

NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

[R12-195]

PREAMBLE

1. Citations to the agency's Notice of Rulemaking Docket Opening, the Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A):

Notice of Rulemaking Docket Opening: 18 A.A.R. 1147, May 18, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 1376, June 22, 2012

2. Articles, Parts, or Sections Affected (as applicable) Rulemaking Action

R4-11-101	Amend
R4-11-1501	Amend
R4-11-1502	Amend
R4-11-1503	Amend
R4-11-1504	Amend

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 32-1207(A)(1), (3), (9), (10), and (11) and 32-1207(C)(2), (3), (4), and (5)

Implementing statute: A.R.S. §§ 32-1263, 32-1263.01, 32-1263.02, 32-1263.03 and 32-1299.26

4. The agency's contact person who can answer questions about the rulemaking:

Name: Elaine Hugunin, Executive Director

Address: State Board of Dental Examiners
4205 N. 7th Avenue, Suite 300
Phoenix, AZ 85013

Telephone: (602) 242-1492

Fax: (602) 242-1445

E-mail: Elaine.hugunin@azdentalboard.us

Web site: <http://azdentalboard.us/>

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

HB 2554 enacted July 20, 2011, significantly changed the Arizona State Board of Dental Examiners complaint investigation process. A.R.S. § 32-1263.02 was repealed and replaced with a new section entitled *Investigation and adjudication of complaints; disciplinary action; civil penalty; immunity; subpoena authority; definitions*. The repeal of A.R.S. § 32-1263.02 did away with investigative interviews, informal interviews, mediation, and triage; those processes were replaced by investigation by an investigative team, utilizing outside dental consultants with the team making recommendations to the Board for non-disciplinary continuing education, non-disciplinary letters of concern, disciplinary consent agreements or formal interviews conducted by the Board. Since, by statute, the processes and terms of investigation changed, the Board finds it necessary to amend Article 15 to support the changes.

Further, HB 2233, also enacted July 20, 2011, added Article 8 *Mobile Dental Facilities* to Title 32, Chapter 11. Complaints may be filed against Mobile Dental Facilities, therefore Mobile Dental Facilities will be added to appropriate sections of Article 15.

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The rulemaking will amend R4-11-101 *Definitions* to remove the definitions for “investigative interview,” “informal interview,” “representative,” and “triage,” that are no longer needed due to the statutory changes made by HB 2554.

The rulemaking will amend the title of R4-11-1502 to *Dental Consultant Qualifications* and make necessary changes to reflect the changes in statute that require the Board to use Dental Consultants instead of Complaint Investigators. The proposed changes to R4-11-1502 will require Dental Consultants be approved by the Board.

The rulemaking will amend R4-11-1503 to incorporate the statutory changes dealing with the complaint receipt and notification process and the clinical evaluation process in HB 2554.

The rulemaking will amend the title of R4-11-1504 to *Postponement of Formal Interview* and make necessary changes to reflect the changes in statute that require the Board to use a formal interview process. The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor’s Regulatory Review Council.

The Board believes that approval of these rules will benefit the public health and safety by clearly establishing the Board’s complaint investigation process.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rules.

7. An explanation of the substantial change that resulted in the supplemental notice:

There is no substantial change from the proposed rulemaking. The supplemental notice is necessary because of an error in the public hearing date of the Notice of Proposed Rulemaking causing the public hearing to be held less than 30 days after the publication of the Notice of Proposed Rulemaking. The error was caught by staff of the Governor’s Regulatory Review Council upon filing of a Notice of Final Rulemaking.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:

Not applicable

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

The amended rules will impact the Board, licensees, certificate holders, business entities, mobile dental permit holders, and the public. The amended rules’ impact on the Board will be the usual rulemaking-related costs, which are minimal.

The rulemaking will decrease established Board of Dental Examiner’s procedures and office-related costs. The impact on the Board is minimal. Paperwork and caseload will decrease, which may result in less preparation time and shorter Board meetings.

