11. The amendments update the document required to be followed when administering minimal sedation, add clarification of the ages for the types of minimal sedation being administered, and add the FDA “Online Label Repository” as the source to determine what on dose of a drug is;**
- **Adopt Den 304.12 describing the initial inspection and evaluations of permitted facilities and those hosting a hosting facility permit; and**
- **Readopt with amendment Den 304.07, renumbered as Deen 304.13, describing morbidity and mortality reports to clarify when a report is to be submitted to the Board, within how many days that report is to be submitted to the Board, and what information is required to be in the report.**

6. (b) Brief description of the groups affected:

These rules affect those dentists who wish to provide general anesthesia, deep sedation, and moderate sedation, moderate sedation only, moderate sedation with pediatric qualification, dental facilities providing sedation, dental hygienists physician anesthesiologists or certified registered nurse anesthetists, and the public.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
Den 304.01	RSA 317-A:20, II; 317-A:12, XII-c (a)
Den 304.02	RSA 317-A:20, II; 317-A:12, XII-a (e), (e), & (c)
Den 304.03 (repeal)	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.03	RSA 317-A:20, II; 317-A:12, XII-a (e), (e), & (c)
Den 304.04 (repeal)	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.04	RSA 317-A:12, XII-a(f)
Den 304.05 (repeal)	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.05	RSA 317-A:12, XII-a (f) & (h)
Den 304.06 (formerly Den 304.02)	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.07	RSA 317-A:12, XII-a (f); RSA 317-A:12, XII-c
Den 304.08	RSA 317-A:12, XII-a (h)
Den 304.09	RSA 317-A:12, XII-c
Den 304.10	RSA 317-A:12, XII-a (f); RSA 317-A:12, XIV
Den 304.11 (formerly Den 304.06)	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.12	RSA 317-A:12, XII-a; RSA 317-A:20, II
Den 304.13 (formerly Den 304.07)	RSA 317-A:12, XII-a; RSA 317-A:20, II

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Tina M. Kelley** Title: **Rules Coordinator**

Mailing Address: **Office of Professional Licensure & Certification** Phone #: **(603) 271-2855**

7 Eagle Square Fax#: **None**

Concord, NH 03301

E-mail: **OPLC-Rules@oplcnh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified:
Thursday, August 15, 2024 at 4:00 pm.

Fax

E-mail

Other format
(specify):

9. Public hearing scheduled for:

Date and Time: **Monday, August 5, 2024 at 9:00 p.m.**
Physical Location: **Office of Professional Licensure and Certification
7 Eagle Square
Concord NH 03301**
Electronic Access (if applicable): **n/a.**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 24:121, dated 6/26/2024

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules some independently owned business may see increase costs. Not applicable to Den 304.02 thru Den 304.05, Den 304.07 through Den 304.10, and Den 304.12, as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules update definition, clarify permitting and qualifications and make technical changes to align with industry standards. These changes will have no cost or benefit to the extent a facility already holds a permit to administer sedation as they should already have the appropriate education, training, and standards. However, there could potentially be a cost to independently owned businesses to the extent a new permit is requested, and the new standards are not met, and the business needs to come into compliance.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.