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## BOARD OF DENTISTRY RULES

AS OF JUNE 30, 2021

This version of the Administrative Rules of Montana is provided as a tool for board members and department staff. In case of inconsistencies, the rule text in the Montana Administrative Register is the official rule text and will prevail.

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DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 138

BOARD OF DENTISTRY

Subchapter 1

Organizational Rule

Rule 24.138.101 Board Organization

Subchapter 2

Procedural Rules

Rule 24.138.201 Procedural Rules

24.138.202 Public Participation

Rules 24.138.203 through 24.138.205 reserved

24.138.206 Dental Hygienist Committee

Rule 24.138.207 reserved

24.138.208 Denturist Committee

Subchapter 3

Definitions

Rule 24.138.301 Definitions

Rules 24.138.302 and 24.138.303 reserved

24.138.304 Nonroutine Applications

24.138.305 Applicants With Criminal Convictions

24.138.306 Teeth Whitening

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 4

General Provisions

Rule	24.138.401	Introduction (REPEALED)
	24.138.402	Fee Schedule
	24.138.403	Mandatory Certification
	24.138.404	Justifiable Criticism and Expert Testimony (REPEALED)
	24.138.405	Management of Infectious Waste (REPEALED)
	24.138.406	Functions for Dental Auxiliaries
	24.138.407	Functions for Dental Hygienists
	24.138.408	Service to the Public and Quality of Care (REPEALED)
	24.138.409	Patient Selection (REPEALED)
	24.138.410	Patient Records (REPEALED)
	24.138.411	Emergency Service (REPEALED)
	24.138.412	Consultation and Referral (REPEALED)
	24.138.413	Rebate and Split Fees (REPEALED)
	24.138.414	Display of Licenses
	24.138.415	Ninety-Day Guarantee Required by Denturists
	24.138.416	Prior Referral for Partial Dentures
	24.138.417	Dental Screenings
	24.138.418	Infection Control
	24.138.419	Limited Prescriptive Authority – Qualifications – Allowable Percentages of Topical Agents

## DENTISTRY

- Rule 24.138.420 Scope of Treatment for Volunteer Licensees (REPEALED)  
Rules 24.138.421 through 24.138.424 reserved
- 24.138.425 Limited Access Permit Treatment Guidelines – Practicing Under Public Health Supervision  
Rules 24.138.426 through 24.138.429 reserved
- 24.138.430 Fee Abatement

### Subchapter 5

#### Licensing

- Rule 24.138.501 Approved Dental and Dental Hygiene Schools (REPEALED)
- 24.138.502 Initial Licensure of Dentists by Examination
- 24.138.503 Initial Licensure of Dental Hygienists by Examination
- 24.138.504 Approved Clinical Exam Criteria for Dentists and Dental Hygienists
- 24.138.505 Dentist Licensure by Credentials
- 24.138.506 Dental Hygienist Licensure by Credentials
- 24.138.507 Dentist Licensure by Credentials for Specialists (REPEALED)
- 24.138.508 Dental Hygiene Local Anesthetic Agent Certification
- 24.138.509 Dental Hygiene Limited Access Permit
- 24.138.510 Denturist Examination (REPEALED)
- 24.138.511 Denturist License Requirements
- 24.138.512 Denturist Internship
- 24.138.513 Dental Hygienists – Temporary Practice Permits

DEPARTMENT OF LABOR AND INDUSTRY

Rule	24.138.514	Converting From Inactive to Active Status
	24.138.515	Consideration of Reapplication for a License After Previous Denial or Revocation (REPEALED)
	24.138.516	Reinstatement of a License for Nonpayment of Renewal Fee (REPEALED)
	24.138.517	Denturist License Reinstatement (REPEALED)
	24.138.518	Renewals (REPEALED)
	24.138.519	Grounds for Denial of a License (REPEALED)
		Rules 24.138.520 through 24.138.523 reserved
	24.138.524	Reactivation of a Lapsed License (REPEALED)
	24.138.525	Reactivation of an Expired License
		Rules 24.138.526 through 24.138.529 reserved
	24.138.530	Licensure of Retired or Nonpracticing Dentist or Dental Hygienist for Volunteer Service
		Rules 24.138.531 through 24.138.539 reserved
	24.138.540	Military Training or Experience
		Subchapter 6
		Nonresident Volunteer Licensure
Rule	24.138.601	Restricted Temporary Licensure of Nonresident Volunteer Dentists and Dental Hygienists
		Rule 24.138.602 reserved
	24.138.603	Scope of Treatment for Temporary Volunteer License
		Subchapters 7 and 8 reserved

DENTISTRY

Subchapter 9

Dentistry

Rules 24.138.901 through 24.138.905 reserved

Rule 24.138.906 Denturist Scope of Practice – Dentures Over Implants

Subchapters 10 through 20 reserved

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 21

Renewals and Continuing Education

- |      |             |   |
|------|-------------|---|
| Rule | 24.138.2101 | Definition of Continuing Education  |
|      | 24.138.2102 | Subject Matter Acceptable for Dentist and Dental Hygienist Continuing Education |
|      | 24.138.2103 | Subject Matter Acceptable for Denturist Continuing Education                    |
|      | 24.138.2104 | Requirements and Restrictions   |
|      | 24.138.2105 | Continuing Education – Audit  |
|      | 24.138.2106 | Exemptions and Exceptions   |

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

- |      |             |  |
|------|-------------|--|
| Rule | 24.138.2301 | Unprofessional Conduct for Dentists          |
|      | 24.138.2302 | Unprofessional Conduct for Denturists        |
|      | 24.138.2303 | Unprofessional Conduct for Dental Hygienists |

Subchapter 24

Complaint Procedures

- |      |             |                                |
|------|-------------|--------------------------------|
| Rule | 24.138.2401 | Complaint Procedure (REPEALED) |
|      | 24.138.2402 | Screening Panel                |

Subchapters 25 and 26 reserved

# DENTISTRY

## Subchapter 27

### Professional Assistance Program

- Rule 24.138.2701 Rehabilitation Program Purpose
- Rule 24.138.2702 reserved
- 24.138.2703 Responsibilities of Board Approved Rehabilitation Program
- Rule 24.138.2704 reserved
- 24.138.2705 Reporting of Suspected Impairment
- Rule 24.138.2706 reserved
- 24.138.2707 Protocol for Self-Reporting to a Board Approved Rehabilitation Program
- Rules 24.138.2708 and 24.138.2709 reserved
- 24.138.2710 Protocol for Disciplinary Track
- Rule 24.138.2711 reserved
- 24.138.2712 Protocol for Nondisciplinary Track
- Rule 24.138.2713 reserved
- 24.138.2714 Reporting to the Board
- Rule 24.138.2715 reserved
- 24.138.2716 Discharge Requirements
- Rules 24.138.2717 and 24.138.2718 reserved
- 24.138.2719 Relapse
- Subchapters 28 and 29 reserved

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 30

Rules of Advertising for Dentists

- |      |             |  |
|------|-------------|--|
| Rule | 24.138.3001 | Advertising Fee Information            |
|      | 24.138.3002 | Advertising Content                    |
|      | 24.138.3003 | Advertising Records and Responsibility |
|      | 24.138.3004 | Severability (REPEALED)                |

Subchapter 31

Specialty Practice Provisions

- |      |             |   |
|------|-------------|---|
| Rule | 24.138.3101 | General Standards for Specialties                         |
|      | 24.138.3102 | Specialty Advertising                                     |
|      | 24.138.3103 | Standards for Multiple-Specialty Announcements (REPEALED) |

Subchapter 32

Anesthesia Rules

- |      |             |  |
|------|-------------|--|
| Rule | 24.138.3201 | Practice of Anesthesia (TRANSFERRED)                           |
|      | 24.138.3202 | Permit Required for Administration of Anesthesia (TRANSFERRED) |
|      | 24.138.3203 | Minimum Qualifying Standards (TRANSFERRED)                     |
|      | 24.138.3204 | Minimum Monitoring Standards (TRANSFERRED)                     |
|      | 24.138.3205 | Facility Standards (TRANSFERRED)                               |
|      | 24.138.3206 | On-Site Inspection of Facilities (TRANSFERRED)                 |

## DENTISTRY

Rule 24.138.3207	Requirements for Continuing Education in Anesthesia (TRANSFERRED)
24.138.3208	Reporting Adverse Occurrences (TRANSFERRED)
24.138.3209	Anesthesia Fee Schedule (TRANSFERRED)
	Rule 24.138.3210 reserved
24.138.3211	Definitions Related to Anesthesia
	Rule 24.138.3212 reserved
24.138.3213	Effect of 2011 Statute and Rule Amendments on Currently Issued Anesthesia Permits
	Rule 24.138.3214 reserved
24.138.3215	Anesthesia Fee Schedule
	Rule 24.138.3216 reserved
24.138.3217	Practice of Anesthesia
	Rule 24.138.3218 reserved
24.138.3219	Permit Required for Administration of Anesthesia
	Rule 24.138.3220 reserved
24.138.3221	Minimum Qualifying Standards
	Rule 24.138.3222 reserved
24.138.3223	Minimum Monitoring Standards
	Rule 24.138.3224 reserved
24.138.3225	Facility Standards
	Rule 24.138.3226 reserved

DEPARTMENT OF LABOR AND INDUSTRY

- Rule 24.138.3227      Onsite Inspection of Facilities  
                                 Rule 24.138.3228 reserved
- 24.138.3229      Anesthesia Continuing Education  
                                 Rule 24.138.3230 reserved
- 24.138.3231      Reporting Adverse Occurrences  
                                 Rule 24.138.3232 reserved
- 24.138.3233      Anesthesia Committee

## Subchapter 1

## Organizational Rule

24.138.101 BOARD ORGANIZATION (1) The board of dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, 37-1-131, 37-4-205, 37-29-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

## Subchapter 2

## Procedural Rules

24.138.201 PROCEDURAL RULES (1) The Board of Dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, 37-1-131, 37-4-205, 37-29-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.202 PUBLIC PARTICIPATION (1) The Board of Dentistry hereby adopts and incorporates for the practices of dentistry, dental hygiene and denturistry by this reference the public participation rules of the Department of Commerce as listed in chapter 2 of this title. (History: 2-3-103, MCA; IMP, 2-3-103, 37-1-131, 37-4-205, 37-29-201, MCA; NEW, 1978 MAR p. 1332, Eff. 8/25/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1989 MAR p. 2179, Eff. 12/22/89; TRANS, from Commerce, 2003 MAR p. 2435.)

Rules 24.138.203 through 24.138.205 reserved

24.138.206 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 as needed to review issues pertaining to dental hygienists and make recommendations to the full board. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2020 MAR p. 588, Eff. 3/28/20.)

Rule 24.138.207 reserved

24.138.208 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 as needed to review issues pertaining to denturists and make recommendations to the full board. (History: 37-29-201, MCA; IMP, 37-29-201, MCA; NEW, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

## Subchapter 3

## Definitions

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

(1) "Advertisement" is any communication made or disseminated to the public in any manner designed to attract public attention to the practice of a dentist who is licensed to practice dentistry in Montana.

(2) "Bait and switch advertising" is an alluring but insincere offer to sell a product or provide a service that the advertiser, in truth, does not intend or want to sell and which is designed to switch the consumer from purchasing the advertised product or service to another product or service, usually at a higher fee or on a basis more advantageous to the advertiser.

(3) "Certified dental assistant" is a dental auxiliary who has successfully completed all of the following exams and holds current certification from the Dental Assisting National Board:

- (a) general chairside assisting (GC);
- (b) radiation health and safety (RHS); and
- (c) infection control (ICE).

(4) "Coronal polishing" is a dental procedure limited to the utilization of abrasive agents on the coronal surfaces of natural and restored teeth for the purpose of plaque and extrinsic stain removal.

(5) "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.

(6) "Discounted fee" is a fee offered or charged by a person or organization for any dental product or service that is less than the fee the person or organization usually offers or charges for the product or service but does not include products or services explicitly offered free of charge.

(7) "General supervision," for the purpose of ARM 24.138.406, means the provision of allowable functions by dental auxiliaries provided to a current patient of record, with the intent and knowledge of the dentist licensed and residing in the state of Montana. The supervising dentist need not be on the premises.

(8) "Material fact" is any fact that an ordinary, reasonable, and prudent person would need to know or rely upon in making an informed decision concerning dental care or the selection of a dentist to serve the patient's particular needs.

(9) "Prophylaxis" is a preventative and therapeutic dental health treatment process by which gingival irritants, including any existing combination of calculus deposits, plaque, material alba, accretions, and stains are removed supragingivally and/or subgingivally from the natural and restored surfaces of teeth by a method or methods, which may include scaling, root planing, and subgingival curettage, that are most suitable for the patient, by an appropriately licensed dentist or licensed dental hygienist.

