

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.138.402 fee schedule,)	PROPOSED AMENDMENT AND
24.138.403 mandatory certification,)	ADOPTION
24.138.406 dental auxiliary functions,)	
24.138.425 limited access permits,)	
24.138.502 dentist licensure by)	
exam, 24.138.503 dental hygienist)	
licensure by exam, 24.138.506 dental)	
hygienist licensure by credentials,)	
24.138.2101 continuing education)	
definition, 24.138.2104 continuing)	
education requirements, and the)	
adoption of NEW RULE I military)	
training or experience, II dental)	
hygienist committee, and III denturist)	
committee)	

TO: All Concerned Persons

1. On April 4, 2014, at 8:30 a.m., a public hearing will be held in the Large Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment 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 March 28, 2014, 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. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.138.402 FEE SCHEDULE (1) through (12) remain the same.
~~(13) Laws and rules packet~~ 40
 (14) through (18) remain the same, but are renumbered (13) through (17).

AUTH: 37-1-131, 37-1-134, 37-4-205, 37-4-340, 37-4-341, 37-4-405, 37-29-201, MCA

IMP: 37-1-134, 37-1-141, 37-4-301, 37-4-307, 37-4-340, 37-4-341, 37-4-402, 37-4-405, 37-29-303, MCA

REASON: In 2012, the department decided that, due to liability concerns, the department would no longer create and provide to the public unofficial versions of board statutes and rules. Instead, staff now refers inquiries to the state agencies responsible for maintaining and publishing the official versions of the Montana Code Annotated (Legislative Services) and Administrative Rules of Montana (Secretary of State), and provides electronic links to the agency information on the board web sites.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.138.403 MANDATORY CERTIFICATION (1) through (3) remain the same.

(4) Internet CPR, ACLS, or PALS courses will be accepted if a hands-on evaluation of clinical competency is also included.

AUTH: 37-1-131, 37-4-205, 37-29-201, MCA
IMP: 37-1-131, 37-29-201, 37-29-401, MCA

REASON: It is reasonably necessary to amend (4) and allow certification through online ACLS and PALS courses, in addition to already-accepted CPR courses. The American Heart Association now offers ACLS certification mostly through online methods. Additionally, this change will align with recommendations of the anesthesia rules committee in drafting the 2011 anesthesia rules.

24.138.406 FUNCTIONS FOR DENTAL AUXILIARIES (1) through (8)(a) remain the same.

(b) has been certified in dental radiology in another state prior to June 1, 2014; or

(c) through (10) remain the same.

AUTH: 37-4-205, 37-4-408, MCA
IMP: 37-4-408, MCA

REASON: The board is amending this rule to clearly explain that after June 1, 2014, another state's dental radiology certification will no longer qualify a dental auxiliary to expose radiographs in Montana. The board discussed the wide variation in other states' qualifications for radiology certification and concluded that it is nearly impossible to know another state's requirements at any given time, as well as whether such requirements would meet the minimum standards of practice and competency to ensure the health and safety of patients and co-workers.

24.138.425 LIMITED ACCESS PERMIT TREATMENT GUIDELINES-PRACTICING UNDER PUBLIC HEALTH SUPERVISION (1) and (1)(a) remain the

same.

(b) The LAP dental hygienist may provide dental hygiene preventative services to a patient without prior physician, ~~or dentist,~~ nurse practitioner, or physician assistant authorization, unless the patient has:

(i) through (iii) remain the same.

(c) If a patient has one or more severe systemic diseases, the LAP dental hygienist shall consult with a physician, ~~or dentist,~~ nurse practitioner, or physician assistant responsible for the patient's care regarding the appropriateness of treatment and the conditions under which to provide dental hygiene preventative services.

(2) remains the same.

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

IMP: 37-4-405, MCA

REASON: The board determined it is reasonably necessary to amend this rule and adjust the treatment guidelines established by the board for Limited Access Permit (LAP) holders. It is common practice in some public health facilities for health care providers other than physicians or dentists to provide oversight of the residents' care. The board is therefore amending these guidelines to allow LAP dental hygienists to also consult with nurse practitioners or physician assistants when patients have severe systemic diseases.

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION

(1) remains the same.

(a) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score and~~ passage of the written examination administered by the Joint Commission on National Dental Examinations;

(b) through (4) remain the same.

