

BEFORE THE BOARD OF DENTISTRY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC
amendment of ARM 24.138.301)	HEARING ON PROPOSED
definitions, ARM 24.138.502 initial))	AMENDMENT
licensure of dentists by)	
examination, ARM 24.138.503 initial))	
licensure of dental hygienists by)	
examination, ARM 24.138.505 dentist))	
licensure by credentials,)	
ARM 24.138.506 dental hygienist)	
licensure by credentials,)	
ARM 24.138.510 denturist)	
examination, ARM 24.138.511)	
denturist application requirements,))	
ARM 24.138.2101 definition of)	
continuing education,)	
ARM 24.138.2104 requirements and)	
restrictions, and ARM 24.138.3207)	
requirements for continuing)	
education in anesthesia)	

1. On June 16, 2005, at 10:00 a.m., a public hearing will be held in room 489, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Dentistry no later than 5:00 p.m. on June 9, 2005, to advise us of the nature of the accommodation that you need. Please contact Sharon McCullough, Board of Dentistry, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdden@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.138.301 DEFINITIONS For the purposes of this chapter, the following definitions apply:

(1) through (3) remain the same.

(4) "Direct supervision", for the purpose of ARM 24.138.406, means the provisions of allowable functions by dental auxiliaries with the intent and knowledge of the dentist and while the supervising dentist is on the premises.

(4) through (8) remain the same but are renumbered (5) through (9).

AUTH: 37-1-131, 37-4-205, 37-4-340, 37-29-201, MCA
IMP: 37-4-101, 37-4-205, 37-4-340, 37-4-408, 37-29-201, MCA

REASON: It is reasonable and necessary to provide a definition for "direct supervision" as it relates specifically to dental assistants and auxiliaries. The Board concluded that adopting the definition would provide relevant information to lessen confusion among licensees and license applicants. The authorization citations are being amended to show additional statutory bases for the Board's authority to adopt rules. The implementation cites are being amended to include all statutes implemented through the rule. The citation amendments are reasonable and necessary to make while the rule is being otherwise amended.

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION

- (1) through (1)(j) remain the same.
- (k) the license application fee.
- (2) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, 37-4-301, MCA
IMP: 37-4-301, MCA

REASON: As part of the Board's ongoing rule review process, the Board determined it is reasonable and necessary to update language in this rule to correspond with the use of "application fee" elsewhere in the Board statutes and rules. It is reasonable to use consistent terminology throughout the administrative rules to provide greater clarity and to avoid potential areas of confusion.

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION

- (1) through (1)(f) remain the same.
- (g) a copy of a self-query of the national practitioner data bank;
- (g) through (i) remain the same but are renumbered (h) through (j).
- ~~(j)~~ (k) the licensure application fee.
- (2) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, ~~37-4-401~~, 37-4-402, 37-4-403, ~~37-4-406~~, MCA
IMP: 37-4-401, 37-4-402, 37-4-403, MCA

REASON: The Board determined it is reasonable and necessary to amend this rule to require dental hygienist applicants to submit to the Board a self-query of the National Practitioner Data Bank (NPDB) as part of the licensure process. The Board has required this self-query of dentist applicants for years and the NPDB has now expanded to include information on dental hygienists and denturists, as well. This additional requirement assists the Board in obtaining all information regarding an applicant's prior discipline as reported to the NPDB prior to initial licensure.

As part of the Board's ongoing rule review process, the Board determined it is reasonable and necessary to update language in this rule to correspond with the use of "application fee" elsewhere in the Board statutes and rules. It is reasonable to use consistent terminology throughout the administrative rules to provide greater clarity and to avoid potential areas of confusion. Finally, it is reasonable and necessary to amend the implementation citations to delete references to rule-making authority of the Board that are not directly applicable to this particular rule or are otherwise inappropriate, while otherwise amending the rule.

24.138.505 DENTIST LICENSURE BY CREDENTIALS (1) and (1) (a) remain the same.

(b) pays the appropriate fees, including credentialing fee, jurisprudence exam fee and ~~license~~ application fee;

(c) through (c) (iv) remain the same.

(v) is currently engaged in the practice of clinical, direct patient care dentistry, and has been actively practicing ~~for a minimum of five years immediately preceding application within the last five years immediately preceding application, for a total accumulation of 3,000 hours of experience,~~ as demonstrated by the following information:

(A) and (B) remain the same.