(10) "Retired or nonpracticing dentist or dental hygienist" is a person who has surrendered or not renewed the individual's license for nondisciplinary reasons and has ceased to practice the individual's profession for remuneration.

(11) "Volunteer licensee" is a dentist or dental hygienist licensed according to rule to provide dental healthcare related diagnosis, care, or treatment without receiving or expecting to receive compensation or any other form of remuneration.

(History: 37-1-131, 37-4-205, 37-4-340, 37-29-201, MCA; IMP, 37-1-131, 37-4-101, 37-4-205, 37-4-340, 37-4-408, 37-29-201, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2020 MAR p. 588, Eff. 3/28/20.)

Rules 24.138.302 and 24.138.303 reserved

24.138.304 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2017 MAR p. 2281, Eff. 12/9/17; AMD, 2019 MAR p. 429, Eff. 4/27/19; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

24.138.305 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor convictions involving driving under the influence (DUI) in (5)(a) are routine if the conviction date is more than five years before the application date, unless the applicant is still in custody due to the conviction.

(b) Nonviolent felony convictions under (5)(b) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.138.306 TEETH WHITENING (1) The Board of Dentistry interprets the definition of the practice of dentistry set forth at 37-4-101, MCA, to include services or procedures that alter the color or physical condition of a tooth or teeth. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, MCA; NEW, 2010 MAR p. 411, Eff. 2/12/10.)

## Subchapter 4

## General Provisions

24.138.401 INTRODUCTION (REPEALED) (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-4-101, 37-4-401, 37-29-102, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1993 MAR p. 393, Eff. 3/26/93; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2015 MAR p. 1904, Eff. 10/30/15.)

24.138.402 FEE SCHEDULE (1) Original application fee for all licensees \$100

(2) Credentialing fee for dentists	500
(3) Credentialing fee for dental hygienists	75
(4) Local anesthesia certificate application fee	20
(5) Jurisprudence examination fee for all licensees	85
(6) Active renewal fee for dentists	306
(7) Active renewal fee for dental hygienists	140
(8) Active renewal fee for denturists	200
(9) Inactive renewal fee for dentists	153
(10) Inactive renewal fee for dental hygienists	70
(11) Inactive renewal fee for denturists	100
(12) Limited access permit application fee	50
(13) Limited access permit renewal fee	20
(14) Volunteer license, original or renewal	5
(15) Restricted temporary volunteer license, original or renewal	10

(16) Additional standardized fees are specified in ARM 24.101.403. (History: 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, 37-4-340, 37-4-341, 37-4-402, 37-4-405, 37-29-303, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2010 MAR p. 411, Eff. 2/12/10; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2014 MAR p. 3062, Eff. 12/25/14; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.403 MANDATORY CERTIFICATION (1) All licensed active status dentists, dental hygienists, and denturists shall possess a current cardiopulmonary resuscitation (CPR), advanced cardiac life support (ACLS), or pediatric advanced life support (PALS) card.

(2) Licensees shall maintain a current CPR, ACLS, or PALS card on the premises and provide a copy to the board upon request.

(3) Licensees shall affirm the expiration date of the CPR, ACLS, or PALS card on the renewal. The board may audit a licensee for compliance of a current CPR, ACLS, or PALS card in addition to the random CE audit every three-year reporting period. An active licensee who practices without a current CPR, ACLS, or PALS card may be subject to administrative suspension.

(4) Internet CPR, ACLS, or PALS courses will be accepted if a hands-on evaluation of clinical competency is also included. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-321, 37-29-201, 37-29-401, MCA; NEW, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.404 JUSTIFIABLE CRITICISM AND EXPERT TESTIMONY (REPEALED) (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-308, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.405 MANAGEMENT OF INFECTIOUS WASTE (REPEALED) (History: 37-1-131, 37-4-205, 37-29-201, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1992 MAR p. 200, Eff. 3/6/92; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.406 FUNCTIONS FOR DENTAL AUXILIARIES (1) Dental auxiliaries may work under the direct supervision of a licensed dentist per ARM 24.138.301 if the auxiliary:

(a) was instructed and qualified to perform in a dental assisting program accredited by the Commission on Dental Accreditation or its successor; or

(b) was instructed and trained by a licensed dentist; or

(c) was instructed and trained in a board-approved continuing education course.

(2) A certified dental assistant may work under the general supervision of a licensed dentist per ARM 24.138.301.

(3) A dental auxiliary working under the direct supervision of a licensed dentist per ARM 24.138.301 may perform the following dental procedures including, but not limited to:

(a) making radiographic exposures as prescribed by the supervising dentist as referenced in (12);

(b) initiating, adjusting, and monitoring nitrous oxide flow for a patient who has been prescribed and administered nitrous oxide by a licensed dentist;

(c) taking impressions for study or working casts;

(d) removing sutures and dressings;

(e) applying topical anesthetic agents;

(f) providing oral health instructions;

(g) applying topical fluoride agents;

(h) removing excess cement from coronal surfaces;

(i) placing and removing rubber dams;

(j) placing and removing matrices;

(k) collecting patient data;

(l) polishing amalgam restorations;

(m) placing and removing temporary restoration with hand instruments only;

(n) placing pit and fissure sealants; and

(o) coronal polishing.

(4) A certified dental assistant working under the general supervision of a licensed dentist per ARM 24.138.301 is prohibited from performing the following functions:

(a) initiating, adjusting, and monitoring nitrous oxide flow for a patient who has been prescribed and administered nitrous oxide by a licensed dentist;

(b) applying silver diamine fluoride agents;

(c) placing and removing rubber dams;

(d) placing and removing matrices;

(e) polishing amalgam restorations; and

(f) applying topical anesthetic agents.

(5) A certified dental assistant working under the general supervision of a licensed dentist may place pit and fissure sealants following an in-person comprehensive oral examination or periodic examination within the preceding 30 days.

(6) Dental auxiliaries performing any intraoral procedure must be under the direct supervision of a licensed dentist, except that a certified dental assistant may work under the general supervision of a licensed dentist.

(7) No dentist shall allow any dental auxiliary to perform the following:

(a) diagnosis and treatment planning as per 37-4-401, MCA;

(b) cutting hard or soft tissue or extracting teeth;

(c) prescribing any drugs as per 37-4-401, MCA;

(d) administering or dispensing any drug, without the prior authorization of the supervising dentist;

(e) administering intravenous and intramuscular injections or local anesthetic;

- (f) placing, carving, or condensing any permanent restorations;
- (g) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial dentures, or complete dentures;
- (h) bonding or cementing any fixed prosthesis, including veneers, except for provisionals;
- (i) bonding or cementing orthodontic brackets or orthodontic appliances that would provide activation upon cementation;
- (j) placing sulcular medicinal or therapeutic materials;
- (k) periodontal probing;
- (l) air polishing; or
- (m) prophylaxis as defined in ARM 24.138.301.

(8) Dentists shall not delegate to dental auxiliaries any duties or responsibilities regarding patient care that cannot be delegated to dental auxiliaries under 37-4-408, MCA, and board rules.

(9) The assignment of tasks and procedures to dental auxiliaries shall not relieve the dentist from liability for all treatment rendered the patient.

(10) A dentist shall not employ, supervise or otherwise use more dental auxiliaries than the dentist can reasonably supervise in keeping with the dentist's ethical and professional responsibilities.

(11) The employing dentist shall verify that a dental auxiliary's qualifications comply with the statutes and rules of the board.

(12) A dentist licensed to use or direct the use of an x-ray producing device must ensure that the radiation source under the dentist's jurisdiction is used only by individuals competent to use it, as per ARM 37.14.1003. Only a licensed dentist may prescribe radiation dosage and exposure.

(a) A dental auxiliary, under the direct supervision of a licensed dentist, may expose radiographs only if the auxiliary:

- (i) has graduated from an accredited program of dental assisting, dental hygiene, or dentistry accredited by the Commission on Dental Accreditation or its successor; or
- (ii) has been certified in dental radiology as a result of military experience; or
- (iii) has successfully completed a board-approved radiology written examination.

(b) A certified dental assistant may expose radiographs under the general supervision of a licensed dentist.

(c) For dental auxiliaries beginning work in Montana after January 1, 2016, radiology certification from other states will no longer be accepted, with the exception of a board-approved written examination. Dental auxiliaries who acquired radiology certification in other states and were employed as dental auxiliaries in Montana prior to January 1, 2016, will be grandfathered.

(13) Proof of current certification must be readily available for review by the public or the board upon request. (History: 37-4-205, 37-4-408, MCA; IMP, 37-4-408, MCA; NEW, 1995 MAR p. 2795, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2010 MAR p. 411, Eff. 2/12/10; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2020 MAR p. 588, Eff. 3/28/20.)

24.138.407 FUNCTIONS FOR DENTAL HYGIENISTS (1) Allowable functions for the dental hygienist practicing under the supervision of a licensed dentist shall include dental procedures as allowed by Title 37, chapter 4, MCA, and board rule, and subject to (2) below, in which:

- (a) the hygienist was instructed and qualified to perform in a school of dental hygiene accredited by the Commission on Dental Accreditation or its successor; or
- (b) the hygienist was instructed and trained by a licensed dentist; or
- (c) the hygienist was instructed and trained in a board acceptable continuing education course; or
- (d) the hygienist is functioning in the capacity of a dental auxiliary as allowed by board rule.

(2) A dental hygienist will be allowed to perform the following dental auxiliary functions, under general supervision, including, but not limited to:

- (a) making radiographic exposures, as prescribed by the supervising dentist;
- (b) taking impressions for study or working casts;
- (c) removing sutures and dressings;
- (d) applying topical anesthetic agents;
- (e) providing oral health instruction;
- (f) applying topical fluoride agents;
- (g) removing excess cement from coronal surfaces;
- (h) placing and removing rubber dams;
- (i) placing and removing matrices;
- (j) collecting patient data;
- (k) polishing amalgam restorations;
- (l) placing pit and fissure sealants; and
- (m) coronal polishing.

(3) A dental hygienist shall not be allowed to perform the following:

- (a) diagnosis and treatment planning as per 37-4-401, MCA;
- (b) cutting hard or soft tissue (except root planing and soft tissue curettage) or extracting teeth;

(c) prescribing any drug except fluoride agents, topical oral anesthetic agents, and nonsystemic oral antimicrobials, under the general supervision of a licensed dentist or under public health supervision with a limited access permit, as per 37-4-401, MCA;

(d) administering or dispensing any drugs, without the prior authorization and direct supervision of the supervising dentist. This does not pertain to local anesthetic agents administered by a licensed dental hygienist qualified to administer the agents, topical agents, fluoride agents, topical oral anesthetic agents, nonsystemic oral antimicrobials, or sulcular medicaments;

- (e) placing, carving or condensing any permanent restorations;
- (f) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial or complete dentures;
- (g) bonding or cementing orthodontic brackets, or orthodontic appliances that would provide activation upon cementation;
- (h) bonding or cementing any fixed prosthesis, including veneers, except for provisionals.

(4) The assignment of tasks and procedures to a dental hygienist shall not relieve the dentist from liability for all treatment rendered the patient.

