

**NOTICES OF PROPOSED RULEMAKING
Initiated After January 1, 1995**

Unless exempted by A.R.S. § 4101995, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the administrative Procedure Art (A.R.S. § 41-1001) *et seq.*, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R4-11-1104 Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1207(A)(1) and (4)
Implementing statute: A.R.S. § 32-1207(D)

3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Julie N. Chapko, Deputy Director
Address: State Board of Dental Examiners
5060 North 19th Avenue, Suite 406
Phoenix, Arizona 85015-3214
Telephone Number: (602) 255-3696, ext. 23
Fax Number: (602) 255-3589

4. **An explanation of the rule, including the agency's reasons for initiating the rule:**
R4-11-1104 prescribes circumstances under which a licensed dentist, hygienist, or certified denturist may advertise in areas pertinent to their scope of practice. Qualifications specifically regulating advertising guidelines for dental specialty practices and dental specialty practices and dental specialists have been included in these rules.

Under current rule, a dentist must be *board eligible or board certified* to advertise as a specialist. Several of the nationally recognized specialty boards have changed their bylaws requiring a minimum number of years the dentist must limit the practice to the specialty field before the dentist may even apply to be *board eligible*. This creates a situation of noncompliance with rules for the dentists who need to limit their practice to a specialty but under current rules are unable to advertise. Current rules could cause restraint of trade. It is the goal of the Board to protect the health, safety, and welfare of the public. These proposed rules directly relate to that objective.

Article 11 was last revised in 1985. Nationally, significant changes have occurred in the last couple of years relative to recognized specialties. These changes are reflected in the proposed rules. For example, two new specialty areas, specifically Dental Public Health and Oral Pathology, have been recognized as dental specialties by the Commission on Dental Accreditation of the American Dental Association. Also, archaic terminology regarding specialty fields has been replaced with current nomenclature.

5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.

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6. The preliminary summary of the economic, small business, and consumer impact:

Some dental practices may incur increased advertising costs. These increased costs should be offset by the benefits of advertising, namely, a greater number of patients.

Quality of care, availability of services, and dental practice revenues are greatly improved by the proposed amendments. Advertising allows the consumer to make a more educated and informed decision regarding dental care.

7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Julie N. Chapko, Deputy Director
Address: State Board of Dental Examiners
5060 North 19th Avenue, Suite 406
Phoenix, Arizona 850015-3214
Telephone Number: (602) 255-3696, ext. 23
Fax Number: (602) 255-3589

8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No public proceeding is scheduled. A person may submit written comments or request that an oral proceeding be held on the proposed rules by submitting the comments or a written request for hearing no later than 5 p.m., December 18, 1995, to the person listed above.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

10. Incorporations by reference and their location in the rules:

Not applicable.

11. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 11. REGULATION OF DENTISTS

Section

R4-11-1104. Advertising as a Specialist

ARTICLE 11. REGULATION OF DENTISTS

A. A dentist shall ~~not advertise as a specialist or use the terms "specialty" or "specialist" nor any of the terms used to designate a dental specialty as to describe professional services only if the dentist practices in one of the specialty areas listed below and is recognized by the specialty board which certifies specialists for that area and is accredited by the Commission on Dental Accreditation of the American Dental Association:~~

1. ~~Endodontist Endodontics.~~
2. ~~Oral and maxillofacial surgeon surgery.~~
3. ~~Orthodontist Orthodontics and dentofacial orthopedics.~~
4. ~~Pedodontist Pediatric dentistry.~~
5. ~~Periodontist Periodontics.~~
6. ~~Prosthodontist Prosthodontics, or any derivation of such words to describe or advertise his or her professional services unless the dentist is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association or other generally recognized accreditation organization as~~

~~board-eligible or board-certified within the specialty described or advertised.~~

7. Dental Public Health.

8. Oral Pathology.

B. For purposes of this rule, a dentist who wishes to advertise as a specialist in a recognized field shall meet the criteria in one or more of the following categories:

1. Grandfathered: Those dentists who declared their specialty area prior to December 31, 1964, in accordance with requirements established by American Dental Association and have limited their practice to an area of dentistry approved by the American Dental Association.
2. Educationally qualified: A dentist who has successfully completed an educational program, 2 or more years in length, in a specialty area accredited by the Commission on Dental Accreditation of the American Dental Association, as specified by the Council on Dental Education of the American Dental Association.
3. Board eligible: Those dentists who have met the guidelines of an established specialty board in a recognized specialty area that operates in accordance with the requirements established by the American Dental Association. The functions of each specialty board include establishing examination requirements and standards.

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appraising the qualifications of applicants, administering comprehensive examinations, and issuing a certificate to those who achieve diplomate status.

4. Board certified: Those dentists who have met the requirements of a specialty board and who have been issued a certificate from that specialty board, indicating they have achieved diplomate status.
- C. A dentist, dental hygienist, or denturist who advertises in a manner which implies that services rendered in a dental office are of a specialty area other than those listed in subsection (A), and recognized by a specialty board which has been accredited by the Commission on Dental Accreditation of the American Dental Association, is in violation of this rule and A.R.S. § 32-1201(18)(u) and is subject to discipline pursuant to A.R.S. § 32-1263.
- D. A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "Services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "Services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "Services provided by an Arizona certified denturist."