~~(C) certification of not less than 1,000 hours per year in clinical direct patient care dentistry;~~

(D) through (H) remain the same but are renumbered (C) through (G).

(vi) through (2) remain the same.

AUTH: 37-1-131, 37-4-205, MCA

IMP: 37-1-304, MCA

REASON: As part of the Board's ongoing rule review process, the Board determined it is reasonable and necessary to update language in this rule to correspond with the use of "application fee" elsewhere in the Board statutes and rules. It is reasonable to use consistent terminology throughout the administrative rules to provide greater clarity and to avoid potential areas of confusion.

The Board determined it is reasonable and necessary to amend the clinical practice experience requirement for dentist licensure by credentialing. The amended requirement will allow more latitude to out-of-state dentist applicants seeking licensure through the credentialing process while continuing to ensure the licensure of qualified and safe dentists in Montana. The Board decided to amend the rule after several applicants, who didn't meet the current experience requirement, appeared before the Board and requested a waiver of the experience requirement.

24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS

- (1) through (1)(g) remain the same.
- (h) copies of all other state professional licenses; and
- (i) a copy of a self-query of the national practitioner data bank; and
- (i) remains the same but is renumbered (j).
- (2) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, 37-4-402, MCA
IMP: 37-1-304, MCA

REASON: The Board determined it is reasonable and necessary to amend this rule to require dental hygienist applicants to submit to the Board a self-query of the National Practitioner Data Bank (NPDB) as part of the licensure process. The Board has required this self-query of dentist applicants for years and the NPDB has now expanded to include information on dental hygienists and denturists, as well. This additional requirement assists the Board in obtaining all information regarding an applicant's prior discipline as reported to the NPDB prior to initial licensure.

24.138.510 DENTURIST EXAMINATION (1) through (6) remain the same.

(7) The applicant must be approved by the board for internship, or meet the minimum experience requirements set forth in 37-29-303, MCA ~~by the board, prior to taking the written examination.~~

(8) remains the same.

(9) The applicant shall take and verify successful passage of the clinical/practical examination, approved by the board, ~~after completion of the required internship as set forth in ARM 24.138.512.~~

(10) and (11) remain the same.

AUTH: 37-1-131, 37-29-201, MCA
IMP: 37-29-305, MCA

REASON: It is reasonable and necessary to amend the rule to remove unnecessary time constraints in the denturist licensure process. The Board is amending the rule to clarify that an applicant may complete a one-year internship or provide proof of three years experience, as provided in 37-29-303, MCA. The Board decided to allow greater flexibility in the order in which applicants can complete the internship and examination requirements, while still maintaining the necessary requirements for qualified licensed practitioners. In addition, it is reasonable and necessary to amend the authorization citation to reflect an additional base of the Board's rulemaking authority while otherwise amending the rule.

24.138.511 DENTURIST APPLICATION REQUIREMENTS

(1) remains the same.

(2) The application fee and required documentation must be submitted to the board of dentistry and must include: 20 days prior to the jurisprudence examination. The application must include:

(a) through (m) remain the same.

(n) a copy of a self-query of the national practitioner data bank;

(n) remains the same but is renumbered (o).

~~(o) (p) jurisprudence examination fee; and~~

~~(p) licensure fee; and~~

(q) remains the same.

(3) and (4) remain the same.

~~(5) Application material is valid for six months from the time it is received in the office. If the jurisprudence examination has not been taken at the end of six months, the application will be considered incomplete and a new application and fees will have to be submitted. The board may require application materials to be updated prior to the applicant taking the jurisprudence examination.~~

AUTH: 37-1-131, 37-29-201, MCA

IMP: 37-29-303, 37-29-304, 37-29-306, MCA

REASON: It is reasonable and necessary to remove the requirement of application submission 20 days prior to taking the jurisprudence examination. This time limitation unnecessarily slows down the application process in many cases and this requirement has already been removed from the dentist and dental hygienist rules.

The Board determined it is reasonable and necessary to amend this rule to require denturist applicants to submit to the Board a self-query of the National Practitioner Data Bank (NPDB) as part of the licensure process. The Board has required this self-query of dentist applicants for years and the NPDB has now expanded to include information on dental hygienists and denturists, as well. This additional requirement assists the Board in obtaining all information regarding an applicant's prior discipline as reported to the NPDB prior to initial licensure.