(5) It shall be the responsibility of the employing dentist to verify that a dental hygienist's qualifications are in compliance with the statutes and rules of the Board of Dentistry. (History: 37-1-131, 37-4-205, 37-4-401, 37-4-408, MCA; IMP, 37-1-131, 37-4-401, 37-4-405, 37-4-408, MCA; Eff. 12/31/72; AMD, Eff. 7/5/76; AMD, Eff. 9/23/77; AMD, 1978 MAR p. 1182, Eff. 8/11/78; AMD, 1979 MAR p. 1497, Eff. 11/30/79; AMD, 1980 MAR p. 1188, Eff. 4/11/80; AMD, 1981 MAR p. 686, Eff. 7/17/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 921, Eff. 6/15/84; AMD, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1994 MAR p. 1120, Eff. 4/29/94; AMD, 1995 MAR p. 2795, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2018 MAR p. 1279, Eff. 7/7/18; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.408 SERVICE TO THE PUBLIC AND QUALITY OF CARE

(REPEALED) (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.409 PATIENT SELECTION (REPEALED) (History: 37-1-131, 37-4-

205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.410 PATIENT RECORDS (REPEALED) (History: 37-1-131, 37-4-

205, 37-29-201, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.411 EMERGENCY SERVICE (REPEALED) (History: 37-1-131, 37-

4-205, MCA; IMP, 37-1-131, 37-4-101, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.412 CONSULTATION AND REFERRAL (REPEALED) (History: 37-

1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.413 REBATE AND SPLIT FEES (REPEALED) (History: 37-1-131,

37-4-205, MCA; IMP, 37-1-131, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.414 DISPLAY OF LICENSES (1) All licensees must display, or have readily available by electronic means, their current license for review by the public. If a licensee is working in more than one location, a copy of the license can be duplicated, or readily available by electronic means, for display in another office. (History: 37-4-205, 37-29-201, MCA; IMP, 37-4-205, 37-4-326, 37-29-201, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.415 NINETY-DAY GUARANTEE REQUIRED BY DENTURISTS

(1) The board interprets 37-29-404(2), MCA, "denturist services" to be new work completed in that office. The 90-day guarantee starts from the day of final insertion. (History: 37-29-201, MCA; IMP, 37-29-404, MCA; NEW, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.416 PRIOR REFERRAL FOR PARTIAL DENTURES

(1) The Board of Dentistry interprets 37-29-403(1)(b), MCA, to mean that all partial denture patients shall be referred to a dentist to determine what is needed prior to the denturist starting his services. (History: 37-1-131, 37-29-201, MCA; IMP, 37-29-403, MCA; NEW, 1990 MAR p. 222, Eff. 1/26/90; AMD, 1992 MAR p. 2132, Eff. 9/25/92; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.417 DENTAL SCREENINGS

(1) Dental health screenings do not constitute the practice of dentistry or dental hygiene. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-101, 37-4-205, 37-4-401, MCA; NEW, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.418 INFECTION CONTROL

(1) Each person who is licensed pursuant to the provisions of Title 37, chapter 4, MCA, shall comply with the provisions of the Guidelines for Infection Control in Dental Health-Care Settings, 2003. The board adopts and incorporates by reference the guidelines which set forth the Centers for Disease Control and Prevention (CDC) recommendations for infection prevention and control in a dental-care setting. A copy of the guidelines is available, free of charge, from the CDC web site at <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5217a1.htm>. (History: 37-1-131, 75-10-1006, MCA; IMP, 37-1-131, 75-10-1005, MCA; NEW, 2017 MAR p. 2281, Eff. 12/9/17.)

24.138.419 LIMITED PRESCRIPTIVE AUTHORITY – QUALIFICATIONS – ALLOWABLE PERCENTAGES OF TOPICAL AGENTS (1) Education and competency for dental hygiene prescriptive authority will be accomplished by:

(a) meeting the requirements of ARM 24.138.407(1)(a) and shall include a pharmacology course;

(b) maintaining three credit hours of continuing education each three-year renewal cycle to include courses in:

- (i) fluoride agents;
  - (ii) topical oral anesthetics; or
  - (iii) nonsystemic oral antimicrobials; and
- (c) meeting the requirements of ARM 24.138.2104.

(2) The hygienist shall attest they meet the qualifications for limited prescriptive authority on the initial application for licensure and the continuing education requirement on the annual license renewal application.

(3) Allowable percentages of prescribed agents are:

(a) topical anti-caries treatments (using sodium fluoride unless otherwise stated):

- (i) toothpastes – 1.1 percent (or stannous fluoride 0.4 percent);
- (ii) topical gels – 1.1 percent (or stannous fluoride 0.4 percent);
- (iii) oral rinses – 0.05 percent, 0.2 percent, 0.44 percent, or 0.5 percent, or oral rinse concentrate at 0.63 percent stannous fluoride;

- (iv) fluoride varnish – 5 percent;
- (v) prophylaxis paste – 1.25 percent;
- (vi) fluoride paste – 5 percent; and
- (vii) silver diamine fluoride – 38 percent.

(b) topical oral anesthetic agents:

- (i) up to 20 percent benzocaine;
- (ii) up to 2 percent viscous lidocaine; and
- (iii) cetacaine to include 14 percent benzocaine, 2 percent butamben, and 2 percent tetracaine hydrochloride; and

(c) nonsystemic oral antimicrobials:

- (i) chlorhexidine gluconate rinses – 0.12 percent. (History: 37-1-131, 37-4-205, 37-4-401, MCA; IMP, 37-1-131, 37-4-401, 37-4-405, MCA; NEW, 2018 MAR p. 1279, Eff. 7/7/18; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.420 SCOPE OF TREATMENT FOR VOLUNTEER LICENSEES (REPEALED) (History: 37-1-131, 37-4-204, 37-4-340, MCA; IMP, 37-4-340, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; REP, 2021 MAR p. 473, Eff. 5/1/21.)

Rules 24.138.421 through 24.138.424 reserved

24.138.425 LIMITED ACCESS PERMIT TREATMENT GUIDELINES – PRACTICING UNDER PUBLIC HEALTH SUPERVISION (1) Pursuant to 37-4-405, MCA, the LAP dental hygienist practicing under public health supervision, including providing prescriptive services, shall adhere to the following medical health guidelines:

(a) The LAP dental hygienist shall gather and review the patient's current medical history, including but not limited to:

- (i) diagnosed chronic diseases;
- (ii) surgical procedures;
- (iii) medications;
- (iv) drug allergies and/or adverse reactions;
- (v) blood pressure and pulse rate; and
- (vi) previous difficulty associated with dental procedures.

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

- (i) a medical condition requiring premedication;
- (ii) uncontrolled hypertension; or
- (iii) uncontrolled diabetes.

(c) If a patient has one or more severe systemic diseases, the LAP dental hygienist shall consult with a physician, 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) Pursuant to 37-4-405, MCA, the LAP dental hygienist practicing under public health supervision shall adhere to the following dental health guidelines:

(a) The LAP dental hygienist shall provide to the public health facility a disclaimer indicating that the dental hygiene preventative services provided do not preclude the need for a comprehensive examination by a licensed dentist.

(b) The LAP dental hygienist shall recommend patient referral to a licensed Montana dentist once each calendar year, or as the patient's dental health status indicates. The patient's records shall be made available for continued comprehensive dental care.

(c) The LAP dental hygienist shall document the patient dental history and conduct a screening appraisal prior to providing dental hygiene preventative services.

(d) If a LAP dental hygienist exposes radiographs, a licensed Montana dentist shall evaluate the radiographs within 30 days of exposure.

(e) The LAP dental hygienist shall maintain a dental record including, but not limited to:

- (i) adverse medical history;
- (ii) dental history and charting;
- (iii) results of dental screening;
- (iv) summary of discussions and consultations with a physician(s) and/or dentist(s);
- (v) dental hygiene preventative services provided;
- (vi) any agent prescribed, administered, or dispensed including dose amount and refill, date of the action, and rationale for prescribing; and
- (vii) any radiographs exposed.

(f) Patient dental records shall be the responsibility of the public health facility where the dental hygiene preventative services are provided. (History: 37-1-131, 37-4-205, 37-4-401, 37-4-405, MCA; IMP, 37-1-131, 37-4-401, 37-4-405, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2018 MAR p. 1279, Eff. 7/7/18.)

Rules 24.138.426 through 24.138.429 reserved

24.138.430 FEE ABATEMENT (1) The Board of Dentistry adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

## Subchapter 5

## Licensing

24.138.501 APPROVED DENTAL AND DENTAL HYGIENE SCHOOLS  
(REPEALED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-302, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION (1) A completed application must include the following:

- (a) an original score card from the Joint Commission on National Dental Examinations showing the applicant's passage of the written examination administered by the Joint Commission on National Dental Examinations;
  - (b) certification of successful passage of a board approved regional clinical practical examination. Examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;
  - (c) verification of graduation from a dental school accredited by the American Dental Association Commission on Dental Accreditation, or its successor. Verification must consist of an original dental school transcript and a diploma. The board may accept a letter from the dean of the school of dentistry, program director, or the dean's equivalent attesting to the program of study, and that graduation status was attained to process the application; however, a license will not be issued until the transcript is received in the board office;
  - (d) license verifications from all jurisdictions where the licensee has held or holds a license;
  - (e) a copy of a self-query of the National Practitioner Data Bank;
  - (f) a copy of the applicant's current CPR, ACLS, or PALS card;
  - (g) the jurisprudence examination fee; and
  - (h) the application fee.
- (2) The applicant shall not be physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dentistry.
- (3) Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75 percent, prior to issuance of a license.

(4) Application material remains valid for one year from the time it is received in the office. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-301, MCA; Eff. 12/31/72; AMD, Eff. 9/4/74; AMD, 1977 MAR p. 253, Eff. 10/24/77; AMD, 1980 MAR p. 1188, Eff. 4/11/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1476, Eff. 7/30/82; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2020 MAR p. 588, Eff. 3/28/20; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION (1) A completed application must include the following:

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

(b) certification of successful passage of a board approved regional clinical practical examination. Examinations shall be valid for the purpose of initial licensure for a period of five years from the date of successful passage of the examination;

(c) verification of graduation from a dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation, or its successor. Verification must consist of an original dental hygiene school transcript. The board may accept a letter from the dean of the school of dental hygiene, program director, or dean's equivalent attesting to the program of study, and that graduation status was attained to process the application; however, a license will not be issued until the transcript is received in the board office;

(d) license verifications from all jurisdictions where the licensee has held or holds a license;

(e) a copy of a self-query of the National Practitioner Data Bank;

(f) a copy of the applicant's current CPR, ACLS, or PALS card;

(g) the jurisprudence exam fee; and

(h) the application fee.

(2) The applicant shall not be physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) Applicants must successfully pass the jurisprudence examination with a final grade of at least 75 percent, prior to issuance of a license.

(4) Application material remains valid for one year from the time it is received in the office. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-401, 37-4-402, MCA; Eff. 12/31/72; AMD, Eff. 10/4/76; AMD, 1980 MAR p. 1188, Eff. 4/11/80; AMD, 1981 MAR p. 686, Eff. 7/17/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1476, Eff. 7/30/82; AMD, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1991 MAR p. 2026, Eff. 11/1/91; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2020 MAR p. 588, Eff. 3/28/20; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.504 APPROVED CLINICAL EXAM CRITERIA FOR DENTISTS AND DENTAL HYGIENISTS (1) Starting January 1, 2020, for the purposes of licensure, a dentist applicant shall verify successful passage of a board-approved clinical practical exam to include the following components:

(a) patient-based operative exam, to include one direct posterior class II composite and any one of the following:

- (i) direct posterior class II composite; or
- (ii) direct posterior class II amalgam; or
- (iii) direct anterior class III composite;

(b) patient-based periodontal exam;

(c) non-patient-based endodontics exam, to include:

- (i) anterior access;
- (ii) posterior access; and
- (iii) obturation of one canal;

(d) comprehensive treatment planning computer-based exam that is scored by calibrated examiners; and

(e) non-patient-based prosthodontics exam.

(2) Dental students who graduate during the state of emergency declared in the Governor of Montana's Executive Order 2-2020 or in the year 2021 shall be allowed to substitute a board-approved manikin-based operative exam in lieu of the patient-based examinations required in (1)(a) and (1)(b). All remaining non-patient-based requirements shall remain in effect. The exception outlined in this section shall expire December 31, 2021.

(3) Starting January 1, 2020, for the purposes of licensure, a dental hygienist applicant shall verify successful passage of a board-approved patient-based clinical practical exam to include the following:

(a) clinical competency and patient competency with the following components:

- (i) pocket depth;
- (ii) recession;
- (iii) calculus detection and removal; and
- (iv) intraoral and extraoral assessment.

(b) Dental hygiene students who graduate during the state of emergency declared in the Governor of Montana's Executive Order 2-2020, or in the year 2021, shall be allowed to substitute a board-approved manikin-based examination in lieu of a patient-based clinical examination. The exception outlined in this section shall expire on December 31, 2021.

(4) For the purpose of a local anesthetic permit a dental hygienist applicant shall verify successful passage of a board-approved written and patient-based clinical practical exam to include:

(a) the Western Regional Examining Board (WREB) or board-approved local anesthetic exam.

(5) The board may review applications from applicants who have taken a clinical practical examination that does not meet the above criteria as nonroutine for licensure.

(6) This rule shall not apply to dentist or dental hygienist applicants applying by credentialing. (History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-1-131, 37-4-301, 37-4-402, MCA; NEW, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2020 MAR p. 1631, Eff. 8/29/20; AMD, 2021 MAR p. 121, Eff. 1/30/21; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.505 DENTIST LICENSURE BY CREDENTIALS (1) The board shall license a dentist without additional examination, except a jurisprudence examination, if the applicant meets each of the following:

- (a) submits a completed application;
- (b) pays the appropriate fees including credentialing fee, jurisprudence exam fee, and application fee;
- (c) provides certification to the board that the dentist:
  - (i) is a graduate of a dental school accredited by the Commission on Dental Accreditation for the American Dental Association, or its successor;
  - (ii) has successfully passed the national board dental examination and submits an original Joint Commission on National Dental Examinations score card; and
  - (iii) has successfully completed a board approved regional clinical practical examination for licensure or any state clinical practical examination. The board shall review all state clinical practical examinations on a case-by-case basis to determine approval for licensure.
- (d) submits license verifications from all jurisdictions where the applicant is licensed or has held a license. If the dentist is employed by the federal government, the applicant shall submit a letter of explanation for any discipline with the employing federal agency;
- (e) provides evidence that the applicant has been engaged in the practice of clinical, direct patient care dentistry at least six months prior to the date of application and can demonstrate actively practicing within the last five years immediately preceding application, for a total accumulation of 3000 hours of experience as demonstrated by any or all of the following:
  - (i) address of practice location(s);
  - (ii) length of time at location(s);
  - (iii) a letter from all malpractice insurance carriers defining years when insured and any claims history;
  - (iv) DEA registration number, if any;
  - (v) documentation from a commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions, if the dentist is serving in the United States federal service;
  - (vi) documentation from the dean or appropriate administration of the institution regarding length and terms of employment, and the applicant's duties and responsibilities, and any adverse actions or restrictions, if the dentist is employed by a dental school; or
  - (vii) proof of hours completed within a residency program, to be credited toward the dental practice requirement, if the dentist is practicing within a residency program.

