

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

In the matter of the amendment and ) NOTICE OF AMENDMENT  
transfer, repeal, and transfer of ) AND TRANSFER,  
existing rules and the adoption of new ) REPEAL, TRANSFER,  
rules I (24.138.417) III (24.138.402) ) AND ADOPTION  
and IV (24.138.414), all pertaining to )  
dentistry, dental hygiene and denturistry)

TO: All Concerned Persons

1. On August 14, 2003, the Board of Dentistry published MAR Notice No. 8-16-59 regarding the public hearing on the proposed amendment and transfer, repeal and adoption of the above-stated rules relating to dentistry, dental hygiene and denturistry at page 1742 of the 2003 Montana Administrative Register, issue no. 15.

2. A public hearing on the proposed amendment and transfer, repeal and adoption was held on September 4, 2003. One public comment was received concerning the proposed rule changes. The Board has thoroughly considered the comment and the Board's response is as follows:

COMMENT: The Montana Dental Association stated that it is appropriate for the Board to have rules regarding advertising applicable to all licensees, not just dentists.

RESPONSE: The Board will take the comment under consideration at a future meeting to discuss whether the advertising rules should be applicable to other classes of licensees. The Board believes that it is not appropriate to substantially broaden the scope of the advertising rules without allowing formal public comment on specific proposed amendments.

3. During the preparation of replacement pages for the amended rules, the Board discovered that certain existing provisions of rules had not been identified in the Notice of Public Hearing as remaining the same. The Board has amended and transferred ARM 8.16.605A (24.138.506), 8.16.707A (24.138.406), and 8.16.907 (24.138.3207), with the following changes, deleted matter interlined, new matter underlined:

8.16.605A (24.138.506) DENTAL HYGIENIST LICENSURE BY CREDENTIALS (1) through (1)(b) remain as proposed.  
(1)(c) through ~~(h)~~ (i) remain the same.  
(2) through (4) remain~~s~~ the same.

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

8.16.707A (24.138.406) FUNCTIONS FOR DENTAL AUXILIARIES

(1) through (3)(1) remain as proposed.  
(4) through (11) remains the same.

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

8.16.907 (24.138.3207) REQUIREMENTS FOR CONTINUING EDUCATION IN ANESTHESIA (1) remains as proposed.

(2) remains as proposed.  
(a) and (b) remain the same.

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

4. ARM 8.17.706 was inadvertently included in both the "amend" and "repeal" sections of the Notice of Public Hearing. The substance of the language of ARM 8.17.706 is being incorporated via the amendment and transfer of ARM 8.16.1003 (24.138.2104). ARM 8.17.706 is being repealed, not amended.

5. After considering the comment, the Board has amended and transferred the following rules, exactly as proposed:

<u>OLD</u>	<u>NEW</u>	
8.16.401	24.138.501	APPROVED DENTAL AND DENTAL HYGIENE SCHOOLS
8.16.408	24.138.514	APPLICATION TO CONVERT AN INACTIVE STATUS LICENSE TO AN ACTIVE STATUS LICENSE
8.16.409	24.138.403	MANDATORY CPR
8.16.410	24.138.2401	COMPLAINT PROCEDURE
8.16.411	24.138.2402	SCREENING PANEL
8.16.412	24.138.505	DENTIST LICENSURE BY CREDENTIALS
8.16.511	24.138.301	DEFINITIONS
8.16.513	24.138.3002	ADVERTISING CONTENT
8.16.514	24.138.3102	SPECIALTY ADVERTISING
8.16.515	24.138.3003	ADVERTISING RECORDS AND RESPONSIBILITY
8.16.601	24.138.401	INTRODUCTION
8.16.701	24.138.408	SERVICE TO THE PUBLIC AND QUALITY OF CARE
8.16.702	24.138.409	PATIENT SELECTION
8.16.703	24.138.410	PATIENT RECORDS
8.16.705	24.138.411	EMERGENCY SERVICE
8.16.706	24.138.412	CONSULTATION AND REFERRAL
8.16.708	24.138.404	JUSTIFIABLE CRITICISM AND EXPERT TESTIMONY
8.16.709	24.138.413	REBATE AND SPLIT FEES
8.16.719	24.138.3101	GENERAL STANDARDS FOR SPECIALTIES
8.16.720	24.138.3103	STANDARDS FOR MULTIPLE-SPECIALTY ANNOUNCEMENTS

