

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

In the matter of the amendment of)
ARM 24.138.509 dental hygiene)
limited access permit, 24.138.2719)
medical assistance program relapse,)
amendment and transfer of)
24.138.3201 through 24.138.3209)
regarding dentist administration of)
anesthesia, and the adoption of NEW)
RULES I through III anesthesia)
definitions, committee, and permits)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT,
AMENDMENT AND TRANSFER,
AND ADOPTION

TO: All Concerned Persons

1. On October 3, 2011, at 9:30 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, amendment and transfer, and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) 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 (board) no later than 5:00 p.m., on September 28, 2011, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Dentistry, 301 South Park Avenue, 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. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2011 Montana Legislature enacted Chapter 100, Laws of 2011 (House Bill 94), an act generally revising professional and occupational licensing laws, including the revision of definitions and the administration of anesthesia pertaining to dentistry. The bill was signed by the Governor on April 1, 2011, and will be effective October 1, 2011. The legislative changes comport with the 2007 American Dental Association nomenclature, guidelines, and policies. Accordingly, the board is proposing to adopt New Rules I through III and amend the current anesthesia rules in subchapter 32 to coincide with the statutory changes and further implement the legislation. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule. The board is also renumbering the rules within subchapter 32 for clarity and better organization, and to allow the board to add additional rules within the existing rules in future rulemaking projects. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

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

24.138.509 DENTAL HYGIENE LIMITED ACCESS PERMIT (1) through (1)(e) remain the same.

(f) submits a completed application and pays all appropriate fees.

(2) through (5)(e) remain the same.

AUTH: 37-1-131, 37-4-205, 37-4-405, MCA

IMP: 37-4-405, 37-4-406, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that a completed application is required to obtain a limited access permit. Although an application has always been a standard requirement, staff discovered the omission during a review of the board rules and is amending for consistency within board rules.

24.138.2719 RELAPSE (1) and (2) remain the same.

(3) A participant who has ~~second~~ more than one relapse or a severe relapse shall during the period the participant is under contract with the program must be reported to the board screening panel for review.

(4) remains the same.

(5) The board must take disciplinary action against the license of a participant who has more than two relapses during the period the participant is under contract with the program.

AUTH: 37-1-131, 37-4-205, 37-29-201, MCA

IMP: 37-1-131, 37-1-312, 37-4-311, 37-4-312, 37-4-313, 37-4-314, MCA

REASON: The 2011 Montana Legislature enacted Chapter 122, Laws of 2011 (House Bill 25), an act expanding and revising certain licensing boards' medical assistance programs and requiring board action on certain program violations. The bill was signed by the Governor on April 7, 2011, and will be effective October 1, 2011. The board is amending this rule to align with the requirement in HB 25 that boards take disciplinary action against licensees who return to using prohibited or proscribed substances three times while under contract with medical assistance programs.

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

24.138.3201 (24.138.3217) PRACTICE OF ANESTHESIA (1) Dentists licensed in ~~this state~~ Montana shall not ~~apply~~ administer moderate sedation, deep sedation, or general anesthesia or conscious sedation techniques, unless and until they have met all of the requirements set forth in these anesthesia rules. ~~To "apply" general anesthesia or conscious sedation means to administer the agent to the~~

patient and does not include performing dental procedures upon a patient to whom another person, qualified under 37-4-511, MCA, has given the agent.

(2) Violation of these rules shall constitute grounds for disciplinary actions as provided in 2-4-631~~(3)~~ and 37-1-136, MCA.

(3) remains the same.

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

IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3202 (24.138.3219) PERMIT REQUIRED FOR ADMINISTRATION OF ANESTHESIA (1) To administer moderate sedation or deep sedation/general anesthesia or conscious sedation, a Montana licensed dentist must possess a permit.

(2) and (3) remain the same.