(f) submits documentation of all unresolved or adverse decisions based on complaints, investigations, review procedures, or other disciplinary proceedings undertaken by a state, territorial, local, or federal dental licensing jurisdiction, dental society, or law enforcement agency relating to criminal or fraudulent activity, dental malpractice, or negligent dental care;

(g) submits certificates of attendance proving the applicant has completed at least 60 hours of continuing education related to clinical dentistry in the three years immediately preceding application for a license in this state. Courses submitted must meet board approvals as defined in ARM 24.138.2102 and pursuant to ARM 24.138.2105;

(h) certifies that the applicant is not physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dentistry;

(i) submits a copy of a self-query of the National Practitioner Data Bank; and

(j) submits a current CPR, ACLS, or PALS card.

(2) Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75 percent prior to issuance of a license.

(3) Application material remains valid for one year from the time it is received in the office. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-1-304, 37-4-301, MCA; NEW, 1998 MAR p. 922, Eff. 4/17/98; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2017 MAR p. 2281, Eff. 12/9/17; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS (1) The applicant for dental hygiene licensure by credentials shall meet the following requirements and submit a completed application. The application must include the following:

(a) a copy of the certificate of graduation from a dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation, or its successor;

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

(c) evidence of successful passage of a clinical examination;

(d) license verifications from all jurisdictions where the applicant is licensed or has held a license. If employed by the federal government, the applicant shall submit a letter of explanation for any discipline with the employing federal agency;

(e) proof that the applicant has practiced dental hygiene for a minimum of 1000 hours in the two years prior to application;

(f) a copy of the applicant's current CPR, ACLS, or PALS card;

(g) a copy of a self-query of the National Practitioner Data Bank; and

(h) payment of all appropriate fees including a credentialing fee.

(2) The applicant may not be physically or mentally impaired by use of addictive drugs, alcohol, or any other drug or substance, or by mental or physical illness which in the determination of the board renders the individual unfit or incapable of practicing dental hygiene.

(3) Applicants shall successfully pass the jurisprudence examination with a final grade of at least 75 percent, prior to issuance of a license.

(4) Application material remains valid for one year from the time it is received in the office. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-1-304, MCA; NEW, 1991 MAR p. 2026, Eff. 11/1/91; AMD, 1994 MAR p. 3090, Eff. 12/9/94; AMD, 2000 MAR p. 1312, Eff. 5/26/00; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.507 DENTIST LICENSURE BY CREDENTIALS FOR SPECIALISTS (REPEALED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-1-304, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.508 DENTAL HYGIENE LOCAL ANESTHETIC AGENT

CERTIFICATION (1) No licensed dental hygienist shall administer local anesthetic agents during a dental procedure or a dental-surgical procedure unless and until the hygienist possesses a local anesthetic permit issued by the board.

(2) Application for local anesthetic certification by examination shall be made on an application form and must include the following:

- (a) verification of successful passage of a board-approved local anesthetic examination within the last five years;
- (b) a copy of the applicant's current CPR, ACLS, or PALS card;
- (c) payment of appropriate fees; and
- (d) evidence of having previously received a Montana dental hygiene license, or of being in the process of applying for a Montana dental hygiene license.

(3) Application for a local anesthetic certificate by credentialing shall be made on an application provided by the board and shall include the following:

- (a) verification of successful passage of a board-approved local anesthetic examination more than five years ago;
  - (b) a copy of the applicant's current CPR, ACLS, or PALS card;
  - (c) payment of appropriate fees;
  - (d) evidence that the applicant is in the process of applying for a Montana dental hygiene license or has previously received a Montana dental hygiene license;
  - (e) copies of any local anesthetic agent authorization(s) held in other states;
- and

(f) written verification that the applicant has practiced administering local anesthetic agents within the last five years.

(4) An applicant who wishes to convert an inactive status local anesthesia certification in conjunction with the conversion of an inactive dental hygiene license shall:

- (a) verify passage of a board-approved local anesthetic examination;
- (b) submit an application provided by the board;
- (c) submit a copy of the applicant's current CPR, ACLS, or PALS card;
- (d) copies of any local anesthetic agent license held in other states; and
- (e) written verification from a supervising dentist that the applicant has practiced administering local anesthetic agents within the last five years.

(5) The application remains valid for one year from the time it is received in the office. (History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-1-131, 37-4-401, 37-4-402, MCA; NEW, 2000 MAR p. 1312, Eff. 5/26/00; AMD, 2002 MAR p. 1488, Eff. 5/17/02; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2010 MAR p. 406, Eff. 2/12/10; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.509 DENTAL HYGIENE LIMITED ACCESS PERMIT (1) The board shall issue a limited access permit (LAP) to a Montana licensed dental hygienist who:

- (a) possesses an active, unrestricted Montana dental hygiene license;
  - (b) certifies that the dental hygienist has actively practiced either:
    - (i) 2400 clinical hours over the last three years; or
    - (ii) a career total of 3000 hours, with a minimum of 350 hours in each of the last two years;
  - (c) provides the name of the applicant's current liability insurance carrier, policy number, and expiration date;
  - (d) acknowledges on the application that the applicant understands which public health facilities are eligible to provide services under a limited access permit pursuant to 37-4-405, MCA;
  - (e) provides certificates of attendance of completion of 12 additional continuing education credits for the three-year reporting period immediately preceding LAP application pursuant to ARM 24.138.2105; and
  - (f) submits a completed application and pays all appropriate fees.
- (2) Application material remains valid for six months from receipt in the board office. If the application is not completed within six months a new application and fees must be submitted.
- (3) A LAP dental hygienist shall maintain 48 hours of continuing education credits for each three-year cycle following initial issuance of a LAP. The 48 hours includes the 36 hours required for a dental hygiene license and an additional 12 hours required for the LAP. If the LAP dental hygienist qualifies for limited prescriptive authority pursuant to 37-4-405, MCA, and ARM 24.138.419, the dental hygienist shall maintain an additional three continuing education credits for each three-year cycle.
- (4) LAPs must be renewed annually.
- (5) Pursuant to 37-4-405, MCA, the board identifies the following additional public health facilities and programs at which services under a LAP may be provided:
- (a) Dodson School;
  - (b) Great Falls Rescue Mission;
  - (c) Harlem Elementary School;
  - (d) Harlem Junior/Senior High School; and
  - (e) Paris Gibson Education Center. (History: 37-4-205, 37-4-401, 37-4-405, MCA; IMP, 37-4-401, 37-4-405, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2010 MAR p. 406, Eff. 2/12/10; AMD, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2017 MAR p. 2281, Eff. 12/9/17; AMD, 2018 MAR p. 1279, Eff. 7/7/18; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.510 DENTURIST EXAMINATION (REPEALED) (History: 37-1-131, 37-29-201, MCA; IMP, 37-1-131, 37-29-201, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1986 MAR p. 1897, Eff. 11/15/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; REP, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.511 DENTURIST LICENSE REQUIREMENTS (1) Denturist license applicants must submit a completed application, required fees, and documentation that demonstrates:

- (a) successful passage of:
  - (i) a board-approved written denturist examination;
  - (ii) a board-approved clinical/practical denturist examination; and
  - (iii) the board jurisprudence examination with a grade of at least 75 percent;
- (b) completion of formal training of not less than two years:
  - (i) at an educational institution accredited by a national or regional accrediting agency recognized by the Montana state Board of Regents; and
  - (ii) under a curriculum that includes the courses set forth in 37-29-303, MCA;
- (c) completion of a clinical internship of at least one year, but no more than two years, under the direct supervision of a licensed denturist;
- (d) license verification(s) from all jurisdictions where the licensee has held or holds a license;
- (e) a current CPR, ACLS, or PALS card; and
- (f) a self-query of the National Practitioner Data Bank. (History: 37-1-131, 37-29-201, MCA; IMP, 37-1-131, 37-29-201, 37-29-302, 37-29-303, 37-29-306, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.512 DENTURIST INTERNSHIP (1) Denturist applicants must complete a clinical internship of at least one year, but no more than two years, under the direct supervision of a licensed denturist.

(2) At a minimum, the internship must consist of 2000 clock hours of training and performance as follows:

(a) 36 hours minimum in:

- (i) patient charting;
- (ii) operatory sanitation;
- (iii) oral examination;
- (iv) impressions, preliminary and final (pour models, custom trays);
- (v) processing (wax up, flask boil out, packing, grind-polish); and
- (vi) delivery-post adjustment;

(b) 12 hours minimum in:

- (i) bite registrations;
- (ii) articulations;
- (iii) set ups; and
- (iv) try ins;

(c) 48 hours minimum in:

- (i) tooth repairs; and
  - (ii) broken or fractured plates or partials; and
- (d) 24 units of processed relines (one plate - one unit).

(3) Per 37-29-302, MCA, a licensed denturist may not supervise more than one intern at any one time.

(4) Upon completion of an internship, an applicant may not practice until obtaining a denturist license from the board. (History: 37-1-131, 37-29-201, MCA; IMP, 37-1-131, 37-29-201, 37-29-302, 37-29-303, MCA; NEW, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.513 DENTAL HYGIENISTS – TEMPORARY PRACTICE PERMITS

(1) Dental hygienist applicants shall be issued a temporary practice permit under 37-1-305(2), MCA, while waiting to take either their written national examination or their regional clinical examination.

(2) A dental hygienist holding a temporary practice permit may practice only under the direct supervision of a dentist licensed by the state of Montana.

(3) Any advertisement in which the temporary permit holder is named or pictured must state that the individual holds a temporary permit.

(4) Prior to issuance of the temporary practice permit, applicants and their supervising dentist(s) shall consent to the provisions of this rule and 37-1-305(2), MCA, in a signed statement filed with the department.

(5) Temporary permits shall not be available to nonroutine applicants absent board review and determination that issuance of the permit will not endanger the public. (History: 37-1-131, 37-1-319, 37-4-205, MCA; IMP, 37-1-131, 37-1-305, 37-1-319, 37-4-402, MCA; NEW, 2020 MAR p. 1631, Eff. 8/29/20.)

24.138.514 CONVERTING FROM INACTIVE TO ACTIVE STATUS

- (1) Licensees may place their license on inactive status upon written request to the board.
- (2) An inactive status license does not entitle the holder to practice dentistry, dental hygiene, or dentistry in the state of Montana.
- (3) The board may consider a licensee request to convert an inactive status license to active status upon written request to the board if the applicant provides the following:
  - (a) a completed form;
  - (b) evidence that the applicant has actively and competently practiced in this or another jurisdiction within the last five years;
  - (c) license verification from all jurisdictions where the applicant is licensed or has held a license;
  - (d) certificates of attendance of continuing education pursuant to ARM 24.138.2105 as follows:
    - (i) 60 hours of continuing education for a dentist, for the three most current renewal years;
    - (ii) 36 hours of continuing education for a dental hygienist, for the three most current renewal years; or
    - (iii) 36 hours of continuing education for a dentist, for the three most current renewal years.
  - (e) a current CPR, ACLS, or PALS card; and
  - (f) any other information the board may require for evidence of operative competency.
- (4) If the applicant has been out of practice for longer than five years, the applicant shall provide evidence of the following:
  - (a) completion of:
    - (i) a clinical competency course(s) or skills assessment analysis approved by the board; or
    - (ii) a board approved regional or state examination within the most recent five years.
  - (b) a license verification from all jurisdictions where the applicant is licensed or has held a license;
  - (c) certificates of attendance of continuing education pursuant to ARM 24.138.2105 as follows:
    - (i) 60 hours of continuing education for a dentist for the three most current renewal years;
    - (ii) 36 hours of continuing education for a dental hygienist for the three most current renewal years; or
    - (iii) 36 hours of continuing education for a dentist for the three most current renewal years.
  - (d) a current CPR, ACLS, or PALS card; and
  - (e) any other information the board may require for evidence of operative competency.