The impact on the licensees, certificate holders, business entities and mobile dental permit holders is also minimal. The statutory changes eliminated investigative interviews and triage, which may increase the licensee’s productivity as the rules eliminate some travel time and time at the Board. Licensees may be able to dedicate more time to seeing patients and practicing dentistry.

The impact on the consultants is also minimal. Their productivity will increase, as they will not be required to appear at the Board offices as often.

The impact of the rules to the public is minimal, both for attorneys and complainants. Time spent at the Board will be less.

The Board believes that approval of these rules will benefit the public health and safety by clearly establishing the Board’s complaint investigation process.

10. The agency’s contact person who can answer questions about the economic, small business and consumer statement:

Name: Elaine Hugunin, Executive Director
Address: State Board of Dental Examiners
4205 N. 7th Avenue, Suite 300
Phoenix, AZ 85013
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Web site: <http://azdentalboard.us/>

11. The time, place, and nature of the proceedings to make, amend, renumber or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:

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Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, November 26, 2012. An oral proceeding is scheduled for:

Date: November 26, 2012
Time: 10:00 a.m.
Location: 4205 N. 7th Avenue, Suite 300
Phoenix, AZ 85013
Nature: Public Hearing

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not Applicable

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

No

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 1. DEFINITIONS

Section

R4-11-101. Definitions

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION

Section

R4-11-1501. Ex-parte Communication

R4-11-1502. ~~Complaint Investigator~~ Dental Consultant Qualifications

R4-11-1503. Initial Complaint Review

R4-11-1504. Postponement of ~~Investigative or Informal~~ Formal Interview

ARTICLE 1. DEFINITIONS

R4-11-101. Definitions

The following definitions, and definitions in A.R.S. § 32-1201, apply to this Chapter:

“Analgesia” means a state of decreased sensibility to pain produced by using nitrous oxide (N₂O) and oxygen (O₂) with or without local anesthesia.

“Anxiolysis” means the reduction or elimination of anxiety.

“Application” means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.

“Business Entity” means a business organization that offers to the public professional services regulated by the Board and is established under the laws of any state or foreign country, including a sole practitioner, partnership, limited liability partnership, corporation, and limited liability company, unless specifically exempted by A.R.S. § 32-1213(H).

“Calculus” means a hard mineralized deposit attached to the teeth.

“Certificate holder” means a denturist who practices denture technology under A.R.S. Title 32, Chapter 11, Article 5.

“Charitable Dental Clinic or Organization” means a non-profit organization meeting the requirements of 26 U.S.C.

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501(c)(3) and providing dental or dental hygiene services.

“Clinical evaluation” means a dental examination of a patient named in a complaint regarding the patient's dental condition as it exists at the time the examination is performed.

“Closed subgingival curettage” means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a situation where a flap of tissue has not been intentionally or surgically opened.

“Combination inhalation and enteral conscious sedation” is conscious sedation induced by the administration of nitrous oxide and oxygen in combination with one or more enteral drugs or non-drug substances.

“Conscious sedation” is a minimally depressed level of consciousness that allows the patient to retain the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and is induced by a drug or non-drug method or a combination of both methods.

“Controlled substance” has the meaning prescribed in A.R.S. § 36-2501(A)(3).

“Credit hour” means one clock hour of participation in a recognized continuing dental education program.

“Deep sedation” has the same meaning as “semi-conscious sedation”.

“Dental laboratory technician” or “dental technician” has the meaning prescribed in A.R.S. § 32-1201(6).

“Dentist of record” means a dentist who examines, diagnoses, and formulates treatment plans for a patient and may provide treatment to the patient.

“Designee” means a person to whom the Board delegates authority to act on the Board's behalf regarding a particular task specified by this Chapter.

“Direct supervision” means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant's work.

“Direct supervision” means, for purposes of Article 13 only, that a licensed dentist is physically present in the operatory and actually performing dental procedures.