(4) The board may grant to a Montana licensed dentist, upon receipt of an application and payment of the initial inspection fee, a temporary permit authorizing the dentist to administer moderate sedation or deep sedation/general anesthesia, light general anesthesia, or conscious sedation for a period not to exceed 120 days or until the inspectors are able to make the inspection. This temporary permit may be extended upon board approval.

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

IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3203 (24.138.3221) MINIMUM QUALIFYING STANDARDS (1) With respect to deep sedation/general anesthesia, no dentist shall be permitted to administer ~~or monitor~~ deep sedation/general anesthesia during a dental procedure or dental-surgical procedure, unless and until he or she satisfies the qualifications set forth in 37-4-511~~(4)~~, MCA.

(a) No dentist shall be permitted to administer deep sedation/general anesthesia until he or she has satisfactorily completed residencies accredited by the Commission on Dental Education in the following areas:

(i) a minimum of four years in an oral and maxillofacial surgery residency;
and

(ii) a minimum of two years in an advanced general dentistry education program in dental anesthesiology.

(2) Dentists providing moderate sedation or deep sedation/general anesthesia or conscious sedation must present evidence of successful completion of an advanced course in cardiac life support within the three most recent years. ~~As used in this subchapter, the terms "general anesthesia" and "conscious sedation" do not include "nitrous oxide/oxygen sedation" used alone or in conjunction with a single oral sedative agent~~ Web-based courses must include a hands-on lab or megacode portion of training.

(3) With respect to ~~conscious~~ moderate sedation, no dentist shall administer drugs to achieve the state known as ~~conscious~~ moderate sedation during a dental procedure or a dental-surgical procedure, unless he or she has received formal training in ~~conscious~~ moderate sedation techniques from an institution, organization,

or training course approved by the board consisting of a minimum of 40 clock hours of didactic instruction and 20 clock hours of additional patient contact. If training for moderate sedation is through continuing education, proof of course content must accompany the initial application in the form of a course outline or syllabus. A minimum of 60 hours of instruction plus management of at least 20 dental patients, by the intravenous route, per participant, are required to achieve competency in moderate sedation techniques. The dentist must furnish evidence of having completed this training.

~~(a) This requirement does not apply to the administration of an oral drug for the purpose of providing mild relaxation.~~

~~(b) (a) All requirements for the use of conscious moderate sedation or deep sedation/general anesthesia will apply as indicated, regardless of the agent used or the route of administration, when the intended or probable effect is a level of depression greater than mild relaxation minimal sedation.~~

~~(4) With respect to nitrous oxide/oxygen inhalation sedation used alone or in conjunction with a single oral sedative agent, no dentist shall use nitrous oxide/oxygen on a patient unless he has completed before completing a course of instruction of at least a minimum of 14 clock hours of didactic and clinical training. This instruction must include didactic and clinical instruction in an accredited dental school, hospital, or dental society sponsored course, and must include instruction in the safety and management of emergencies, including a clinical component. This course of instruction may be completed as part of the predoctoral dental education program or in a postdoctoral continuing education competency course.~~

~~(a) remains the same.~~

~~(5) In order to administer enteral minimal and/or combination inhalation sedation, the dentist must complete a minimum of 16 hours of training, including a clinical component. Training must include the treatment of a compromised airway and other life-threatening emergencies. The course may be completed in a predoctoral dental education curriculum or in a postdoctoral continuing education competency course.~~

~~(a) Supplemental dosing can be used for enteral minimal sedation or enteral minimal sedation and/or combination inhalation sedation.~~

~~(b) Nitrous oxide/oxygen may only be used with a single drug for minimal sedation.~~

~~(6) No dentist shall administer or employ any agent(s) which has a narrow margin for maintaining consciousness, including, but not limited to, ultrashort-acting barbiturates, including, but not limited to, sodium methohexital, thiopental, propofol, ketamine, etomidate, and similarly acting drugs, or quantity of agent(s), or technique(s), or any combination, thereof, that would possibly render a patient deeply sedated or generally anesthetized, unless he or she holds a valid deep sedation/general anesthesia permit issued by the board.~~

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

IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3204 (24.138.3223) MINIMUM MONITORING STANDARDS (1)

Minimum standards for monitoring patients for deep sedation/general anesthesia shall include the following:

(a) remains the same.