(5) Applicants shall take the jurisprudence examination if the applicant has not practiced in Montana within the most recent five years. (History: 37-1-131, 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-319, MCA; NEW, 1985 MAR p. 1323, Eff. 9/13/85; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1995 MAR p. 2469, Eff. 11/23/95; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.515 CONSIDERATION OF REAPPLICATION FOR A LICENSE AFTER PREVIOUS DENIAL OR REVOCATION (REPEALED) (History: 37-1-136, 37-4-402, 37-29-201, MCA; IMP, 37-1-136, 37-1-137, MCA; NEW, 1982 MAR p. 2175, Eff. 12/31/82; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; REP, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.516 REINSTATEMENT OF A LICENSE FOR NONPAYMENT OF RENEWAL FEE (REPEALED) (History: 37-1-131, 37-4-205, 37-4-402, MCA; IMP, 37-4-307, 37-4-406, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; REP, 2007 MAR p. 43, Eff. 1/12/07.)

24.138.517 DENTURIST LICENSE REINSTATEMENT (REPEALED) (History: 37-1-141, 37-29-201, MCA; IMP, 37-1-141, MCA; NEW, 1997 MAR p. 1265, Eff. 7/22/97; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2006 MAR p. 1583, Eff. 7/1/06; REP, 2007 MAR p. 43, Eff. 1/12/07.)

24.138.518 RENEWALS (REPEALED) (History: 37-1-131, 37-1-141, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-141, 37-29-306, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1986 MAR p. 1897, Eff. 11/15/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1812, Eff. 11/9/07; REP, 2017 MAR p. 2281, Eff. 12/9/17.)

24.138.519 GROUNDS FOR DENIAL OF A LICENSE (REPEALED) (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-137, 37-29-201, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2007 MAR p. 43, Eff. 1/12/07; REP, 2021 MAR p. 473, Eff. 5/1/21.)

Rules 24.138.520 through 24.138.523 reserved

24.138.524 REACTIVATION OF A LAPSED LICENSE (REPEALED) (History: 37-1-141, 37-4-205, 37-29-201, MCA; IMP, 37-1-141, MCA; NEW, 2007 MAR p. 43, Eff. 1/12/07; REP, 2007 MAR p. 1812, Eff. 11/9/07.)

24.138.525 REACTIVATION OF AN EXPIRED LICENSE (1) To reactivate an expired license, a licensee shall meet the requirements in 37-1-141, MCA, and submit the following:

- (a) a copy of a current CPR, ACLS, or PALS card;
- (b) a license verification from all jurisdictions where the licensee is licensed or has held a license if the license has been expired longer than six months; and
- (c) proof of CE pursuant to ARM 24.138.2105 as follows:
  - (i) a dentist shall submit certificates of attendance of 60 hours of CE obtained in the most recent three years;
  - (ii) a dental hygienist shall submit certificates of attendance of 36 hours of CE obtained in the most recent three years; and
  - (iii) a denturist shall submit certificates of attendance of 36 hours of CE obtained in the most recent three years. (History: 37-1-131, 37-1-141, 37-4-205, 37-29-201, MCA; IMP, 37-1-131, 37-1-141, MCA; NEW, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

Rules 24.138.526 through 24.138.529 reserved

24.138.530 LICENSURE OF RETIRED OR NONPRACTICING DENTIST OR DENTAL HYGIENIST FOR VOLUNTEER SERVICE

(1) Retired or nonpracticing dentists and dental hygienists seeking to practice under a volunteer license shall submit a complete application and the following documentation:

(a) verification of graduation from a dental or dental hygiene school accredited by the American Dental Association Commission on Dental Accreditation (CODA) or its successor;

(b) verification of licensure from any other state that the applicant is or has been licensed in;

(c) proof of operative competency by either:

(i) a verified statement that the applicant has actively and competently practiced in Montana or another jurisdiction within the last five years; or

(ii) if the applicant has been out of practice for longer than five years, the applicant shall provide:

(A) proof of completion of a board-approved clinical competency course(s) or skills assessment analysis; or

(B) a board-approved regional or state examination within the most recent five years.

(d) verification that the applicant has maintained for at least ten years prior to retirement, full licensure in good standing in Montana, another state or jurisdiction, Canada, or the United States armed forces;

(e) a signed statement that the applicant shall not accept any form of remuneration for any dental or dental hygiene services rendered while in possession of the volunteer license;

(f) provides the name and address of the location(s) where the applicant intends to provide services under a volunteer license to indigent or uninsured patients in underserved or critical need areas;

(g) a copy of a current CPR, ACLS, or PALS card; and

(h) any other information the board may require as evidence of operative competency.

(2) The board shall review applications submitted by applicants with medically diagnosed mental or physical disabilities on a case-by-case basis.

(3) Application material remains valid for six months from receipt in the board office. If the application is not completed within six months a new application and fees must be submitted.

(4) Renewal fees and late fees or a portion of such fees may be waived for eligible persons applying for licensure under this rule after July 1, 2004, upon approval of the board.

(5) Volunteer licenses must be renewed by the date set by ARM 24.101.413. (History: 37-1-131, 37-4-340, MCA; IMP, 37-1-131, 37-1-141, 37-4-340, MCA; NEW, 2004 MAR p. 1955, Eff. 8/20/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2007 MAR p. 1812, Eff. 11/9/07; AMD, 2008 MAR p. 1483, Eff. 7/18/08; AMD, 2017 MAR p. 2281, Eff. 12/9/17.)

Rules 24.138.531 through 24.139.539 reserved

24.138.540 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. Satisfactory evidence includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(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. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2015 MAR p. 1904, Eff. 10/30/15.)

## Subchapter 6

## Nonresident Volunteer Licensure

24.138.601 RESTRICTED TEMPORARY LICENSURE OF NONRESIDENT VOLUNTEER DENTISTS AND DENTAL HYGIENISTS (1) Dentists and dental hygienists actively licensed in good standing in another state and seeking to practice in Montana under a restricted temporary volunteer license, shall submit a complete application and the following documentation:

(a) verification of graduation from a dental or dental hygiene program or school accredited by the American Dental Association Commission on Dental Accreditation (CODA) or its successor;

(b) license verifications(s) from all states where the licensee currently holds a license;

(c) verification that the applicant has no pending discipline in any state in which the applicant holds current licensure; and

(d) a signed statement that the applicant shall not receive monetary or other compensation for providing any dental or dental hygiene services in Montana, while in possession of the temporary volunteer license.

(2) Temporary volunteer licenses are valid for 14 days from the date of issuance.

(3) Application material remains valid for six months from receipt in the board office. If the application is not completed within six months, a new application and fees must be submitted.

(4) Temporary volunteer licenses may be renewed annually by the date set by ARM 24.101.413. (History: 37-1-131, 37-4-205, 37-4-341, MCA; IMP, 37-1-131, 37-1-141, 37-4-341, MCA; NEW, 2010 MAR p. 411, Eff. 2/12/10; AMD, 2017 MAR p. 2281, Eff. 12/9/17.)

Rule 24.138.602 reserved

24.138.603 SCOPE OF TREATMENT FOR TEMPORARY VOLUNTEER LICENSE (1) Temporary volunteer licensees shall:

(a) practice dentistry or dental hygiene within the scope of their professional license and in compliance with board statutes and administrative rules; and

(b) provide dental or dental hygiene services only to individuals served by clinics listed in 37-4-103, MCA. (History: 37-1-131, 37-4-205, 37-4-341, MCA; IMP, 37-1-131, 37-4-341, MCA; NEW, 2010 MAR p. 411, Eff. 2/12/10.)

Subchapters 7 and 8 reserved

## Subchapter 9

## Dentistry

Rules 24.138.901 through 24.138.905 reserved

24.138.906 DENTURIST SCOPE OF PRACTICE – DENTURES OVER IMPLANTS (1) A denturist may make and fit dentures over implants under the following conditions:

- (a) the fitting must be performed after written referral from a Montana-licensed dentist;
  - (b) the denturist may not refer directly for implant placement;
  - (c) the denture must be fully soft-tissue supported; and
  - (d) the denture must be manually removable without tools.
- (2) A denturist may not cut, surgically remove, or surgically reduce any tissue or natural teeth in the process of making and fitting an implant-retained denture.
- (3) A denturist may not fit or adjust any abutment or otherwise adjust any appurtenance to a dental implant, except on the denture itself.
- (4) A denturist may reline or rebase the original implant-retained denture.
- (History: 37-1-131, 37-29-201, MCA; IMP, 37-1-131, 37-29-102, 37-29-103, MCA; NEW, 2020 MAR p. 588, Eff. 3/28/20.)

Subchapters 10 through 20 reserved

## Subchapter 21

## Renewals and Continuing Education

24.138.2101 DEFINITION OF CONTINUING EDUCATION (1) Continuing education consists of educational activities designed to:

(a) review existing concepts and techniques;  
(b) convey information beyond the basic professional education; and  
(c) update knowledge on advances in dental, medical and dental hygiene sciences, and dentistry practices.

(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.

(3) Residency programs accredited by the Commission on Dental Accreditation or its successor may be submitted for continuing education credit. (History: 37-1-319, 37-4-205, 37-29-201, MCA; IMP, 37-1-306, 37-1-319, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2015 MAR p. 1904, Eff. 10/30/15.)

24.138.2102 SUBJECT MATTER ACCEPTABLE FOR DENTIST AND DENTAL HYGIENIST CONTINUING EDUCATION (1) Acceptable continuing education includes courses in which:

(a) The subject matter contributes directly to the professional competence of the licensee, or patient care rendered by the licensee. This may include, but is not limited to, the following clinical subjects relating to the dental profession:

- (i) oral surgery;
- (ii) operative dentistry;
- (iii) oral pathology;
- (iv) preventive dentistry;
- (v) orthodontics;
- (vi) clinical patient management;
- (vii) pedodontics;
- (viii) oral biology;
- (ix) periodontics;
- (x) prosthodontics;
- (xi) dental materials;
- (xii) implantology;
- (xiii) radiology;
- (xiv) infection control;
- (xv) endodontics;
- (xvi) management of medical emergencies;
- (xvii) practice management;
- (xviii) dental anesthesiology; and
- (xix) pharmacology.

(b) The information presented enables the licensee to enhance the dental health of the public.

(c) The licensee is able to apply the knowledge gained within his/her professional capacity.

(d) Instructors should be qualified with respect to program content and teaching methods used. (History: 37-1-319, 37-4-205, 37-4-401, MCA; IMP, 37-1-306, 37-1-319, 37-4-401, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 2627, Eff. 9/23/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2018 MAR p. 1279, Eff. 7/7/18.)

24.138.2103 SUBJECT MATTER ACCEPTABLE FOR DENTURIST CONTINUING EDUCATION (1) Acceptable continuing education includes courses in which:

(a) the subject matter contributes directly to the quality of the patient care rendered by the licensee. This includes the following subjects as they relate to the practice of dentistry:

- (i) head and oral anatomy and physiology;
- (ii) oral pathology;
- (iii) partial denture design and construction;
- (iv) microbiology;
- (v) radiology;
- (vi) clinical dental technology;
- (vii) dental laboratory technology;
- (viii) asepsis;
- (ix) clinical jurisprudence;
- (x) medical emergencies; and
- (xi) practice management.

(b) The information presented enables the licensee to enhance the dental health of the public as it relates to dentistry.

(c) The licensee is able to apply the knowledge gained within his/her practice of dentistry.

(d) Instructors should be qualified with respect to program content and teaching methods used. (History: 37-1-319, 37-29-201, MCA; IMP, 37-1-306, 37-29-306, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.2104 REQUIREMENTS AND RESTRICTIONS (1) Starting April 15, 2015, licensees shall complete, within a three-year renewal cycle, the following minimum number of continuing education credits of instruction in acceptable courses of continuing education:

(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 moderate sedation permits must complete 12 hours of anesthesia specific continuing education as part of the 60 continuing education credits required;

(b) for dental hygienists, 36 per three-year cycle. Dental hygienists who have a limited access permit must complete an additional 12 continuing education hours pursuant to ARM 24.138.509. Dental hygienists who qualify for limited prescriptive authority pursuant to 37-4-401 and 37-4-405, MCA, must complete an additional three continuing education hours pursuant to ARM 24.138.419; or

(c) for denturists, 36 per three-year cycle.

(2) Courses that are unacceptable for continuing education credit include, but are not necessarily limited to, the following:

(a) self-help/pop psychology (i.e., personal goal development, transactional analysis, assertiveness training);

(b) legislative/political issues;

(c) unproven modalities or experimental techniques;

(d) basic science courses;

(e) basic life support/CPR.

(3) Continuing education may include presentation of lectures and/or participation courses related to subject matter(s) listed in ARM 24.138.2102.

(a) Three credits for each 60 minutes of initial presentation will be allowed for lecture and/or participation courses.

