



MONTANA
ADMINISTRATIVE
REGISTER



**BOARD OF DENTISTRY
DEPARTMENT OF LABOR AND INDUSTRY**

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-273.1

Summary

Legislative Implementation of House Bills 246, 321, and 584

Hearing Date and Time

Monday, November 3, 2025, at 1:00 p.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/83453419207>

Meeting ID: 834 5341 9207; Password: 7606599703

Dial by Telephone: +1 646 558 8656

Meeting ID: 834 5341 9207; Password: 7606599703

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, November 7, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, October 27, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

The board is amending its rules to implement three legislative bills. House Bill (HB) 246, signed by the Governor on April 3, 2025, requires the board to adopt rules regarding substantially equivalent jurisdictions. HB 321, signed by the Governor on April 3, 2025, includes “school-based oral health programs” in the list of allowable places for dental hygienists with limited access permits to provide care, and HB 584, signed by the Governor on May 13, 2025, amends the board’s inspection authority for anesthesia permit holders.

The board is proposing these rules to implement these bills including repealing language that now exists in statute, modernizing language, and updating implementation and authorization citations throughout.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.138.301 DEFINITIONS

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

- (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) "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;
 - (c) "parenteral administration" means the agent is absorbed intramuscularly, intravenously, intranasally, submucosally, subcutaneously, or intraosseously;
 - (d) "transdermal administration" means the agent is absorbed through a patch or by iontophoresis through the skin; and
 - (e) "transmucosal administration" means the agent is absorbed across the mucosa (intranasal, rectal, or sublingual).
- (2) "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).
 - (3) "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.
 - (4) "Direct supervision" means the provisions of allowable functions by dental hygienists, auxiliaries, or interns with the intent and knowledge of the supervising licensee and while the supervising licensee is on the premises.
 - (5) "General supervision" means the provision of allowable functions by dental hygienists or auxiliaries provided to a current patient of record, with the intent and knowledge of the licensee licensed and residing in the state of Montana. The supervising licensee need not be on the premises.
 - (6) "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.
 - (7) "Maximum recommended dose" (MRD) means the maximum Food and Drug Administration (FDA)-recommended dose of a drug, as printed in the FDA-approved labeling for unmonitored dose.

- (8) "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~~ has the same meaning as in 37-4-101, MCA. 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.
- (9) ~~"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.~~
- ~~(10)~~(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.
- ~~(11)~~(10) "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.
- ~~(12)~~(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).

Authorizing statute(s): 37-1-131, 37-4-205, 37-4-340, 37-4-511, 37-29-201, MCA

Implementing statute(s): 37-1-131, 37-4-101, 37-4-205, 37-4-340, 37-4-408, 37-29-201, MCA

Reasonable Necessity Statement

The board is amending this rule to repeal definitions now in statute after the passage of HB 584, which transferred the definitions of “minimal sedation” and “moderate sedation” into statute. The board elected to keep the last sentence in the definition of “minimal sedation” as guidance for practitioners as the statutory definition does not include that sentence.

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 or school-based oral health program with 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~~ is responsible for maintaining 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.~~

Authorizing statute(s): 37-1-131, 37-4-205, 37-4-401, 37-4-405, MCA

Implementing statute(s): 37-1-131, 37-4-401, 37-4-405, MCA

Reasonable Necessity Statement

The board is amending this rule due to the passage of HB 321, which creates a new category of “school-based oral health programs” in which limited access permit holders may practice.

Following a prior active supervision process and the board’s subsequent 2024 rulemaking to set standards for schools included in public health facilities, the Economic Affairs Interim Committee (EAIC) formally objected the proposed rule. During the 2025 Legislature, dental stakeholders, practitioners, and legislators worked together to identify and address the concerns raised by the EAIC. The result, HB 321, created a distinct category of “school-based oral health programs” where limited access permit holders may provide services.

The board's proposed changes to this rule add "school-based oral health program" to existing language to reflect the Legislature's intent that school-based programs are distinct from other public health facilities, but that LAP hygienists may provide services for those programs as well.