(i) vital signs - to include blood pressure, heart rate, pulse, and respiratory rate oximetry results. Temperature may be necessary; and

(ii) and (1)(b) remain the same.

(i) vital signs - to include blood pressure, heart rate, pulse, and respiratory rate oximetry results to be taken and recorded at least every five minutes; and

(ii) precordial or pretracheal stethoscope or capnography used to monitor respiratory rate and pulse rate; and

~~(iii) pulse oximetry, and~~

~~(iv) (iii) continuous electrocardiac monitoring; and~~

~~(v) (iv) an intravenous line; and~~

~~(vi) (v) continuous monitoring of skin and mucosal color; and~~

(vi) end tidal CO2 monitoring must be utilized for intubated patients under general anesthesia; and

(vii) and (1)(c) remain the same.

(i) vital signs - to include blood pressure, pulse, respiratory rate and oximetry results recorded at the completion of the procedure and prior to discharge; with associated times; and

(ii) the patient must not leave the recovery area until the cardiovascular, and respiratory stability, and absence of nausea and vomiting are assured, and the patient is awake and oriented.

(2) The minimum standards for monitoring ~~conscious~~ moderate sedation patients shall include the following:

(a) remains the same.

(i) vital signs to include blood pressure, pulse, and respiratory rate, and oximetry results; and

(ii) blood pressure monitoring for pediatric patients ~~only~~ as indicated, unless unable to obtain.

(b) remains the same.

(i) continuous electrocardiac monitoring need not be applied to the fully-awake and alert patient. on American Society of Anesthesiologists (ASA) Class 2 and greater patients;

(ii) all vital signs -to include blood pressure, heart rate, pulse, and respirations oximetry results to be monitored and recorded at least every five minutes appropriate intervals. Only appropriate blood pressure and oximetry results monitoring for pediatric patients need be recorded, unless unable to obtain;

(iii) a precordial or pretracheal stethoscope or capnography used to continually monitor respiration and pulse rate; and

~~(iv) pulse oximetry, and~~

(v) remains the same, but is renumbered (iv).

(2)(c) remains the same.

(i) vital signs, blood pressure, heart rate, pulse, and respirations oximetry results should be taken at completion of the procedure and prior to discharge;

(ii) only appropriate blood pressure and oximetry results monitoring for pediatric patients need be recorded; When these parameters are unable to be obtained, other documentation should be evident, verifying adequate respiratory and cardiovascular function; and

(iii) prior to discharge, cardiovascular and respiratory systems must be adequate, with the absence of nausea and vomiting.

(3) Minimum standards for monitoring ~~nitrous oxide/oxygen~~ minimal sedation used ~~alone or in conjunction with a single oral sedative agent~~ patients shall include the following:

(a) pre-op:

(i) vital signs, blood pressure, and heart rate; or

(ii) for pediatric patients, all vital signs, unless unable to obtain.

~~(a)~~ (b) when the dentist who administers the nitrous oxide/oxygen and/or is not in the operator, there must be a dental auxiliary who remains with the patient and provides direct observation. The dental auxiliary must have specific instruction in the observation of nitrous oxide/oxygen sedated patients and shall monitor the patient until discharged.

(4) During dental procedures, the facility must be staffed by supervised monitoring personnel, all of whom are capable of handling procedures, problems, and emergency incidents, and have successfully completed ~~basic life support~~ the American Heart Association's Basic Life Support for Healthcare Providers, or its equivalent.