“Disabled” means a dentist, dental hygienist, or denturist has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism due to a permanent medical disability and based on a physician's order.

~~“Direct supervision” means, for purposes of Article 13 only, that a licensed dentist is physically present in the operatory and actually performing dental procedures.~~

“Dispense for profit” means selling a drug or device for any amount above the administrative overhead costs to inventory.

“Documentation of attendance” means documents that contain the following information:

Name of sponsoring entity;

Course title;

Number of credit hours;

Name of speaker; and

Date, time, and location of the course.

“Drug” means:

Articles recognized, or for which standards or specifications are prescribed, in the official compendium;

Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in the human body;

Articles other than food intended to affect the structure of any function of the human body; or

Articles intended for use as a component of any articles specified in this definition but does not include devices or components, parts, or accessories of devices.

“Emerging scientific technology” means any technology used in the treatment of oral disease that is not currently generally accepted or taught in a recognized dental or dental hygiene school and use of the technology poses material risks.

“Enteral” means an administration technique in which a drug or non-drug substance is absorbed through the oral, rectal, sublingual, or nasal mucosa.

“Epithelial attachment” means the layer of cells that extends apically from the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.

“Ex-parte communication” means a written or oral communication between a decision maker, fact finder, or Board member and one party to the proceeding, in the absence of other parties.

“General anesthesia” is a state of unconsciousness accompanied by partial or complete loss of protective reflexes, including the inability to continually maintain an airway and to respond appropriately to physical stimulation or verbal command, that is induced by a drug or non-drug method or a combination of both methods.

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“General supervision” means, for purposes of Article 7 only, a licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment that the dentist authorizes and for which the dentist remains responsible.

“Homebound patient” means a person who is unable to receive dental care in a dental office as a result of a medically diagnosed disabling physical or mental condition.

~~“Informal interview” means a proceeding conducted under A.R.S. § 32-1263.02, during which a Board member, acting as an informal interviewing officer, and other investigators, hear testimony from a complainant, licensee, or certificate holder, and any witnesses, and receive and review evidence relating to a complaint to form findings of fact, conclusions of law, and a recommended disposition for presentation to the full Board.~~

“Intravenous or intramuscular sedation” is the parenteral use of a drug or non-drug substance to induce general anesthesia, semi-conscious sedation, or conscious sedation.

~~“Investigative interview” means a proceeding conducted under A.R.S. § 32-1263.02, during which an investigator or investigative panel hears testimony from a complainant, licensee or certificate holder, and any witnesses, and receives and reviews evidence relating to a complaint to form findings of fact, conclusions of law, and a recommended disposition for presentation to the full Board.~~

“Irreversible procedure” means a single treatment, or a step in a series of treatments, that causes change in the affected hard or soft tissues and is permanent or may require reconstructive or corrective procedures to correct the changes.

“Jurisdiction” means the Board's power to investigate and rule on complaints that allege grounds for disciplinary action under A.R.S. Title 32, Chapter 11 or this Chapter.

“Licensee” means a dentist, dental hygienist, dental consultant, retired licensee, or person who holds a restricted permit under A.R.S. §§ 32-1237 or 32-1292.

“Local anesthesia” is the elimination of sensations, such as pain, in one part of the body by the injection of an anesthetic drug.

“Nitrous oxide analgesia” means nitrous oxide (N₂O/O₂) used as an inhalation analgesic.

“Nonsurgical periodontal treatment” means plaque removal, plaque control, supragingival and subgingival scaling, root planing, and the adjunctive use of chemical agents.

“Nurse anesthetist” means a licensed nurse with special training in all phases of anesthesia.

“Official compendium” means the latest revision of the United States Pharmacopeia and the National Formulary and any current supplement.

“Outpatient” means an individual who receives treatment in a dental office or clinic.

“Oral conscious sedation” is conscious sedation induced by an enterally administered drug or non-drug substance or combination inhalation and enterally administered drug or non-drug substance on an outpatient basis.