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 and school-based oral health programs 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) ~~In addition to the authorized public health facilities already defined under~~ Pursuant to 37-4-405, MCA, the board identifies the following additional public health facilities and programs where LAP services may be provided:
 - (a) ~~*schools that receive federal funds under Title I of the Elementary and Secondary Education Act;~~

- ~~(b) *schools in which at least 65% of the student population is eligible for free or reduced price lunch under federal guidelines;~~
- ~~(e)(a) hospice facilities;~~
- ~~(d)(b) family violence shelters; and~~
- ~~(e)(c) homeless shelters.~~
- (3) Pursuant to 37-4-405, MCA, the board identifies the following school-based oral health programs where LAP services may be provided:
 - (a) schools that receive federal funds under Title I of the Elementary and Secondary Education Act; and
 - (b) schools in which at least 65% of the student population is eligible for free or reduced price lunch under federal guidelines.

~~[*Editor's Note: Subsections (2)(a) and (b) have been objected to by the Economic Affairs Interim Committee. Per 2-4-306(4)(c), MCA, these subsections are not effective until the day after final adjournment of the 2025 legislative session. Until that time, portions of the previous version of this rule are effective. For further information on this matter, contact the Department of Labor and Industry.]~~

Authorizing statute(s): 37-4-205, 37-4-401, 37-4-405, MCA

Implementing statute(s): 37-4-401, 37-4-405, MCA

Reasonable Necessity Statement

The board is amending this rule due to the passage of HB 321, which creates a new category of “school-based oral health programs” in which limited access permit holders may practice.

Following a prior active supervision process and the board’s subsequent 2024 rulemaking to set standards for schools included in public health facilities, the Economic Affairs Interim Committee (EAIC) formally objected to the proposed rule. During the 2025 Legislature, dental stakeholders, practitioners, and legislators worked together to identify and address the concerns raised by the EAIC. The result, HB 321, created a distinct category of “school-based oral health programs” where limited access permit holders may provide services, and charged the board with identifying schools in rule.

Prior to 2024, this rule had previously listed individual schools as facilities LAP hygienists could practice but had not established criteria as to how it selected facilities for inclusion on the list. In 2024, rather than list individual schools the board established criteria. Due to the EAIC's formal objection the rule did not take effect until the day after the 2025 Legislature adjourned. The board is not proposing to amend the criteria it reviewed and approved in 2024 for what are

now called school-based oral health programs where LAP hygienists may practice under HB 321 but rather to reflect the legislature's intent that school-based oral health programs are distinct from public health facilities.

24.138.3221 MINIMUM QUALIFYING STANDARDS

- ~~(1)~~ A Montana licensed dentist must possess a permit to administer moderate sedation or deep sedation/general anesthesia.
- ~~(2)~~(1) All requirements for the use of moderate sedation or deep sedation/general anesthesia apply, 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.
- ~~(3)~~(2) A deep sedation/general anesthesia permit is required to 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.
- ~~(4)~~(3) All applicants for deep sedation/general anesthesia permits must have:
 - (a) completed a residency accredited by the Commission on Dental Accreditation in one of 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; and
 - (b) completed an advanced course in cardiac life support within two years of the date of permit application. Web-based courses must include a hands-on lab or megacode portion of training.
- ~~(5)~~(4) All applicants for moderate sedation permits must have:
 - (a) 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; ~~and~~
 - (b) a minimum of 60 hours of instruction plus management of at least 20 dental patients, by the intravenous route-; and

- (c) completed an advanced course in cardiac life support within two years of the date of permit application. Web-based courses must include a hands-on lab or megacode portion of training.

~~(6)~~(5) Applicants seeking to use inhalation sedation must:

- (a) complete 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; or
- (b) demonstrate competence and skill in administering nitrous oxide/oxygen sedation by virtue of experience and/or comparable alternative training.

~~(7)~~(6) Applicants seeking to administer enteral minimal and/or combination inhalation sedation 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.

~~(8)~~(7) Applicants who meet all requirements for a moderate sedation or deep sedation/general permit with the exception of having passed an initial inspection ~~may be issued a temporary permit to administer moderate sedation or deep sedation/general prior to the initial inspection~~ will be issued a temporary permit per [HB 584, section 1 (2025)].