(a) With respect to a ~~full~~ deep sedation/general anesthesia facility, in addition to the dentist and dental assistant, there must be at least one person present to monitor vital signs. That person must be either:

(i) ~~an~~ a physician anesthesiologist licensed to practice medicine in ~~the state~~ of Montana; or

(ii) a certified registered nurse anesthetist recognized in that specialty by the Montana Board of Nursing; or

(iii) ~~a trained health professional who has received at least one year of postgraduate training in the administration of general anesthesia.~~ dentist who has successfully completed an accredited advanced dental education program in dental anesthesiology;

(iv) an oral and maxillofacial surgeon who has successfully completed an accredited oral and maxillofacial training program; or

(v) a trained healthcare professional.

~~(b) With respect to light general anesthesia, in addition to the dentist and dental assistant, there must be one person present whose duties are to monitor vital signs. This person must be trained in basic life support and their task dedicated to monitoring.~~

~~(c)~~ (b) When conscious moderate sedation is used, the dentist shall be qualified and permitted to administer the drugs and appropriately monitor the patient, and have successfully completed a course in advanced cardiac life support. In addition to the dentist, at least one other person on staff and present in the office must have successfully completed basic life support the American Heart Association Basic Life Support for Healthcare Providers, or its equivalent.

AUTH: 37-1-131, 37-4-205, 37-4-408, MCA

IMP: 37-1-131, 37-4-101, 37-4-408, 37-4-511, MCA

24.138.3205 (24.138.3225) FACILITY STANDARDS (1) A deep sedation/general anesthesia facility under these rules must contain a minimum of equipment, supplies, and drugs, including, but not limited to, the following:

(a) and (b) remain the same.

(c) laryngoscope, endotracheal tubes, and a Magill forcep, and alternative airway devices such as a laryngeal mask airways of appropriate size;

(d) through (f) remain the same.

(g) a precordial or pretracheal stethoscope or capnograph;

(h) pulse oximeter; and

(i) suction devices, standard and emergency;-

(j) for intubated patients under general anesthesia, must include end tidal CO2 monitoring; and

(k) when malignant hyperthermia triggering agents are routinely used, medications used to treat hyperthermia must be immediately available.

(2) A ~~conscious~~ moderate sedation facility under these rules must contain a minimum of equipment, supplies, and drugs, including, but not limited to, the following:

(a) remains the same.

(b) precordial or pretracheal stethoscope or capnograph;

(c) through (e) remain the same.

(f) appropriate drugs for emergencies; and

(g) suction devices, standard and emergency; and-

(h) continuous electrocardiac monitoring on American Society of Anesthesiologists (ASA) Class 2 and greater patients.

(3) A facility in which nitrous oxide/oxygen, ~~is used alone or in conjunction with a single oral sedative agent, is administered,~~ must contain a minimum of equipment and supplies appropriate to meet emergencies.

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

IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3206 (24.138.3227) ~~ON-SITE~~ ONSITE INSPECTION OF FACILITIES

(1) Each facility where ~~conscious moderate~~ moderate sedation or deep sedation/general anesthesia is to be provided shall be initially inspected by a team appointed by the board, prior to the initial issuance of the appropriate permit to administer anesthesia on the premises, and at intervals not to exceed five years. Adequacy of the facility and competency of the anesthesia team will be evaluated by the inspection team. The inspection team shall consist of at least two individuals. One member must hold a deep sedation/general anesthesia permit. Any dentist whose facility is to be inspected shall be notified at least 30 days prior to the inspection, and the names of the inspection team shall be provided to the dentist.

(2) The ~~on-site~~ onsite inspection shall include a test of the applicant and the applicant's staff on their abilities to recognize and manage complications likely to occur, considering the techniques being used. Early recognition of complications will

be emphasized. The facility must be inspected for the presence of drugs and equipment appropriate for the level of sedation or anesthesia to be provided. Monitoring assistants shall be examined for their knowledge of their respective roles in normal operating procedures and in various emergency situations. The inspection team shall evaluate office staff in proficiency in handling emergency procedures. The inspection team shall evaluate the accuracy of anesthesia ~~record-keeping~~ record-keeping.

