

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
ARM 24.138.206 dental hygienist)	ADOPTION
committee, 24.138.301 definitions,)	
24.138.406 functions for dental)	
auxiliaries, 24.138.502 initial licensure)	
of dentists by examination, 24.138.503)	
initial licensure of dental hygienists by)	
examination, 24.138.2302)	
unprofessional conduct for denturists,)	
and the adoption of New Rule I)	
denturist scope of practice – dentures)	
over implants)	

TO: All Concerned Persons

1. On January 17, 2020, the Board of Dentistry (board) published MAR Notice No. 24-138-77 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 1 of the 2020 Montana Administrative Register, Issue No. 1.

2. On February 7, 2020, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the February 14, 2020, deadline.

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

COMMENT 1: One commenter asserted that dental assistants/auxiliaries, under ARM 24.138.406, should be allowed to apply silver diamine fluoride.

RESPONSE 1: The board has discussed the application of silver diamine fluoride extensively in prior rule packages and board meetings. Auxiliaries may place silver diamine fluoride under direct supervision and the requested change is outside the scope of this rulemaking project.

COMMENT 2: Two commenters questioned the ability of dental assistants under ARM 24.138.406 to perform other functions including placing rubber dams and coronal polishing. The commenters believed these functions to be within their expertise.

RESPONSE 2: Placement of rubber dams and coronal polishing may still be done under direct supervision. The board concluded that it would not normally be necessary to have a dentist delegate placing rubber dams or coronal polishing to an

assistant/auxiliary without being present on site. The board is declining to make further changes to the rule regarding these dental assistant functions.

COMMENT 3: One commenter stated that the board lacks the statutory authority to limit assistants from providing impressions under ARM 24.138.406.

RESPONSE 3: Pursuant to 37-4-408, MCA, and the delegation under 37-4-205, MCA, the board maintains wide authority to identify those functions which dental auxiliaries/assistants may undertake as those specific activities are not identified by statute.

COMMENT 4: Numerous commenters supported the rule changes in ARM 24.138.406 except for (7)(g). The commenters noted that it is standard practice within orthodontic and general dentistry practices for dental assistants, operating under direct supervision, to take intraoral scans or impressions. Commenters suggested the board amend the rule to remove orthodontic appliances and clarify the provisions by stating that delivery of orthodontic appliances meant to move teeth upon implementation should/can be done by an assistant/auxiliary under direct supervision.

RESPONSE 4: Following review and consideration of all comments, and due to concerns raised by the comments, the board decided not to proceed with the proposed new language of ARM 24.138.406(7)(g) at this time. The board anticipates conducting further discussions to address the issues raised by the comments. Additionally, given the lack of clarity between defining study and working casts, the board is not proceeding with the proposed striking of "or working" from (3)(c). In discussions, the board could not agree on the meaning of "study cast" versus "working cast" and concluded that assistant/auxiliary's practice should not be limited at this time solely to study casts under a dentist's direct supervision. The board is amending the rest of ARM 24.138.406 exactly as proposed.

COMMENT 5: Several commenters supported NEW RULE I as proposed.

RESPONSE 5: The board appreciates all comments received during the rulemaking process and believes the new rule protects public safety while allowing all parties to continue serving the public.

COMMENT 6: Multiple commenters supported NEW RULE I and stated their understanding that NEW RULE I is not to prohibit denturists from fitting partial dentures but is instead directed at fixed dentures. The commenters further believed that denturists can generally refer to dentists for evaluation of the viability of a denture candidate.

RESPONSE 6: As the board discussed in the December 6, 2019, and March 6, 2020, meetings, NEW RULE I is intended to prohibit denturists from fitting fixed dentures and similar prosthodontic devices over implants, not implant-retained partial dentures which are removable by the patient and soft-tissue supported. Also,

the new rule is not intended to prohibit denturists from referring patients to a dentist for a consultation about whether implants would be appropriate for the patient. The board did not intend to prohibit a denturist from simply telling a potential patient that they may consult with a dentist regarding whether implants are an option. The board determined that, with the requirement of a written referral from a dentist and other protections in NEW RULE I, the public safety will be preserved while allowing denturists to practice their trade.

COMMENT 7: One commenter strongly opposed NEW RULE I and stated that the board should not limit the practice of dental assistants/auxiliaries while simultaneously allowing denturists to work with implant patients in any capacity.

RESPONSE 7: The board is responsible under Montana law for the licensing, certification, registration, and conduct of licensees and for the protection of the public welfare. The board believes that the proposed changes regarding dental auxiliary and denturist practices appropriately protect public health and safety, while allowing those licensees to practice their respective trades.

4. The board has amended ARM 24.138.206, 24.138.301, 24.138.502, 24.138.503, and 24.138.2302 exactly as proposed.

5. The board has adopted New Rule I (24.138.906) exactly as proposed.

6. The board has amended ARM 24.138.406 with the following changes, stricken matter interlined, new matter underlined:

24.138.406 FUNCTIONS FOR DENTAL AUXILIARIES (1) through (3)(b) remain as proposed.

(c) taking impressions for study or working casts;

(d) through (7)(f) remain as proposed.

(g) taking final impressions of the involved arch for crowns, bridges, implant prosthesis, partial dentures, or complete dentures, ~~orthodontic appliances, sleep apnea appliances, or bruxism appliances;~~

(h) through (13) remain as proposed.

BOARD OF DENTISTRY
AIMEE AMELINE, DDS
PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ BRENDA NORDLUND

Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 17, 2020.