

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

In the matter of the amendment of )  
ARM 24.138.402 and 24.138.504 ) NOTICE OF PUBLIC HEARING ON  
pertaining to fee schedules and ) PROPOSED AMENDMENT  
clinical exam criteria )

TO: All Concerned Persons

1. On May 20, 2022, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/82073881184>  
Meeting ID: 820 7388 1184, Passcode: 734102  
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656  
Meeting ID: 820 7388 1184, Passcode: 734102

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Dentistry no later than 5:00 p.m., on May 13, 2022, to advise us of the nature of the accommodation that you need. Please contact Kevin Bragg, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 711; facsimile (406) 841-2305; or [dlibsdden@mt.gov](mailto:dlibsdden@mt.gov) (board's e-mail).

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

- 24.138.402 FEE SCHEDULE (1) remains the same.
- (2) Credentialing fee for dentists 500 375
- (3) through (5) remain the same.
- (6) Active renewal fee for dentists 306 230
- (7) Active renewal fee for dental hygienists 140 100
- (8) Active renewal fee for denturists 200 150
- (9) Inactive renewal fee for dentists 153 115
- (10) Inactive renewal fee for dental hygienists 70 50
- (11) Inactive renewal fee for denturists 400 75
- (12) through (16) remain the same.

AUTH: 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

REASON: As part of the administrative services the department provides to boards, fiscal staff informed the board that its cash balance is nearing two times its appropriation, as prohibited by 17-2-302, MCA. The board requested the department conduct a fee structure analysis and provide fee reduction proposals to equitably apportion the fees needed to pay costs of board services. The board determined it is reasonably necessary to amend this rule and reduce fees to gradually reduce its cash balance and meet statutory requirements while ensuring adequate revenue to support board activities through the next biennium.

For the previous renewal cycle beginning January 1, 2022, all renewal fees were abated by 50%. Moving forward, the board is reducing renewal fees between 25% to 30%, starting in 2023. Additionally, the board is reducing the dentist credentialing application fee by 25% to align the fee more closely with work involved to process current credentialing applications. The board estimates the decrease in renewal fees will affect approximately 1,940 licensees:

DENTISTS: 883 Active, 20 Inactive

DENTAL HYGIENISTS: 994 Active, 20 Inactive

DENTURISTS: 23 Active

These changes will reduce annual revenue by approximately \$58,157 by June 30, 2023. Beginning in fiscal year 2023, the reduced renewal fees will decrease the board's cash balance by \$262,201 over three years, leaving the board with \$411,303 in ending cash for fiscal year 2026. When weighed against expected expenses, this reduction will place the board in a more stable position to consistently maintain one year's worth of cash on hand. The department will continue to monitor the board's cash reserves in a fiscally prudent manner while maintaining the current level of operations.

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 or, beginning March 12, 2020, a simulated patient-based operative exam, to include one direct posterior class II composite and any one of the following:

(i) through (iii) remain the same.

(b) patient-based or, beginning March 12, 2020, a simulated patient-based periodontal exam;

(c) through (e) remain the same.

~~(2) Dental students who graduate during the state of emergency declared in the Governor of Montana's Executive Order 2-2020 or in the years 2021 and 2022 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, 2022.~~

~~(3) (2) Starting January 1, 2020, for the purposes of licensure, a dental hygienist applicant shall verify successful passage of a board-approved patient-based or, beginning March 12, 2020, a simulated patient-based clinical practical exam to include the following:~~

~~(a) remains the same.~~

~~(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 years 2021 and 2022, 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, 2022.~~

~~(4) through (6) remain the same but are renumbered (3) through (5).~~

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

IMP: 37-1-131, 37-4-301, 37-4-402, MCA

REASON: At the beginning of the COVID-19 pandemic, the board created an exception to its rules which allowed newly graduated candidates to utilize manikin, or simulated patient-based clinical testing. Currently, only 3 of the 50 states explicitly require a patient-based examination, while 18 states, including Montana, have allowed for manikin examinations during the COVID-19 pandemic. Those 18 states are now evaluating their requirements to determine whether a return to patient-based testing is appropriate. Additionally, the continued progression within the dental testing industry is away from patient-based testing and more testing providers are administering fewer patient-based examinations.

While recognizing the challenges of patient-based testing, the board believes that testing of psychomotor skills is necessary for public safety. Regardless, manikin, or simulated patient-based testing, has, over the last two years proven effective in qualifying practitioners. As a result, the board determined it is reasonably necessary to amend this rule to allow for the continued use of manikin or simulated patient-based testing since the effective date of the Governor's Executive Order 2-2020.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdden@mt.gov](mailto:dlibsdden@mt.gov), and must be received no later than 5:00 p.m., May 27, 2022.

5. An electronic copy of this notice of public hearing is available at <https://boards.bsd.dli.mt.gov/dentistry/> (department and board's website). Although the department strives to keep its websites accessible at all times, concerned persons should be aware that websites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a website do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons wishing to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies the intent to receive notices of all board administrative rulemaking proceedings or a particular subject matter. The request must indicate whether e-mail or standard mail is preferred and may be sent or delivered to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to (406) 841-2305; e-mailed to [dlibsdden@mt.gov](mailto:dlibsdden@mt.gov); or by completing a request form at any rules hearing held by the board.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Pursuant to 2-4-111, MCA, the board has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

9. Department staff has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY  
DIANNE KLEMAN, RDH, PRESIDENT

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

/s/ LAURIE ESAU  
Laurie Esau, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 19, 2022.