(b) One credit for each 60 minutes will be allowed for repeat lectures from material previously presented.

(4) 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 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. (History: 37-1-319, 37-4-205, 37-4-401, 37-29-201, MCA; IMP, 37-1-306, 37-1-319, 37-4-401, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 2627, Eff. 9/23/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2010 MAR p. 411, Eff. 2/12/10; AMD, 2014 MAR p. 1837, Eff. 8/8/14; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2018 MAR p. 1279, Eff. 7/7/18; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.2105 CONTINUING EDUCATION – AUDIT (1) Licensees shall affirm their understanding of the recurring duty to comply with continuing education (CE) requirements as a part of annual license renewal.

(2) CE credits may not be carried over from one three-year reporting period to another.

(3) Licensees are required to keep certificates or other documentation of completed CE and provide the documentation to the board upon request.

(4) The board may randomly audit up to 50 percent of renewed licensees' CE hours.

(5) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension. Licensees may not apply CE hours used to complete delinquent CE requirements for the next reporting period. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-1-321, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, 2003 MAR p. 2435; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

24.138.2106 EXEMPTIONS AND EXCEPTIONS (1) Licensees whose capacity to meet the continuing education requirements is restricted due to ill health or other extenuating circumstances may apply, in writing, to the Board of Dentistry for special consideration.

(2) New licensees shall be exempt from continuing education requirements until March 1st following their initial licensure in Montana, however, they are encouraged to participate actively in continuing education programs.

(3) The board may prorate continuing education credit to licensees after March 1st following their initial licensure in Montana related to the balance of the three-year audit cycle from the date of initial licensure. Dentists may be prorated 20 continuing education credits per audit cycle or 1.66 credits per month licensed. Dental hygienists may be prorated 12 continuing education credits per audit cycle or 1.00 credit per month licensed. Denturists may be prorated 12 continuing education credits per audit cycle or 1.00 credit per month licensed.

(4) Inactive licensees shall be exempt from the continuing education requirements so long as the license remains on inactive status. Inactive licensees seeking to convert to an active status must comply with ARM 24.138.514.

(5) Volunteer licensees shall be exempt from the continuing education requirements. (History: 37-1-319, MCA; IMP, 37-1-306, 37-1-319, MCA; NEW, 1993 MAR p. 287, Eff. 2/26/93; AMD, 1994 MAR p. 1120, Eff. 4/29/94; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2010 MAR p. 406, Eff. 2/12/10; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2017 MAR p. 2281, Eff. 12/9/17.)

Subchapter 22 reserved

## Subchapter 23

## Unprofessional Conduct

24.138.2301 UNPROFESSIONAL CONDUCT FOR DENTISTS (1) For the purposes of implementing the provisions of 37-1-316, MCA, the board further defines "unprofessional conduct" for dentists as follows:

(a) Continuing to practice dentistry when the licensee's license has been suspended, revoked, or is not currently renewed.

(b) Administering, dispensing or prescribing a controlled substance scheduled in Title 50, chapter 32, MCA, other than in the course of legitimate or reputable professional practice.

(c) Having been convicted of violating a federal or state statute or rule regulating the possession, distribution or use of a controlled substance scheduled in Title 50, chapter 32, MCA.

(d) Failure to maintain an office(s) in sanitary conditions consistent with current accepted sterilization and disinfection protocols for treatment rooms, sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board.

(e) Obtaining a fee or other compensation, either directly or indirectly by the representation that a manifestly incurable disease, injury or condition of a person can be cured.

(f) Testifying in court on a contingency witness-fee basis.

(g) Failing to supervise and monitor the actions of all dental auxiliaries and dental hygienists in regard to patient care.

(h) Violating the regulations concerning the administration of anesthesia.

(i) Failure to respond to correspondence from the board, or to comply with final orders of the board.

(j) Representing or recording as an oral prophylaxis, coronal polishing by itself, without an appropriately licensed dentist or licensed dental hygienist inspecting for and removing any supragingival and subgingival calculus and gingival irritants deemed necessary for removal by an appropriately licensed dentist or licensed dental hygienist.

(k) Commission of an act of sexual abuse, sexual misconduct, or sexual exploitation by the licensee, whether or not related to the licensee's practice of dentistry.

(l) Failing to store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(m) Failing to adhere to any bloodborne pathogen regulation as outlined in Occupational Safety and Health Administration (OSHA) regulation contained in 29 CFR 1910.1030, as amended and published in the Federal Register, volume 66, on January 18, 2001 beginning at page 5325, which is hereby incorporated by reference.

(n) Failing to seek consultation with those licensees or other health care professionals who have special skills, knowledge, and experience whenever needed to safeguard the welfare of the patient.

(o) Failing to return a patient, if a specialist or consulting dentist, unless the patient expressly reveals a different preference, to the referring dentists, or if none, to the dentists of record for future care.

(p) Accepting or tendering "rebates" or "split fees," which are commissions paid to others for referral of business.

(q) Delegating to dental hygienists or dental auxiliaries any duties or responsibilities regarding patient care that cannot be delegated to dental hygienists or dental auxiliaries under 37-4-401, MCA, and board rules.

(r) Dentists shall be obliged when consulted in an emergency by patients not of record to make reasonable arrangements for emergency care. If treatment is provided, the dentist, upon completion of such treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference.

(s) Employing, supervising, or otherwise using more dental hygienists or dental auxiliaries than the dentist can reasonably supervise in keeping with the dentist's ethical and professional responsibilities.

(t) Failing to assure that the radiation source under the dentist's jurisdiction is used only by individuals competent to use it.

(u) Failing to safeguard the confidentiality of patient records, failing to maintain patient records in a manner consistent with the protection of the welfare of the patient, and failure to provide any information or records, upon request of the patient, that will be beneficial for the future treatment of the patient.

(v) Knowingly suppressing, omitting, or concealing any material fact or law without which an advertisement would be deceptive or misleading. (History: 37-1-319, 37-4-205, 37-4-408, 75-10-1006, MCA; IMP, 37-1-316, 37-1-319, 37-4-101, 37-4-405, 37-4-408, 75-10-1006, MCA; NEW, 1982 MAR p. 2174, Eff. 12/31/82; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.2302 UNPROFESSIONAL CONDUCT FOR DENTURISTS (1) For the purposes of implementing the provisions of 37-1-316, MCA, the board further defines "unprofessional conduct" as follows:

- (a) discriminating in services because of race, creed, color, age or national origin;
- (b) using advertising matter that contains misstatements, falsehoods, misrepresentation or wording that may in any way reflect against a fellow licensee or other licensed health care provider;
- (c) failing to maintain an office(s) in sanitary condition consistent with current accepted sterilization and disinfection protocols for treatment rooms, sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board;
- (d) failing to exercise appropriate supervision over interns who are authorized to practice only under the supervision of a licensed denturist;
- (e) incompetence or gross negligence in the practice of dentistry;
- (f) failing to adequately maintain complete records of each patient;
- (g) having been convicted of violating a federal or state statute dealing with possession, use or distribution of narcotics;
- (h) obtaining a fee or other compensation, either directly or indirectly by the representation that a manifestly incurable disease, injury or condition of a person can be cured;
- (i) testifying in court on a contingency-witness fee basis;
- (j) commission of an act of sexual abuse, sexual misconduct, or sexual exploitation by the licensee, whether or not related to the licensee's practice of dentistry;
- (k) failing to respond to correspondence from the board, or failing to comply with final orders of the board;
- (l) making and fitting dentures over dental implants in violation of board rules;
- (m) failing to store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA;
- (n) failing to adhere to any bloodborne pathogen regulation as outlined in Occupational Safety and Health Administration (OSHA) regulation contained in 29 CFR 1910.1030, as amended and published in the Federal Register, volume 66, on January 18, 2001 beginning at page 5325, which is hereby incorporated by reference; and
- (o) accepting or tendering "rebates" or "split fees," which are commissions paid to others for referral of business. (History: 37-1-136, 37-1-319, 37-29-201, 75-10-1006, MCA; IMP, 37-1-316, 37-1-319, 37-29-402, 37-29-403, 75-10-1006, MCA; NEW, 1986 MAR p. 1498, Eff. 9/12/86; AMD, 1991 MAR p. 2424, Eff. 12/13/91; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2020 MAR p. 588, Eff. 3/28/20; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

24.138.2303 UNPROFESSIONAL CONDUCT FOR DENTAL HYGIENISTS

(1) For the purposes of implementing the provisions of 37-1-316, MCA, the board further defines "unprofessional conduct" for dental hygienists as follows:

(a) Continuing to practice dental hygiene when the licensee's license has been suspended, revoked, or is not currently renewed.

(b) Administering, dispensing, or prescribing approved topical agents in violation of board rules.

(c) Having been convicted of violating a federal or state statute or rule regulating the possession, distribution, or use of a controlled substance scheduled in Title 50, chapter 32, MCA.

(d) Failure to maintain an office(s) in sanitary conditions consistent with current accepted sterilization and disinfection protocols for treatment rooms or sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board.

(e) Extracting teeth or performing dental treatment upon the written or verbal prescription of someone other than a licensed dentist.

(f) Obtaining a fee or other compensation, either directly or indirectly by the representation that a manifestly incurable disease, injury, or condition of a person can be cured.

(g) Testifying in court on a contingency witness-fee basis.

(h) Failing to supervise and monitor the actions of all dental auxiliaries and dental hygienists in regard to patient care which are in the direct employ of a hygienist.

(i) Violating the regulations concerning the administration of anesthesia.

(j) Failure to respond to correspondence from the board, or to comply with final orders of the board.

(k) Representing or recording as an oral prophylaxis, coronal polishing by itself, without an appropriately licensed dentist or licensed dental hygienist inspecting for and removing any supragingival and subgingival calculus and gingival irritants deemed necessary for removal by an appropriately licensed dentist or licensed dental hygienist.

(l) Commission of an act of sexual abuse, sexual misconduct, or sexual exploitation by the licensee, whether or not related to the licensee's practice of dental hygiene.

(m) Failing to store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(n) Failing to adhere to any bloodborne pathogen regulation as outlined in Occupational Safety and Health Administration (OSHA) regulation contained in 29 CFR 1910.1030, as amended and published in the Federal Register, volume 66, on January 18, 2001 beginning at page 5325, which is hereby incorporated by reference.

(o) Accepting or tendering "rebates" or "split fees," which are commissions paid to others for referral of business.

(p) Failing to seek consultation with those licensees or other health care professionals who have special skills, knowledge, and experience whenever needed to safeguard the welfare of the patient.

(q) Failing to safeguard the confidentiality of patient records, failing to maintain patient records in a manner consistent with the protection of the welfare of the patient, and failure to provide any information or records, upon request of the patient, that will be beneficial for the future treatment of the patient. (History: 37-1-319, 37-4-205, 37-4-408, 75-10-1006, MCA; IMP, 37-1-316, 37-1-319, 37-4-405, 37-4-408, 75-10-1006, MCA; NEW, 2021 MAR p. 473, Eff. 5/1/21.)

## Subchapter 24

## Complaint Procedures

24.138.2401 COMPLAINT PROCEDURE (REPEALED) (History: 37-4-205, 37-29-201, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 2000 MAR p. 1312, Eff. 5/26/00; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2007 MAR p. 43, Eff. 1/12/07.)

24.138.2402 SCREENING PANEL (1) The screening panel shall consist of three dentists, one dental hygienist, one public member, and one denturist. The board president may reappoint or replace screening panel members as necessary at the board president's discretion. (History: 37-1-131, 37-4-205, 37-29-201, MCA; IMP, 37-1-307, 37-4-201, 37-29-105, MCA; NEW, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD; 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2021 MAR p. 473, Eff. 5/1/21.)

Subchapters 25 and 26 reserved

## Subchapter 27

## Professional Assistance Program

24.138.2701 REHABILITATION PROGRAM PURPOSE (1) The board approves a program to provide assistance, rehabilitation, and aftercare monitoring to all licensed healthcare providers under the jurisdiction of the board who are suspected and/or found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance, or by mental or chronic physical illness.

(2) The board encourages and permits the rehabilitation of licensees based upon the extent to which the public health, safety, and welfare can be assured. Early intervention and referral are paramount to promoting public health, safety, and welfare. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2702 reserved

24.138.2703 RESPONSIBILITIES OF BOARD APPROVED REHABILITATION PROGRAM (1) The board approved rehabilitation program (program) as set forth in 37-4-311 and 37-4-312, MCA, shall fulfill terms to be set by contract with the board to include, but not limited to the following:

(a) provide two tracks for assistance of licensee or license applicants under the board's jurisdiction:

- (i) a disciplinary track; and
- (ii) a nondisciplinary track;

(b) provide recommendations to the licensee or license applicant for appropriate evaluation and treatment facilities;

(c) recommend to the board terms and conditions of treatment, rehabilitation, and monitoring of licensees or license applicants known to the board; and

(d) monitor all aftercare of participants under contract to ensure public safety and compliance with agreed treatment recommendations propounded by one or all of the following:

- (i) the board, through stipulations and/or final orders;
- (ii) treatment centers; and
- (iii) the program.