(3) If the ~~on-site~~ onsite inspection team finds deficiencies present in the inspected office, the facility shall be given 30 days to address the deficiencies. If, at the completion of this 30-day period, the deficiencies have not adequately been rectified, the board will limit the practitioner's permit to apply moderate sedation or deep sedation/general anesthesia ~~or conscious sedation~~ only in qualifying facilities.

(4) If serious life-threatening deficiencies are found by the ~~on-site~~ onsite inspection team, the board will immediately limit the practitioner's permit by refusing to permit the administration of moderate sedation or deep sedation/general anesthesia ~~or conscious sedation~~ on the premises.

(5) An individual who provides anesthesia at multiple facilities must be inspected at one facility only. The individual must state all facilities are compliant for the equipment requirements.

(6) ~~Five-year~~ Five-year reinspections may be performed by one inspector, unless the dentist being inspected, ~~or board,~~ requests two inspectors. Reinspections for moderate sedation permits may be performed by dentists holding a moderate sedation permit or a deep sedation/general anesthesia permit. For deep sedation/general anesthesia permits, reinspections must be performed by another dentist holding a deep sedation/general anesthesia permit.

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

IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3207 (24.138.3229) REQUIREMENTS FOR CONTINUING EDUCATION IN ANESTHESIA (1) All dentists holding permits to provide deep sedation/general anesthesia must submit evidence of having attended a minimum of 20 ~~clock~~ hours of ~~anesthesia specific~~ continuing education every three years.

(2) All dentists holding permits to provide ~~conscious~~ moderate sedation must submit evidence of having attended a minimum of 12 ~~clock~~ hours of ~~anesthesia specific~~ continuing education every three years.

(3) remains the same.

(a) deep sedation/general anesthesia;

(b) ~~conscious~~ moderate sedation;

(c) through (e) remain the same.

(f) pharmacology of utilized drugs; and

(g) advanced cardiac life support, up to a maximum of eight hours of continuing education.

(4) through (7) remain the same.

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

IMP: 37-1-306, 37-1-319, 37-4-101, 37-4-511, MCA

24.138.3208 (24.138.3231) REPORTING ADVERSE OCCURRENCES (1)

All dentists engaged in the practice of dentistry in ~~the state of~~ Montana must submit written reports to the board within seven days of any incident, injury, or death resulting in temporary or permanent physical or mental disability, or death involving the application of minimal sedation, moderate sedation, deep sedation, general anesthesia, ~~conscious sedation~~ or nitrous oxide/oxygen sedation, administered alone or in conjunction with another oral agent, to any dental patient for whom said dentist, or any other dentist, has rendered any dental or medical service. Routine hospitalization to guard against postoperative complications or for patient comfort need not be reported where complications do not, thereafter, result in injury or death, as ~~herein before~~ hereinbefore set forth. The report required by this rule shall include, but not be limited to, the following information:

- (a) remains the same.
- (b) a description of the physical condition of the patient ~~unless Class I (as defined by the American Society of Anesthesiologists)~~ and American Society of Anesthesiologists (ASA) classification;
- (c) through (e) remain the same.
- (f) a description in detail of symptoms of any complications, including, but not be limited to, onset of problems and symptoms of the patient; ~~and~~
- (g) a description of the patient's condition upon termination of any procedure undertaken; and
- (h) disposition of patient and subsequent treatment.

AUTH: 37-1-131, 37-4-205, MCA
IMP: 37-1-131, 37-4-101, 37-4-511, MCA

24.138.3209 (24.138.3215) ANESTHESIA FEE SCHEDULE

(1) Full <u>Deep sedation/general anesthesia</u> application fee	\$200
(2) Full <u>Deep sedation/general anesthesia</u> permit renewal fee	25
(3) Light general anesthesia application fee	200
(4) Light general anesthesia permit renewal fee	25
(5) (3) Conscious <u>Moderate</u> sedation application fee	200
(6) (4) Conscious <u>Moderate</u> sedation permit renewal fee	25
(7) and (8) remain the same, but are renumbered (5) and (6).	

