

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.138.402 fee schedule)

TO: All Concerned Persons

1. On October 9, 2014, the Board of Dentistry (board) published MAR Notice No. 24-138-70 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2346 of the 2014 Montana Administrative Register, Issue No. 19. On November 6, 2014, the board published an amended notice of public hearing at page 2710 of the 2014 Montana Administrative Register, Issue No. 21.

2. On December 1, 2014, a public hearing was held in Helena on the proposed amendment of the above-stated rule. Comments were received by the December 5, 2014, comment deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Commenters neither supported nor opposed the fee increases, but stated that, rather than a 100 percent increase every 19 years, they would prefer smaller renewal fee increases, even if needed more often.

RESPONSE 1: Section 37-1-134, MCA, requires the board to set and maintain licensure fees commensurate with associated board costs. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national fee averages. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

The board has traditionally maintained a cash balance carryover of approximately \$200,000 from fiscal year to fiscal year, although board expenses have regularly exceeded revenue. Revenues for the board (from all sources) have risen from \$200,500 in fiscal year 2009 to over \$219,000 in fiscal year 2013, while board expenses have risen from \$220,300 to over \$270,000 over the same period. At the end of fiscal year 2013, the board's cash balance was \$96,516. In comparison, the cash balance at the end of fiscal year 2012 was approximately \$147,000 and approximately \$216,000 in fiscal year 2011.

Staff provided a comprehensive fee increase proposal in the spring of 2010 (fiscal year 2010) when it appeared the cash balance might dip below \$200,000, and the financial projection showed a steady erosion of the cash balance in the future. The board determined not to proceed with a fee increase, but to monitor the financial status. The final cash balance after fiscal year 2010 ended was \$226,446. A number of factors have seen the board's cash balance erode significantly since fiscal

year 2012. These include the cost of contracting for an impairment program, paying a portion of the cost of a new licensing database, an increase in wages and benefits as previously approved by the legislature, contracting with an independent investigator for dental office sanitation complaints in fiscal year 2013, and additional department legal expenses to address a lawsuit against the board.

Additionally, there was an overall increase in costs for processing complaints and investigations over the past five fiscal years and there have also been increases in the costs of doing business that all licensing boards are required to pay, such as rent, information technology maintenance fees, postage, and mailing, etc.

COMMENT 2: Commenters alleged that the board has consistently worked to illegally restrain dentistry and asserted that denturists should not be required to fund those activities through higher fees.

RESPONSE 2: Section 37-1-134, MCA, requires the board to set and maintain licensure fees commensurate with associated board costs. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national fee averages. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

4. The board has amended ARM 24.138.402 exactly as proposed.

BOARD OF DENTISTRY
DR. 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 December 15, 2014