(2) The program shall consult with the board regarding program processes and procedures to ensure that program responsibilities are met consistent with board orders, requests, and contract terms.

(3) The program shall provide information to and consult with the board upon the board's request. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2704 reserved

24.138.2705 REPORTING OF SUSPECTED IMPAIRMENT (1) Individuals, entities, or associations may report information to the board of suspected impairment of a licensee or license applicant as provided in 37-4-312, MCA.

(2) Individuals, entities, or associations may report information of suspected impairment of a licensee or license applicant to the appropriate personnel of the program in lieu of reporting to the board as provided by 37-4-312, MCA.

(3) Reports received by the board of suspected impaired licensees or license applicants may be referred to the program at the board's discretion through the nondisciplinary track without formal disciplinary action against the licensee or license applicant. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2706 reserved

24.138.2707 PROTOCOL FOR SELF-REPORTING TO A BOARD APPROVED REHABILITATION PROGRAM (1) If a licensee or license applicant chooses to self-report to the program and the program has determined that the licensee or license applicant needs assistance or supervision, the licensee or license applicant shall be required to:

(a) enter into an aftercare contract with the program for the specified length of time determined by the program; and

(b) abide by all the requirements set forth by the program.

(2) Self-reporting by a licensee or license applicant may still result in disciplinary action if:

(a) the program determines that the self-reporting licensee or license applicant poses a danger to the licensee or license applicant or to the public;

(b) the licensee or license applicant is in noncompliance with a contract for aftercare monitoring;

(c) a licensee or license applicant has not completed evaluation, treatment, or aftercare monitoring as recommended by the program; or

(d) the screening panel otherwise determines that disciplinary action is warranted.

(3) The program shall notify and disclose to the board the identity of a licensee participating in the program, along with providing to the board all relevant facts and documentation, when any of the following occur:

(a) the participant engages in actionable behavior as described in 37-4-312, MCA;

(b) the participant is noncompliant with the aftercare monitoring contract; or

(c) there are creditable allegations that patient safety or public harm is at risk by the participant's continued practice.

(4) The program shall notify and disclose to the board the identity of a new license applicant who is determined by the program to have significant impairment issues. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rules 24.138.2708 and 24.138.2709 reserved

NEXT PAGE IS 24-12247

24.138.2710 PROTOCOL FOR DISCIPLINARY TRACK (1) All licensees or license applicants under the jurisdiction of the board who participate in the program as defined in 37-4-311, MCA, under the disciplinary track shall be reported to the board by name.

(2) Licensees or license applicants are admitted to the disciplinary track through one or more of the following:

(a) as a condition of licensure;  
(b) as a result of a sanction imposed by a board final order;  
(c) as a result of noncompliance with the licensee or license applicants' aftercare contract with the program; or

(d) as determined by the board and/or program. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2711 reserved

24.138.2712 PROTOCOL FOR NONDISCIPLINARY TRACK (1) A licensee or license applicant under the jurisdiction of the board who participates in the program as defined in 37-4-311 and 37-4-312, MCA, under the nondisciplinary track shall be reported to the board by participant number.

(2) A participant who is noncompliant or refuses a reasonable request by the program shall be reported by name to the board.

(3) If the board determines that a participant does not abide by all terms and conditions of the program, the participant will be referred to the screening panel of the board for appropriate action under the disciplinary track. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2713 reserved

24.138.2714 REPORTING TO THE BOARD (1) The screening panel and the full board shall receive an appropriate written compliance status report from the program at intervals established by contract with the board and program regarding each program participant:

(a) under a monitoring agreement;  
(b) referred to the program; or  
(c) in the process of evaluation or treatment.

(2) The identity of a participant in the nondisciplinary track must be withheld from the board unless the participant does not meet one of the requirements set forth in ARM 24.138.2712.

(3) A participant in the disciplinary track shall be reported to the board as required in ARM 24.138.2710. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rule 24.138.2715 reserved

24.138.2716 DISCHARGE REQUIREMENTS (1) The program shall facilitate participant discharge from the program.

(2) The discharge criteria are determined by the board in conjunction with the program recommendations.

(3) Upon the discharge of a participant from the program, the program shall report to the board the discharge of the participant, and if applicable, provide to the board:

(a) verification of the participant's satisfactory completion of monitoring and program requirements as appropriate for public safety;

(b) verification of the participant's completion of board final order terms and conditions with recommendation of the program for discharge; and/or

(c) notification that the participant is transferring to another jurisdiction.

(History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07.)

Rules 24.138.2717 and 24.138.2718 reserved

24.138.2719 RELAPSE (1) The program shall define relapse and determine when relapse has occurred.

(2) The program may report to the board a participant with a single episode of relapse and/or early detection of relapse, with nominal substance abuse.

(a) Even in cases where the program does not report participants under (2), the program shall reevaluate the participant and document any further treatment recommended by the program.

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

(4) A participant's relapse may necessitate the participant's:

(a) withdrawal from practice;

(b) further evaluation and/or treatment as determined by the program;

(c) monitoring terms being reassessed and/or modified by the program;

(d) compliance with other recommendations as determined by the program;

or

(e) discipline as imposed by a board final order.

(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. (History: 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; NEW, 2007 MAR p. 43, Eff. 1/12/07; AMD, 2011 MAR p. 2629, Eff. 12/9/11.)

Subchapters 28 and 29 reserved

## Subchapter 30

## Rules of Advertising for Dentists

24.138.3001 ADVERTISING FEE INFORMATION (1) Fixed fees may be advertised for any service. It is presumed, however, that unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.

(2) A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception to the public.

(3) Discounted fees may be advertised if the discounted fee is actually lower than the licensee's customary or normal fee charged for the service and the licensee provides the same quality and components of service and material that he or she provides at the normal, nondiscounted fee for that same service.

(4) Related services that may be required in conjunction with the advertised services for which additional fees will be charged must be identified in any advertisement.

(5) Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time. If there is no time period stated in the advertisement of fees, the advertised fee shall be honored for 30 days from the last day of publication or until the next scheduled publication, whichever is later. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435.)

24.138.3002 ADVERTISING CONTENT (1) The following acts or omissions in the context of advertisement by any dentist shall constitute unethical and unprofessional conduct and shall subject the licensee to disciplinary action pursuant to 37-1-136, MCA:

(a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed or used, or that convey the message that one dentist is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.

(b) The misleading use of an unearned or nonhealth degree in any advertisement.

(c) Promotion of a professional service that the dentist knows or should know is beyond the dentist's ability to perform.

(d) Use of advertising techniques that intimidate, exert undue pressure or undue influence over a prospective patient.

(e) Any appeal to an individual's anxiety in an excessive or unfair manner.

(f) Use of personal testimonials attesting to a dentist's competence in service or treatment that is not reasonably verifiable.

(g) Use of statistical data or other information based on past performances or other prediction of future services that creates an unjustified expectation about results that the dentist can achieve.

(h) Communication of personally identifiable facts, data, or information about a patient without first obtaining patient consent.

(i) Any misrepresentation of a material fact.

(j) Knowingly suppressing, omitting, or concealing any material fact or law without which the advertisement would be deceptive or misleading.

(k) Making statements concerning the benefits or other attributes of dental products or services involving significant risks without including an assessment of the safety and efficiencies of the products or services as well as detailing the availability of alternatives, if any, and if needed to avoid deception, an assessment of the benefits or other attributes of those alternatives.

(l) Any communication that creates an unjustified expectation concerning the potential results of any dental treatment.

(m) Failure to comply with the rules governing advertisement of dental fees and services, specialty advertisement and advertising records.

(n) The use of "bait and switch" advertisements. In investigating complaints of "bait and switch" advertising, the board may require the dentist to furnish to the board or its representative data or other evidence pertaining to sales made at the advertised fee as well as other sales.

(o) Misrepresentation of a dentist's credentials, training, experience or ability.

(p) Failure to include the corporation, partnership or individual dentist's name and address and telephone number in any advertisement. Any dental corporation, partnership or association that advertises by use of a trade name or otherwise fails to list all dentists practicing at a particular location shall provide a list of all dentists practicing at that location upon request and conspicuously display in the dentist's office a directory listing all dentists practicing at that location.

(q) Failure to disclose providing compensation or other consideration to representatives of the press, radio, television or other medium in return for any advertisement unless the nature, format or medium of such advertisement makes the fact of compensation or consideration evident.

(r) Use of the name of any dentist formerly practicing at or associated with any advertised location more than 30 days after that dentist has left the practice. This rule shall not apply to a retired or deceased former associate who practiced dentistry in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.

(s) Stating or implying that a certain dentist provides all services when any such services are performed by another dentist.

(t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third-party for the referral of a patient in connection with the performance of professional services. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3003 ADVERTISING RECORDS AND RESPONSIBILITY (1) Each dentist who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision also shall include any licensed professional employees acting as an agent of such firm or entity.

(2) All advertisements are presumed to have been approved by the dentist named therein.

(3) A recording of every advertisement communicated by electronic media and a copy of every advertisement communicated by print media, as well as a copy of any other form of advertisement, indicating the date, place and duration of the advertisement shall be retained by the dentist for a period of two years from the last date of broadcast or publication and shall be made available to the board or its representative upon request.

(4) When placing advertising, the dentist must possess such information which, when produced, would substantiate the truthfulness of any assertion or representation of material fact made in the advertisement. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03.)

24.138.3004 SEVERABILITY (REPEALED) (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, 2003 MAR p. 2435; REP, 2021 MAR p. 473, Eff. 5/1/21.)

## Subchapter 31

## Specialty Practice Provisions

24.138.3101 GENERAL STANDARDS FOR SPECIALTIES (1) The following are included within the standards of the National Commission on Recognition for Dental Specialties and Certifying Boards for determining what dentists have the education experience and other appropriate requirements for announcing specialization and limitation of practice:

(a) The specialty area(s) of dental practice and an appropriate certifying board must be approved by the National Commission on Recognition for Dental Specialties and Certifying Boards.

(b) Dentists who announce as specialists must have successfully completed an educational program accredited by the Commission on Dental Accreditation, two or more years in length, as specified by the Council on Dental Education or be diplomates of a nationally recognized certifying board.

(c) The practice carried on by dentists who announce as specialists shall be limited exclusively to the specialty area(s) of dental practice announced by the dentist. (History: 37-4-205, MCA; IMP, 37-4-205, 37-4-301, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1996 MAR p. 3118, Eff. 12/6/96; AMD, 1997 MAR p. 1265, Eff. 7/22/97; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2019 MAR p. 429, Eff. 4/27/19.)

24.138.3102 SPECIALTY ADVERTISING (1) The board finds that terms stating or implying that a dentist is a specialist in some field of dentistry are terms of art indicating that the dentist has completed an accredited post-doctoral educational program in that field of at least two years. Therefore, a licensed dentist seeking specialty recognition must have successfully completed a post-doctoral program in a specialty area of dentistry consisting of at least two full-time years and which is accredited by the Commission on Dental Accreditation.

(2) The specialty areas of dental practice approved by the National Commission on Recognition for Dental Specialties and Certifying Boards and the designation for ethical specialty announcement limitation of practice are:

- (a) dental public health;
- (b) endodontics;
- (c) oral pathology;
- (d) oral and maxillofacial surgery;
- (e) orthodontic dentofacial orthopedics;
- (f) pedodontics (dentistry for children);
- (g) periodontics;
- (h) prosthodontics;
- (i) oral and maxillofacial radiology;
- (j) oral medicine;
- (k) dental anesthesiology; and
- (l) other board-approved specialties.

(3) A licensee shall not advertise using the terms "specialist," "specializing," or "practice limited to" unless the licensee has met the board standards for specialization as set forth in ARM 24.138.3101 and 24.138.3103 and the branch of dentistry advertised as a specialty branch of dentistry is sanctioned as a specialty branch of dentistry by (2).

(4) A licensee who possesses a verifiable combination of education and experience is not prohibited from including in the licensee's practice one or more branches of dentistry. Any advertisement of such practice shall not make use of the terms "specialty," "specializing," "specialist," or "practice limited to" and must contain the statement "the services are being performed or provided by a general dentist," or words to that effect, and such statement must appear or be expressed in the advertisement as conspicuously as the branch of dentistry advertised.

(5) A Montana licensed dentist listing or advertising the dentist's services under any dental category that is a specialty recognized by the National Commission on Recognition for Dental Specialties and Certifying Boards must clearly disclose within the licensee's individual advertisement that the services are provided by a general dentist. Any general disclosure or disclaimer made by the advertiser or not located within the specific licensee's advertisement does not comply with this requirement. (History: 37-4-205, MCA; IMP, 37-4-205, MCA; NEW, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2008 MAR p. 566, Eff. 3/28/08; AMD, 2019 MAR p. 429, Eff. 4/27/19; AMD, 2020 MAR p. 1631, Eff. 8/29/20.)