AUTH: 37-1-131, 37-4-205, MCA
IMP: 37-1-134, 37-4-101, 37-4-511, MCA

REASON: The board is amending this rule to correct the fees associated with the anesthesia permits as amended in HB 94. Because current holders of light general permits will be issued a deep sedation/general anesthesia permit and the fees are identical, the board anticipates no change in annual revenue.

6. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS (1) "Administration of anesthesia" is the route by which an agent is administered to a patient as follows:

(a) "enteral administration" means the agent is absorbed through the gastrointestinal tract or oral mucosa (oral, rectal, or sublingual);

(b) "parenteral administration" means the agent is absorbed intramuscularly, intravenously, intranasally, submucosally, subcutaneously, or intraosseously;

(c) "transdermal administration" means the agent is absorbed through a patch or by iontophoresis through the skin;

(d) "transmucosal administration" means the agent is absorbed across the mucosa (intranasal, rectal, or sublingual); and

(e) "inhalation administration" means a gaseous or volatile agent is introduced into the lungs and absorbed through the gas/blood interface. Because sedation and general anesthesia are a continuum, it is not always possible to predict how an individual patient will respond. Practitioners intending to produce a given level of sedation should be able to diagnose and manage the physiologic consequences (rescue) for patients whose level of sedation becomes deeper than initially intended.

(2) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused, but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(3) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required, because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(4) "Incremental dosing" means administration of multiple doses of an agent until the desired effect is obtained, not to exceed the maximum recommended dose (MRD).

(5) "Inhalation sedation" means the use of nitrous oxide/oxygen in concentrations of up to 70/30 percent to provide mild relaxation and analgesia. Nitrous oxide/oxygen may produce minimal sedation, moderate sedation, deep sedation, or general anesthesia when used in combination with a sedative agent or agents. Inhalation sedation may be used in the pediatric or adult populations.

(6) "Maximum recommended dose" (MRD) means maximum Food and Drug Administration (FDA)-recommended dose of a drug, as printed in the FDA-approved labeling for unmonitored dose.

(7) "Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. When the intent is minimal sedation for adults, the appropriate dose of a single

enteral drug is no more than the MRD of a drug that can be prescribed for unmonitored home use.

(8) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. The drugs and/or techniques used for moderate sedation should render the unintended loss of consciousness unlikely. Repeated dosing of an agent before the effects of previous dosing is obtained may result in a greater alteration of the state of consciousness than intended. A patient whose only response is reflex withdrawal from a painful stimulus is not in a state of moderate sedation.

(9) "Supplemental dosing" means a single additional dose of the initial dose of the initial drug necessary for prolonged procedures under minimal sedation. The supplemental dose should not exceed one-half of the initial total dose and should not be administered until the dentist has determined that one clinical half-life of the initial dose has passed. The total aggregate dose must not exceed one and a half times the MRD on the day of administration.

(10) "Titration" is the administration of incremental doses of a drug until a desired effect is obtained.

(11) "Trained healthcare professional" means a person who serves as an anesthesia monitor in a dental office. Such person shall maintain current certification in the American Heart Association's Basic Life Support for Healthcare Providers or its equivalent, shall be trained in monitoring patient vital signs, and shall be competent in the use of monitoring and emergency equipment appropriate for the level of sedation utilized. (The term "competent" as used in these rules means displaying special skill or knowledge derived from training and experience).