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

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

REASON: The board determined it is reasonably necessary to amend this rule, ARM 24.138.503, and 24.138.506 to remove the requirement that the Joint Commission on National Dental Examinations score card contain the applicant's actual exam score. Following a change in practice, the score cards show only whether an applicant passed or failed the exam, and the actual score is no longer provided.

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION

(1) remains the same.

(a) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score on and~~ passage of the written dental hygiene examination administered by the Joint Commission on National Dental Examinations;

(b) through (4) remain the same.

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

24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS (1) and (1)(a) remain the same.

(b) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score on~~ and passage of the written dental hygiene examination administered by the Joint Commission on National Dental Examinations;

(c) through (4) remain the same.

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

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. College courses will not be accepted to satisfy the continuing education requirements.

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 is amending (2) to address licensee questions and clarify the board's belief that college courses do not fall within the parameters set forth in this rule for board-accepted continuing education programs.

24.138.2104 REQUIREMENTS AND RESTRICTIONS (1) remains the same.

(a) for dentists, 60 per three-year cycle. Dentists who have deep sedation/general anesthesia permits must complete 20 hours of anesthesia specific continuing education as part of the 60 continuing education credits required. Dentists who have ~~conscious~~ moderate sedation permits must complete 12 hours of anesthesia specific continuing education as part of the 60 continuing education credits required;

(b) through (5) remain the same.

(6) Continuing education credits will be allowed for a dentist or dental hygienist holding an active license issued by the board to perform volunteer dental services in the state of Montana subject to ARM 24.138.2105.

(a) One credit hour of continuing education will be earned for every hour of verified volunteer dental services. The maximum continuing education credit allowed for volunteer dental services is 10 percent of the required credits per cycle.

(b) A licensee shall not accept any form of remuneration for providing volunteer dental services.

(c) All volunteer dental services performed shall be within the scope of practice of the licensee.

(d) A licensee seeking to earn continuing education credit for volunteer dental services must submit, upon request of the board, documentation from the dental facility director or person responsible for the program or institution attesting to the licensee's participation, including the date(s), location(s), and number of hours of service.

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 is amending (1)(a) to correct terminology and align with the updated 2011 anesthesia rules in subchapter 32.

Following discussion, the board is adding (6) to encourage professional volunteerism in the dental profession by granting a limited number of continuing education (CE) credits for volunteer services provided during a CE cycle.

4. The rules proposed to be adopted provide as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a dentist, dental hygienist, or denturist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a dentist, dental hygienist, or denturist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to

satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

NEW RULE II DENTAL HYGIENIST COMMITTEE (1) The board hereby creates a committee to be known as the Dental Hygienist Committee. The committee shall consist of:

- (a) the two dental hygienist board members; and
- (b) one dentist board member who either:
 - (i) employs a dental hygienist; or
 - (ii) is employed by a Federally Qualified Health Center that also employs a dental hygienist.

(2) The committee shall meet at least once a year and review issues pertaining to dental hygienists and make recommendations to the full board.

AUTH: 37-4-205, MCA

IMP: 37-4-205, MCA

REASON: The board is proposing New Rule II to formally establish the board's dental hygienist committee and set forth the committee's composition and meeting schedule. This is being done in conjunction with the establishment of the denturist committee.

NEW RULE III DENTURIST COMMITTEE (1) The board hereby creates a standing committee to be known as the Denturist Committee. The committee shall consist of:

- (a) one current denturist board member who shall serve as committee chair;
- (b) one current dentist board member with a working knowledge of removable prosthodontics; and
- (c) a member of the public who is not a board member and who holds a current Montana denturist license in good standing.

(2) The committee shall meet at least once a year and review issues pertaining to denturists and make recommendations to the full board.

AUTH: 37-29-201, MCA

IMP: 37-29-201, MCA

REASON: It is reasonably necessary to propose New Rule III to establish the board's denturist committee and comply with the direction of the Economic Affairs Interim Committee of the 2013 Montana Legislature.

5. 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., April 11, 2014.

6. An electronic copy of this notice of public hearing is available at www.dentistry.mt.gov (department and board's web site). 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.

7. 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 that 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.138.402, 24.138.403, 24.138.406, 24.138.425, 24.138.502, 24.138.503, 24.138.506, 24.138.2101, and 24.138.2104 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rules I through III will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513,

Helena, Montana 59620-0513; telephone (406) 841-2390; facsimile (406) 841-2305; or e-mail dlibsdden@mt.gov.

10. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY
TERRY KLISE, D.D.S., PRESIDENT

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 3, 2014