8.16.722	24.138.2301	UNPROFESSIONAL CONDUCT FOR DENTISTS AND DENTAL HYGIENISTS
8.16.723	24.138.405	MANAGEMENT OF INFECTIOUS WASTE
8.16.807	24.138.515	CONSIDERATION OF REAPPLICATION FOR A LICENSE AFTER PREVIOUS DENIAL OR REVOCATION
8.16.901	24.138.3201	PRACTICE OF ANESTHESIA
8.16.902	24.138.3202	PERMIT REQUIRED FOR ADMINISTRATION OF ANESTHESIA
8.16.903	24.138.3203	MINIMUM QUALIFYING STANDARDS
8.16.904	24.138.3204	MINIMUM MONITORING STANDARDS
8.16.905	24.138.3205	FACILITY STANDARDS
8.16.906	24.138.3206	ON-SITE INSPECTION OF FACILITIES
8.16.908	24.138.3208	REPORTING ADVERSE OCCURRENCES
8.16.909	24.138.3209	ANESTHESIA FEE SCHEDULE
8.16.1001	24.138.2101	DEFINITION OF CONTINUING EDUCATION
8.16.1003	24.138.2104	REQUIREMENTS AND RESTRICTIONS
8.16.1005	24.138.2106	EXEMPTIONS AND EXCEPTIONS
8.17.702	24.138.518	RENEWALS
8.17.705	24.138.2103	SUBJECT MATTER ACCEPTABLE FOR DENTURIST CONTINUING EDUCATION
8.17.801	24.138.2302	UNPROFESSIONAL CONDUCT FOR DENTURISTS

6. The Board has transferred the following rules:

<u>OLD</u>	<u>NEW</u>	
8.16.101	24.138.101	BOARD ORGANIZATION
8.16.201	24.138.201	PROCEDURAL RULES
8.16.202	24.138.202	PUBLIC PARTICIPATION
8.16.402	24.138.502	INITIAL LICENSURE OF DENTISTS BY EXAMINATION
8.16.512	24.138.3001	ADVERTISING FEE INFORMATION
8.16.516	24.138.3004	SEVERABILITY
8.16.602	24.138.407	FUNCTIONS FOR DENTAL HYGIENISTS
8.16.605	24.138.503	INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION
8.16.611	24.138.508	DENTAL HYGIENE LOCAL ANESTHETIC AGENT CERTIFICATION
8.16.1002	24.138.2102	SUBJECT MATTER ACCEPTABLE FOR DENTIST AND DENTAL HYGIENIST CONTINUING EDUCATION
8.16.1004	24.138.2105	REPORTING PROCEDURES
8.17.403	24.138.511	DENTURIST APPLICATION REQUIREMENTS
8.17.404	24.138.510	DENTURIST EXAMINATION
8.17.405	24.138.512	DENTURIST INTERN
8.17.710	24.138.517	DENTURIST LICENSE REINSTATEMENT
8.17.711	24.138.415	NINETY DAY GUARANTEE REQUIRED BY DENTURISTS
8.17.803	24.138.519	GROUNDS FOR DENIAL OF A LICENSE

8.17.808            24.138.416            PRIOR REFERRAL FOR PARTIAL  
DENTURES

7.    The Board has adopted New Rules I (24.138.417), III (24.138.402) and IV (24.138.414) exactly as proposed.

8.    The Board is not adopting New Rule II. The Board determined that further review and revision of this rule is needed and will reissue this proposed New Rule in a forthcoming notice.

9.    The Board has repealed ARM 8.16.405, 8.16.606, 8.16.607, 8.16.608, 8.16.609, 8.16.610, 8.17.501, 8.17.704, 8.17.706, 8.17.707, 8.17.708, 8.17.709, 8.17.802, 8.17.811, and 8.17.812 exactly as proposed.

BOARD OF DENTISTRY  
MIKE MCCARTHY, DDS, CHAIR

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State October 20, 2003.