

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

In the matter of the amendment of )  
ARM 24.138.301 definitions, )  
24.138.402 fees, 24.138.403 )  
mandatory certification, 24.138.406 )  
dental auxiliary functions, 24.138.419 )  
dental hygienist limited prescriptive )  
authority, 24.138.502 dentist license )  
by examination, 24.138.503 dental )  
hygienists license by examination, )  
24.138.505 dentist license by )  
credentials, 24.138.506 dental )  
hygienist license by credentials, )  
24.138.507 dentist specialist license )  
by credentials, 24.138.508 dental )  
hygiene local anesthetic certification, )  
24.138.509 dental hygiene limited )  
access permit, 24.138.511 denturist )  
license requirements, 24.138.512 )  
denturist internship, 24.138.514 )  
converting inactive to active status, )  
24.138.525 reactivation of expired )  
license, 24.138.2105 reporting )  
procedures, 24.138.2301 dentist and )  
dental hygienist unprofessional )  
conduct, 24.138.2302 denturist )  
unprofessional conduct, 24.138.3223, )  
24.138.3225, and 24.138.3229 )  
anesthesia standards and continuing )  
education; the adoption of New Rule I )  
approved clinical exam criteria for )  
dentists and dental hygienists, New )  
Rule II denturist scope of practice – )  
dentures over implants; and the repeal )  
of 24.138.510 denturist examination )

NOTICE OF AMENDMENT,  
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On September 6, 2019, the Board of Dentistry (board) published MAR Notice No. 24-138-76 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1461 of the 2019 Montana Administrative Register, Issue No. 17.

2. On October 2, 2019, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Many comments were received by the October 4, 2019 deadline.

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

COMMENT 1: Multiple commenters suggested amending the definition of general supervision in ARM 24.138.301 as it applies to ARM 24.138.406 and the allowable functions of dental auxiliaries provided to current patients of record. Commenters also suggested revising ARM 24.138.406 to allow dental auxiliaries to work under the direct supervision of a Montana licensed dentist and specify in the rule the functions that auxiliaries can perform.

RESPONSE 1: The board intends to maintain a broad approach to the definition of general supervision and determined the in-person examination within six months by the supervising dentist was too restrictive. The board is amending ARM 24.138.301 as proposed. Due to multiple comments regarding the amendments to ARM 24.138.406, the board is not amending the rule at this time but will consider suggestions in a future rulemaking project.

COMMENT 2: Multiple commenters supported the amendments to ARM 24.138.419, allowing properly trained dental hygienists to apply sodium diamine fluoride. One commenter also requested the board enforce existing rules concerning dental auxiliaries regarding air polishing and prophylaxis.

RESPONSE 2: The board enforces statute and rules through the complaint process.

COMMENT 3: One commenter requested expanding the denturist clinical internship options in ARM 24.138.511 and 24.138.512 to include any practitioner authorized to provide dentures/removables and dental surgery services under the Dental Practice Act.

RESPONSE 3: Section 37-29-303, MCA, specifies that the one-year internship must be completed under the direct supervision of a licensed denturist. Administrative rules must align with the implemented statute and the suggested change would have to be accomplished through the legislative process.

COMMENT 4: One commenter requested amending ARM 24.138.512 to allow internship experience gained under licensed denturists in other states.

RESPONSE 4: The board notes that that is one of the specific amendments proposed to this rule.

COMMENT 5: One commenter suggested the board allow licensed dentists as an option to provide direct supervision to a denturist applicant during a clinical internship under ARM 24.138.512 to provide a broader internship experience.

RESPONSE 5: Administrative rules must comply with the implemented statute, 37-29-303, MCA, which requires completion of an internship under a licensed denturist.

COMMENT 6: Multiple commenters supported the replacement of ARM 24.138.2302(1)(j) with New Rule II.

RESPONSE 6: The board is not proceeding with the adoption of New Rule II in this notice and is therefore not striking ARM 24.138.2302(1)(j).

COMMENT 7: One commenter stated that denturists do not prosper under the dental board and that denturists offer an alternative and Montana citizens voted to allow and regulate denturists. The commenter questioned sending denture impressions to a lab who never sees the patient.

RESPONSE 7: The board notes that the regulation of denturists is set in statute by the legislature and any change would have to be accomplished through the legislative process. The board is not proceeding with the adoption of New Rule II at this time and will consider the subject in a future rule proposal.

4. The board received numerous comments both opposing and supporting the proposed amendments to ARM 24.138.406. Following review and consideration of all comments, and due to concerns raised by the comments, the board has decided to not amend the rule at this time. The board anticipates conducting subsequent discussions to address the issues raised by the comments.

5. The board received numerous comments both opposing and supporting New Rule II. Following review and consideration of all comments, and due to concerns raised by the comments, the board has decided to not adopt the rule at this time. The board anticipates conducting subsequent discussions to address the issues raised by the comments.

6. The board has amended ARM 24.138.301, 24.138.402, 24.138.403, 24.138.419, 24.138.502, 24.138.503, 24.138.505, 24.138.506, 24.138.507, 24.138.508, 24.138.509, 24.138.511, 24.138.512, 24.138.514, 24.138.525, 24.138.2105, 24.138.2301, 24.138.3223, 24.138.3225, and 24.138.3229 exactly as proposed.

7. The board has adopted New Rule I (24.138.504) exactly as proposed.

8. The board has repealed ARM 24.138.510 exactly as proposed.

9. The board has amended ARM 24.138.2302 with the following changes, stricken matter interlined, new matter underlined:

24.138.2302 UNPROFESSIONAL CONDUCT FOR DENTURISTS

(1) through (1)(i) remain as proposed.

(i) fitting, attempting to fit or advertising to fit a prosthesis on or over a dental implant;

(j) and (k) remain as proposed but are renumbered (k) and (l).

10. The board did not amend ARM 24.138.406.

11. The board did not adopt New Rule II.

BOARD OF DENTISTRY  
AIMEE AMELINE, DDS  
PRESIDENT

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

/s/ GALEN HOLLENBAUGH  
Galen Hollenbaugh, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 17, 2019.