As part of the Board's ongoing rule review process, the Board determined it is reasonable and necessary to update language in this rule to correspond with the use of "application fee" elsewhere in the Board statutes and rules. It is reasonable to use consistent terminology throughout the administrative rules to provide greater clarity and to avoid potential areas of confusion.

It is reasonable and necessary to delete the six-month limit on application materials' validity, as there are instances when the application process cannot be completed due to the scheduling of the clinical examinations or other administrative processes outside the applicants' control. The

Board is amending the rule to clarify that some application materials may need updating if the application process has taken an extended amount of time to complete.

In addition, it is reasonable and necessary to amend the authorization citation to reflect an additional base of the Board's rulemaking authority while otherwise amending the rule.

24.138.2101 DEFINITION OF CONTINUING EDUCATION

(1) remains the same.

(2) Continuing education programs are designed for part-time enrollment and are usually of short duration, although longer programs with structured, sequential curricula may also be included within this definition. ~~Continuing dental education programs do not lead to eligibility for ethical announcement or certification in a specialty recognized by the American dental association.~~

AUTH: 37-1-319, 37-4-205, 37-29-201, MCA

IMP: 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA

REASON: The Board determined it is reasonable and necessary to amend the rule to allow the Board to grant continuing education credit for otherwise acceptable education obtained in a residency program. The Board acknowledges that the education obtained during a residency is valid and that it is often difficult to take separate continuing education courses during a residency. The Board determined it is reasonable to allow applicants to submit educational coursework obtained in a residency for use in meeting the continuing education requirements for licensure by credentialing.

24.138.2104 REQUIREMENTS AND RESTRICTIONS (1) through

(4) remain the same.

(5) Continuing education credits will be allowed for attendance of multi-day convention type meetings per year as follows:

(a) two credits for dental hygienists;

(b) three credits for dentists; and

(c) two credits for denturists.

AUTH: 37-1-319, 37-4-205, 37-29-201, MCA

IMP: 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA

REASON: The Board determined it is reasonably necessary to amend the rule to allow dentists, dental hygienists and denturists to gain some continuing education credit for attendance at convention-type meetings. This amendment will provide additional flexibility for licensees in fulfilling their continuing education requirements. Additionally, the implementation cites are being amended to include all statutes implemented through the rule.

24.138.3207 REQUIREMENTS FOR CONTINUING EDUCATION IN ANESTHESIA (1) All dentists holding permits to provide general anesthesia must submit evidence of having attended a minimum of 20 clock hours of continuing education every three years, ~~in order to qualify for renewal of their permits.~~

(2) All dentists holding permits to provide conscious sedation must submit evidence of having attended a minimum of 12 clock hours of continuing education every three years, ~~in order to qualify for renewal of their permits.~~

(3) The education must be in one or more of the following fields:

(a) through (g) remain the same.

(2) remains the same but is renumbered (4).

(5) All anesthesia permit holders shall affirm their understanding of and compliance with continuing education requirements on the annual license renewal.

(6) Failure of licensee to produce records of required continuing education may result in disciplinary action.

(7) A random audit of licensees may be conducted in every three-year cycle.

AUTH: 37-1-131, 37-1-319, 37-4-205, MCA

IMP: 37-1-319, 37-4-511, MCA

REASON: It is reasonable and necessary to amend the rule to better facilitate the on-line renewal of dentist's anesthesia permits. The Board will no longer require proof of continuing education credits prior to renewal, but will instead perform random audits to determine compliance. These procedural amendments have already been implemented with regard to general continuing education requirements. Amendment of this rule will create greater consistency throughout all continuing education requirements. It is also reasonable and necessary to update the authorization and implementation citations for continuing education matters while otherwise amending the rule with respect to continuing education.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdden@mt.gov, and must be received no later than 5:00 p.m., June 24, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at www.dentistry.mt.gov. The Department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In

addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Dentistry maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Dentistry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdden@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA apply and have been fulfilled.

8. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY
PAUL SIMS, DDS, PRESIDENT

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Rule Reviewer

Certified to the Secretary of State May 16, 2005