Authorizing statute(s): HB 584 (2025), 37-1-131, 37-4-205, MCA

Implementing statute(s): HB 584 (2025), 37-1-131, 37-4-101, 37-4-511, MCA

Reasonable Necessity Statement

The board is amending this rule after passage of HB 584, which codified the board's inspection authority and requirements for holding anesthesia permits. The amendment removes language now in statute and modernizes language to mirror the statutory authority in HB 584 to issue temporary permits. The board is also updating authorization and implementation citations to include HB 584.

24.138.3227 ONSITE INSPECTION OF PERMIT HOLDERS

- (1) Each ~~moderate sedation or deep sedation/general anesthesia~~ permit holder shall be inspected initially, and at intervals not to exceed five years, by a qualified inspector ~~appointed by the board per [HB 584 Section 1 (2025)]~~. ~~Any permit holder 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) demonstration of:
 - (i) recognition and management of complications likely to occur, considering the techniques being used;
 - (ii) knowledge of respective roles in normal operating procedures and in various emergency situations; and
 - (iii) proficiency in handling emergency situations;
 - (b) the presence of drugs and equipment appropriate for the level of sedation or anesthesia to be provided; and
 - (c) evaluation of the accuracy of anesthesia record-keeping.
- (3) If the inspector identifies violations, the permit holder may be subject to disciplinary action by the board.
- (4) A licensee who provides anesthesia at multiple facilities must be inspected at one facility only. The licensee must attest all facilities are compliant for the equipment requirements.

Authorizing statute(s): HB 584 (2025), 37-1-131, 37-4-205, MCA

Implementing statute(s): HB 584 (2025), 37-1-131, 37-4-101, 37-4-511, MCA

Reasonable Necessity Statement

The board is amending this rule after passage of HB 584, which codifies the board's inspection authority and requirements for holding anesthesia permits. The amendments remove language now in statute and modernize language to mirror statutory terms and reflect the board's inspection process.

The board is also updating authorization and implementation citations to include HB 584.

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 (24.138.520) SUBSTANTIAL EQUIVALENCY

- (1) The board adopts and incorporates by reference the 2025 substantial equivalency list for the Board of Dentistry publication. The publication is available on the board's website.
- (2) The board intends to review the publication annually. However, failure to review or adopt a new list does not change the effectiveness of the adoption in this rule.
- (3) License applications from individuals licensed in substantially equivalent states are routine applications as to the education, examination, and experience requirements for licensure. Applications may be nonroutine on other bases.

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 37-1-304, MCA

Reasonable Necessity Statement

The 2025 Montana Legislature passed House Bill 246 which was signed by the Governor April 3, 2025, and will become effective October 1, 2025. The bill standardizes substantial equivalency determinations in professional licensing and eliminates duplicative statutory sections regarding equivalency and reciprocity.

While historically available to applicants licensed in other states or jurisdictions, licensure by substantial equivalency has never been consistent among the professional licensing boards and programs. House Bill 246 creates a standard definition for determining substantial equivalency to be uniformly utilized by all the boards and programs when processing endorsement applications. This will create overall efficiencies in processing endorsement applications and reduce licensing wait times for applicants and employers.

To implement the legislation and further the endorsement licensing process, the board is proposing to adopt NEW RULE 1. The board has compared current licensure standards of the fifty United States for board licensees and determined those that are substantially equivalent per the definition in 37-1-302, MCA. This new rule will adopt and incorporate by reference the board's initial approved list of states having substantially equivalent licensing standards. The

list will be published on the board website. The board will analyze other states' licensing standards annually, and update the published list as needed.

Small Business Impact

The board identified dental offices and dentistry offices as the class of small businesses most likely to be affected by the proposed rule. The board identified no significant and direct impacts, but concluded possible impacts may include more streamlined licensing for offices wishing to hire from out of state, or applicants would have more information available about the licensing requirements if researching whether they would be coming from a substantially equivalent jurisdiction.

The board is not changing any regulation requirements and is not adopting any new fees. There are no new fiscal impacts to small businesses.

Bill Sponsor Notification

The primary bill sponsors were contacted on July 14, 2025, by electronic mail.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Jennifer Stallkamp

Approval

Sarah Swanson, Commissioner

Approval

Jill Frazier, D.D.S., Chair, Board of Dentistry