“Patient of record” means a patient who has undergone a complete dental evaluation performed by a licensed dentist.

“Periodontal examination and assessment” means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.

“Periodontal pocket” means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.

“Plaque” means a film-like sticky substance composed of mucoidal secretions containing bacteria and toxic products, dead tissue cells, and debris.

“Polish” means, for the purposes of A.R.S. § 32-1291(B) only, a procedure limited to the removal of plaque and extrinsic stain from exposed natural and restored tooth surfaces that utilizes an appropriate rotary instrument with rubber cup or brush and polishing agent. A licensee or dental assistant shall not represent that this procedure alone constitutes an oral prophylaxis.

“Prescription-only device” means:

Any device that is restricted by the federal act, as defined in A.R.S. § 32-1901, to use only under the supervision of a medical practitioner; or

Any device required by the federal act, as defined in A.R.S. § 32-1901, to bear on its label the legend “Rx Only.”

“Prescription-only drug” does not include a controlled substance but does include:

Any drug that, because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;

Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use

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under the supervision of a medical practitioner;
Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or
Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx Only."

"President's designee" means the Board's executive director, an investigator, or a Board member acting on behalf of the Board president.

"Preventative and therapeutic agents" means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.

"Prophylaxis" means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.

"Public member" means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.

"Recognized continuing dental education" means a program whose content directly relates to the art and science of oral health and treatment, provided by a recognized dental school as defined in A.R.S. § 32-1201(17), recognized dental hygiene school as defined in A.R.S. § 32-1201(16), or recognized denturist school as defined in A.R.S. § 32-1201(18), or sponsored by a national or state dental, dental hygiene, or denturist association, dental, dental hygiene, or denturist study club, governmental agency, or commercial dental supplier.

~~"Representative" means, for purposes of Article 15 only, a person recognized by the Board as authorized to act on behalf of a complainant or a party in proceedings governed by this Chapter.~~

"Restricted permit holder" means a dentist who meets the requirements of A.R.S. § 32-1237 or a dental hygienist who meets the requirements of A.R.S. § 32-1292 and is issued a restricted permit by the Board.

"Retired" means a dentist, dental hygienist, or denturist is at least 65 years old and has totally withdrawn from the active practice of dentistry, dental hygiene, or denturism.

"Root planing" means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.

"Scaling" means use of instruments on the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.

"Section 1301 permit" means a permit to administer general anesthesia and semi-conscious sedation under Article 13.

"Section 1302 permit" means a permit to administer conscious sedation under Article 13.

"Section 1303 permit" means a permit to administer oral conscious sedation under Article 13.

"Semi-conscious sedation" means use of drug or non-drug methods, or a combination of the two methods, to induce a state of depressed consciousness accompanied by partial loss of protective reflexes, and the inability to continually maintain an airway independently or respond appropriately to physical stimulation or verbal command.

"Study club" means a group of at least five Arizona licensed dentists, dental hygienists, or denturists who provide written course materials or a written outline for a continuing education presentation that meets the requirements of Article 12.

"Treatment records" means all documentation related directly or indirectly to the dental treatment of a patient.

"Triage" means a review during which investigators examine a complaint, the licensee's response, and dental records to form a recommended disposition for presentation to the full Board.

ARTICLE 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION

R4-11-1501. Ex-parte Communication

A complainant, licensee, certificate holder, or business entity or mobile dental permit holder against whom a complaint is filed, shall not engage in ex-parte communication by means of a written or oral communication between a decision maker, fact finder, or Board member and only one party to the proceeding.

R4-11-1502. ~~Complaint Investigator~~ Dental Consultant Qualifications

A dentist, dental hygienist, or denturist ~~appointed~~ approved as a Board ~~investigator~~ dental consultant shall:

1. Possess a valid license, ~~restricted permit,~~ or certificate to practice in Arizona;
2. Have practiced at least five years ~~of practice~~ in Arizona; and
3. Not have been disciplined by the Board within the past ~~24 months~~ five years.