24.138.3103 STANDARDS FOR MULTIPLE-SPECIALTY ANNOUNCEMENTS (REPEALED) (History: 37-4-205, MCA; IMP, 37-1-131, 37-4-205, MCA; NEW, 1980 MAR p. 2662, Eff. 9/26/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1991 MAR p. 2415, Eff. 12/13/91; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; REP, 2021 MAR p. 473, Eff. 5/1/21.)

## Subchapter 32

## Anesthesia Rules

24.138.3201 PRACTICE OF ANESTHESIA (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3217, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3202 PERMIT REQUIRED FOR ADMINISTRATION OF ANESTHESIA (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD and TRANS, to 24.138.3219, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3203 MINIMUM QUALIFYING STANDARDS (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3221, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3204 MINIMUM MONITORING STANDARDS (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3223, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3205 FACILITY STANDARDS (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 1130, Eff. 4/29/94; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3225, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3206 ON-SITE INSPECTION OF FACILITIES (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD and TRANS, to 24.138.3227, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3207 REQUIREMENTS FOR CONTINUING EDUCATION IN ANESTHESIA (TRANSFERRED) (History: 37-1-131, 37-1-319, 37-4-205, MCA; IMP, 37-1-319, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2010 MAR p. 411, Eff. 2/12/10; AMD and TRANS, to 24.138.3229, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3208 REPORTING ADVERSE OCCURRENCES (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3231, 2011 MAR p. 2629, Eff. 12/9/11.)

24.138.3209 ANESTHESIA FEE SCHEDULE (TRANSFERRED) (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-134, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 3090, Eff. 12/9/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, to 24.138.3215, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3210 reserved

24.138.3211 DEFINITIONS RELATED TO ANESTHESIA

(1) "Administration is 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). (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-101, 37-4-511, MCA; NEW, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3212 reserved

24.138.3213 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. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-101, 37-4-511, MCA; NEW, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3214 reserved

24.138.3215 ANESTHESIA FEE SCHEDULE

(1) Deep sedation/ general anesthesia application fee	\$200
(2) Deep sedation/general anesthesia permit renewal fee	25
(3) Moderate sedation application fee	200
(4) Moderate sedation permit renewal fee	25
(5) Initial inspection fee	200
(6) Reinspection fee	150

(History: 37-1-131, 37-4-205, MCA; IMP, 37-1-134, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 3090, Eff. 12/9/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3209, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3216 reserved

24.138.3217 PRACTICE OF ANESTHESIA (1) Dentists licensed in Montana shall not administer moderate sedation, deep sedation, or general anesthesia, unless and until they have met all of the requirements set forth in these anesthesia rules.

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

(3) Performing anesthetic procedures after the effective date of this rule without an appropriate permit will be interpreted by the board as unprofessional conduct under ARM 24.138.2301. This is an interpretive section. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3201, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3218 reserved

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

(2) To obtain a permit, the dentist makes application and must meet specific minimum qualifying standards as set forth in the rules.

(3) Anesthesia administration permits must be renewed every year.

(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 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. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2187, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD and TRANS, from 24.138.3202, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3220 reserved

24.138.3221 MINIMUM QUALIFYING STANDARDS (1) With respect to deep sedation/general anesthesia, no dentist shall be permitted to administer 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, 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 Accreditation in the following areas:

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

(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 must present evidence of successful completion of an advanced course in cardiac life support within the three most recent years. Web-based courses must include a hands-on lab or megacode portion of training.

(3) With respect to moderate sedation, no dentist shall administer drugs to achieve the state known as moderate sedation during a dental procedure or a dental-surgical procedure, unless the dentist has received formal training in moderate sedation techniques from an institution, organization, or training course. 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) All requirements for the use of 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 minimal sedation.

(4) With respect to inhalation sedation, no dentist shall use nitrous oxide/oxygen on a patient before completing a course of instruction of a minimum of 14 hours, 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) A dentist who practices dentistry in Montana who can provide satisfactory evidence of competence and skill in administering nitrous oxide/oxygen sedation by virtue of experience and/or comparable alternative training shall be presumed by the Montana Board of Dentistry to have appropriate credentials for the use of nitrous oxide/oxygen sedation.

(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. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3203, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2017 MAR p. 2281, Eff. 12/9/17.)

Rule 24.138.3222 reserved

24.138.3223 MINIMUM MONITORING STANDARDS (1) Minimum standards for monitoring patients for deep sedation/general anesthesia shall include the following:

- (a) preoperative:
  - (i) vital signs - to include blood pressure, heart rate, pulse, and oximetry results. Temperature may be necessary; and
  - (ii) electrocardiac monitoring.
- (b) intraoperative:
  - (i) vital signs - to include blood pressure, heart rate, pulse, and oximetry results to be taken and recorded at least every five minutes;
  - (ii) precordial or pretracheal stethoscope and capnography used to monitor respiratory rate;
  - (iii) continuous electrocardiac monitoring;
  - (iv) an intravenous line;
  - (v) continuous monitoring of skin and mucosal color;
  - (vi) end tidal CO<sub>2</sub> monitoring must be utilized for intubated patients under general anesthesia; and
  - (vii) additional monitoring devices as indicated.
- (c) postoperative:
  - (i) vital signs - to include blood pressure, pulse, 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, respiratory stability, and absence of nausea and vomiting are assured, and the patient is awake and oriented.
- (d) Food and Drug Administration approved medical devices or manual sphygmomanometer stethoscope for monitoring blood pressure shall be used during the sedation procedure.

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

- (a) preoperative:
  - (i) vital signs to include blood pressure, pulse, respiratory rate, and oximetry results; and
  - (ii) blood pressure monitoring for pediatric patients as indicated, unless unable to obtain.
- (b) intraoperative:
  - (i) continuous electrocardiac on American Society of Anesthesiologists (ASA) Class 2 and greater patients;
  - (ii) all vital signs - to include blood pressure, heart rate, pulse, and oximetry results to be monitored and recorded at least every five minutes. Only appropriate blood pressure and oximetry results monitoring for pediatric patients need be recorded, unless unable to obtain;
  - (iii) a precordial or pretracheal stethoscope and capnography used to continually monitor respiration; and
  - (iv) continuous monitoring skin and mucosal color.

(c) postoperative:

(i) vital signs, blood pressure, heart rate, pulse, and 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.

(d) Food and Drug Administration approved medical devices or manual sphygmomanometer stethoscope for monitoring blood pressure shall be used during the sedation procedure.

(3) Minimum standards for monitoring minimal sedation 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.

(b) when the dentist who administers the nitrous oxide/oxygen and/or is not in the operatory, 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 the American Heart Association's Basic Life Support for Healthcare Providers, or its equivalent.

(a) With respect to a 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:

(i) a physician anesthesiologist licensed to practice medicine in Montana;

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

(iii) a 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) When 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 the American Heart Association Basic Life Support for Healthcare Providers, or its equivalent. (History: 37-1-131, 37-4-205, 37-4-408, MCA; IMP, 37-1-131, 37-4-101, 37-4-205, 37-4-408, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3204, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2017 MAR p. 2281, Eff. 12/9/17; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

Rule 24.138.3224 reserved

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) a positive pressure oxygen delivery system;
- (b) stethoscope and sphygmomanometer;
- (c) laryngoscope, endotracheal tubes, a Magill forcep, and alternative airway devices such as a laryngeal mask airways of appropriate size;
- (d) oral pharyngeal and/or nasopharyngeal airways;
- (e) electrocardiac monitor and defibrillator;
- (f) appropriate drugs for emergencies to include drugs to provide advanced cardiac life support;
- (g) a precordial or pretracheal stethoscope and capnograph;
- (h) pulse oximeter;
- (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 moderate sedation facility under these rules must contain a minimum of equipment, supplies, and drugs, including, but not limited to, the following:

- (a) a positive pressure oxygen delivery system;
- (b) precordial or pretracheal stethoscope and capnograph;
- (c) pulse oximeter;
- (d) stethoscope and sphygmomanometer;
- (e) oral pharyngeal and/or nasopharyngeal airways;
- (f) appropriate drugs for emergencies;
- (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 must contain a minimum of equipment and supplies appropriate to meet emergencies. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1987 MAR p. 155, Eff. 2/14/87; AMD, 1989 MAR p. 2179, Eff. 12/22/89; AMD, 1994 MAR p. 1130, Eff. 4/29/94; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3205, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

Rule 24.138.3226 reserved

24.138.3227 ONSITE INSPECTION OF FACILITIES (1) Each facility where moderate sedation or deep sedation/general anesthesia is to be provided shall be inspected initially, and at intervals not to exceed five years, by a qualified inspector appointed by the board. Any dentist whose facility is to be inspected shall be notified at least 30 days prior to the inspection, or sooner if mutually agreed. The name of the inspector shall be provided to the dentist.

(2) The 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 inspector shall evaluate office staff in proficiency in handling emergency procedures and evaluate the accuracy of anesthesia record-keeping.

(3) If the inspector 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 only in qualifying facilities.

(4) If serious life-threatening deficiencies are found by the inspector, the board will immediately limit the practitioner's permit by refusing to permit the administration of moderate sedation or deep sedation/general anesthesia 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 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. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1994 MAR p. 1130, Eff. 4/29/94; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2007 MAR p. 43, Eff. 1/12/07; AMD and TRANS, from 24.138.3206, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2017 MAR p. 223, Eff. 2/18/17.)

Rule 24.138.3228 reserved

24.138.3229 ANESTHESIA CONTINUING EDUCATION (1) Anesthesia permit holders shall affirm their understanding of the recurring duty to comply with anesthesia-specific CE requirements on the annual license renewal. Anesthesia-specific CE is in addition to CE required for the underlying dentist license.

(a) Deep sedation/general anesthesia - 20 hours every three-year reporting period.

(b) Moderate sedation - 12 hours every three-year reporting period.

(2) Acceptable CE must be in one or more of the following fields:

(a) deep sedation/general anesthesia;

(b) moderate sedation;

(c) physical evaluation;

(d) medical emergencies;

(e) monitoring and the use of monitoring equipment;

(f) pharmacology of utilized drugs; and

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

(3) Continuing education may include presentation of lectures and/or participation courses related to subject matter(s) listed in this rule.

(a) Three credits for each 60 minutes of initial presentation will be allowed for lecture and/or participation courses.

(b) One credit for each 60 minutes will be allowed for repeat lectures from material previously presented.

(4) The board may randomly audit up to 50 percent of renewed licensees' CE hours every three-year reporting period. Licensees must provide CE documentation upon request to the board.

(5) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension. Licensees may not apply CE hours used to complete delinquent CE requirements for the next reporting period. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-306, 37-1-319, 37-1-321, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; AMD, 1999 MAR p. 209, Eff. 1/29/99; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD, 2005 MAR p. 1396, Eff. 7/29/05; AMD, 2010 MAR p. 411, Eff. 2/12/10; AMD and TRANS, from 24.138.3207, 2011 MAR p. 2629, Eff. 12/9/11; AMD, 2015 MAR p. 1904, Eff. 10/30/15; AMD, 2019 MAR p. 2366, Eff. 12/28/19.)

Rule 24.138.3230 reserved

24.138.3231 REPORTING ADVERSE OCCURRENCES (1) All dentists engaged in the practice of dentistry in 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, 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 hereinbefore set forth. The report required by this rule shall include, but not be limited to, the following information:

- (a) a description of the dental procedure;
- (b) a description of the physical condition of the patient and American Society of Anesthesiologists (ASA) classification;
- (c) a list of drugs and dosages administered and routes of administration;
- (d) a detailed description of techniques used in the administration of the drugs utilized;
- (e) a description of the adverse occurrences;
- (f) a description in detail of symptoms of any complications, including, but not be limited to, onset of problems and symptoms of the patient;
- (g) a description of the patient's condition upon termination of any procedure undertaken; and
- (h) disposition of patient and subsequent treatment. (History: 37-1-131, 37-4-205, MCA; IMP, 37-1-131, 37-4-101, 37-4-511, MCA; NEW, 1985 MAR p. 1994, Eff. 12/27/85; TRANS, from Commerce, & AMD, 2003 MAR p. 2435, Eff. 10/31/03; AMD and TRANS, from 24.138.3208, 2011 MAR p. 2629, Eff. 12/9/11.)

Rule 24.138.3232 reserved

24.138.3233 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. (History: 37-1-131, 37-4-205, MCA; IMP, 37-4-101, 37-4-511, MCA; NEW, 2011 MAR p. 2629, Eff. 12/9/11.)