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

IMP: 37-4-101, 37-4-511, MCA

NEW RULE II ANESTHESIA COMMITTEE (1) The board hereby creates a committee to be known as the Anesthesia Committee. The committee shall consist of five members appointed by the president of the board. One member of the committee shall be a member of the board. All other members of the committee shall hold a moderate sedation or deep sedation/general anesthesia permit. At least three members of the committee shall be practitioners who hold a deep sedation/general anesthesia permit. Two members of the committee shall be practitioners who hold a moderate sedation permit, if available. If the member appointed from the board holds a deep sedation/general anesthesia permit, he or she shall chair the committee. If the member appointed from the board does not hold a deep sedation/general anesthesia permit, another member of the committee who does hold a deep sedation/general anesthesia permit shall chair the committee. Members serve at the pleasure of the board.

(2) The committee shall meet at least once a year and review dentist credentialing for moderate sedation and deep sedation/general anesthesia permits,

and facilitate the inspection process for new anesthesia permit applications and anesthesia permit reinspections.

(3) The committee shall upon request of the board, advise the board on policies and procedures related to the regulation of minimal sedation, moderate sedation, deep sedation, general anesthesia, and nitrous oxide sedation.

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

IMP: 37-4-101, 37-4-511, MCA

REASON: The board determined it is reasonably necessary to propose this rule and create a standing anesthesia committee comprised of dentists holding anesthesia permits. Due to the complex nature of anesthesia and the increase in anesthesia utilization in dental practice, the board concluded that a standing committee with anesthesia expertise will help to ensure public health and safety. The board intends for this committee to review anesthesia permit applications, oversee reinspections, and apprise the board of current trends in anesthesia on an ongoing basis.

NEW RULE III EFFECT OF 2011 STATUTE AND RULE AMENDMENTS ON CURRENTLY ISSUED ANESTHESIA PERMITS

(1) Any dentist whose board-issued permit to perform light general anesthesia is active on October 1, 2011, shall be issued a deep sedation/general anesthesia permit. The dentist must comply with all applicable statutory and regulatory requirements in order to renew the permit and to satisfy requirements for continuing education in anesthesia.

(2) Any dentist whose board-issued permit to perform full general anesthesia is active on October 1, 2011, shall be issued a deep sedation/general anesthesia permit. The dentist must comply with all applicable statutory and regulatory requirements in order to renew the permit and to satisfy requirements for continuing education in anesthesia.

(3) Any dentist whose board-issued permit to perform conscious sedation is active on October 1, 2011, shall be issued a moderate sedation permit. The dentist must comply with all applicable statutory and regulatory requirements in order to renew the permit and to satisfy requirements for continuing education in anesthesia.

(4) Individuals who have completed one year of anesthesia training prior to the adoption of the January 1, 2007 Commission on Dental Accreditation (CODA): Accreditation Standards for Advanced Dental Education Programs in Dental Anesthesiology, shall be permitted to apply for an anesthesia permit pending verification of satisfactory educational and professional experience as determined by the board.

(5) Individuals who have completed two or more years of anesthesia training prior to the adoption of the January 1, 2007 CODA Accreditation Standards for Advanced Dental Education Programs in Dental Anesthesiology, shall be permitted to apply for an anesthesia permit, pending verification of satisfactory educational and professional experience as determined by the board.

(6) Individuals who have completed an oral and maxillofacial surgery accredited residency of three years prior to the adoption of the January 1, 1988 CODA change of the length of residency to four years, shall be permitted to apply for an anesthesia permit.

AUTH: 37-1-131, 37-4-205, MCA
IMP: 37-4-101, 37-4-511, MCA

REASON: In implementing the HB 94 statutory changes, the board is proposing this new rule to clarify the transition of current anesthesia permit holders into the two new permit categories and establish training and educational criteria for applicants.

7. 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., October 11, 2011.

8. An electronic copy of this Notice of Public Hearing is available through the department and board's web 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 web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

9. The board 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent 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 made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 16, 2011, through the U.S. Parcel Service.

11. Mary Tapper, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY
DALE CHAMBERLAIN, DDS, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

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

Certified to the Secretary of State August 29, 2011