R4-11-1503. Initial Complaint Review

~~A.~~ The president's designee shall initially review a complaint. If the designee determines that the Board has no jurisdiction, ~~the designee shall forward the complaint to the Board for termination.~~

~~B.A.~~ If the designee determines that the Board has jurisdiction The Board's procedures for complaint notification are:

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1. Board personnel shall notify the complainant and licensee, certificate holder, ~~or~~ business entity or mobile dental permit holder as follows:
 - a. ~~By regular U.S. Mail that the complaint has been received and whether a clinical evaluation will be scheduled; and~~
 - b. ~~By~~ by certified U.S. Mail when the following occurs:
 - a. ~~of an informal~~ A formal interview is scheduled, investigative interview, or mediation, if the
 - b. ~~The complaint has been~~ is tabled ~~or remanded~~,
 - c. ~~of a~~ A postponement or continuance is granted, and
 - d. ~~a~~ A subpoena, notice, or order is issued.
2. ~~The president's designee shall refer the complaint to an informal interview, investigative interview, triage or mediation. Where the allegations, if proven, may result in suspension or revocation of license or certificate, the complaint shall be referred to an informal interview. All other complaints shall be referred to investigative interview, triage, or mediation.~~
3. ~~The Board may subpoena a patient's treatment records from the licensee, certificate holder, business entity, or any other health care provider.~~
4. ~~2.~~ Board personnel shall provide the licensee, certificate holder, ~~or~~ business entity, or mobile dental permit holder with a copy of the complaint ~~upon receipt of the treatment records.~~
5. ~~3.~~ If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.
6. ~~If during the course of investigating a complaint, but before triage, investigative interview or informal interview, it appears the evidence does not support the allegations contained in the complaint, the president's designee shall forward the complaint to the Board for termination.~~

~~C.~~ **B.** The Board's procedures for complaints referred to clinical evaluation are:

1. Except as provided in subsection ~~(C)(B)~~ (B)(1)(a), the president's designee shall appoint one or more ~~dentists~~ dental consultants to perform a clinical evaluation. If there is more than one ~~clinical evaluator~~ dental consultant, the ~~clinical evaluators~~ dental consultants do not need to be present at the same time. ~~The Board shall approve each clinical evaluator.~~
 - a. If the complaint involves a dental hygienist, denturist, or dentist who is a recognized specialist in one of the areas listed in ~~R4-11-1101(B)~~ R4-11-1102(B), the president's designee shall appoint a ~~clinical evaluator~~ dental consultant from that area of practice or specialty.
 - b. The Board shall not disclose the identity of the licensee to a ~~clinical evaluator~~ dental consultant performing a clinical examination before the Board receives the ~~clinical evaluator's~~ dental consultant's report.
2. The ~~clinical evaluator~~ dental consultant shall prepare and submit a clinical evaluation report ~~for the informal or investigative interview or Board meeting.~~ The president's designee shall provide a copy of the clinical evaluation report to the licensee or certificate holder. The licensee or certificate holder may submit a written response to the clinical evaluation report ~~before the informal or investigative interview or Board meeting.~~

~~D.~~ **D.** The Board's procedures for investigative and informal interviews are as follows:

1. Board personnel shall provide the complainant and licensee, certificate holder, or business entity with written notice of the time and date of the investigative interview or informal interview. The notice shall include all allegations contained in the complaint and any allegation that arose during the Board's investigation before the notice date.
2. The Board's president or the president's designee may schedule an informal interview with a licensee, certificate holder, or business entity. The Board president or president's designee:
 - a. May appoint one or more Board members to act as an informal interviewing officer; or
 - b. May appoint a Board approved investigator to assist the informal interviewing officer; and
 - e. If the licensee or certificate holder is a dental hygienist, denturist, or recognized dental specialist in one of the areas listed in R4-11-1102(B), shall appoint one investigator or Board member from the relevant area of practice or specialty to assist the informal interviewing officer.
3. If a complaint is referred for an investigative interview, the president's designee shall appoint an investigator or an investigative panel, consisting of at least one dentist and one public member to conduct the investigative interview. One panel member, who is not a public member, shall serve as the chairperson. If the licensee or certificate holder is a dental hygienist, denturist, or a recognized dental specialist in one of the areas listed in R4-11-1102(B), at least one investigator shall be from that area of practice or specialty.
4. The licensee or certificate holder may agree to waive the requirements in this Section regarding appointment of a licensee or certificate holder from a specific practice area or specialty. The complainant, licensee, certificate holder, or business entity may agree to waive the requirements in this Section regarding the appointment of a public member.
5. The complainant, licensee, certificate holder, or business entity and any witness present at the informal interview or investigative interview may be questioned by the informal interviewing officer, investigators, or investigative interview panel. The counsel representing the complainant, licensee, certificate holder, or business entity or the complainant, licensee, certificate holder or business entity shall direct questions to any other participant in the informal interview or investigative interview through the chairperson of the investigative interview panel or informal

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interviewing officer. Following the presentation of all testimony and evidence, the complainant, licensee, certificate holder, or business entity, or a representative may make a closing statement.

6. ~~The informal interviewing officer, investigator, or investigative interview panel shall develop findings of fact, conclusions of law, and a recommendation for disposition of the complaint based on the treatment records, clinical evaluation observations and documentation, testimony of the complainant and licensee, certificate holder, or business entity, and any other witnesses or relevant documents.~~
 7. ~~Board personnel shall prepare a written report of the investigative or informal interview from the recording of the interview and the informal interviewing officer's or investigator's or investigative interview panel's written findings of fact, conclusions of law, and recommendation.~~
 8. ~~Board personnel shall record all informal and investigative interviews mechanically or stenographically.~~
- E.** ~~The Board's procedures for triage are as follows:~~
1. ~~Board personnel shall provide the licensee, certificate holder, or business entity an opportunity to respond to the complaint in writing.~~
 2. ~~If the complaint is forwarded for triage, the president's designee shall appoint investigators for triage consisting of at least one dentist and either one licensee or certificate holder to conduct a review of the complaint, written response from the licensee, certificate holder, or business entity, and records.~~
 3. ~~The triage panel may develop recommendations for termination for lack of supporting evidence, issuance of a letter of concern, further investigation, or discipline, in cases involving non-compliance with a subpoena or Board order.~~
 4. ~~Board personnel shall prepare a written report of the triage panel findings and recommendations and forward to the Board for action. A Board shall provide a copy by certified mail to the licensee, certificate holder, or business entity.~~

R4-11-1504. Postponement of ~~Investigative or Informal~~ Formal Interview

- A.** ~~The complainant, licensee, certificate holder, or business entity, or mobile dental permit holder may request a postponement of an investigative or informal a formal interview. The Board or its designee shall grant a postponement until the next regularly scheduled Board meeting if:~~
1. ~~The complainant, the licensee, certificate holder, or business entity, or mobile dental permit holder makes an initial a~~ postponement request and the request:
 - a. ~~1.~~ 1. Is made in writing,
 - b. ~~2.~~ 2. States the reason for the postponement, and
 - c. ~~3.~~ 3. Is received by the Board ~~at least ten~~ within 15 calendar days ~~before~~ after the date of the ~~respondent received the~~ investigative or informal formal interview request, not including the day of the interview; and
 2. ~~A subsequent postponement request:~~
 - a. ~~Complies with subsection(1)(a),(b), and (c); and~~
 - b. ~~Demonstrates good cause for the postponement.~~
- B.** ~~Within 24 48 hours of receipt of a request for postponement of an investigative or informal a formal interview, the Board or its designee shall:~~
1. ~~Review and either deny or approve the request for postponement; and~~
 2. ~~Notify in writing the complainant and licensee, certificate holder, or business entity, or mobile dental permit holder of the decision to either deny or approve the request for postponement.~~