

Status of Admin. R. Mont. 24.138.509

On December 22, 2023, the Board of Dentistry proposed amendments to Admin. R. Mont. 24.138.509 pertaining to Dental Hygiene Limited Access Permit Practice. The Economic Affairs Interim Committee (EAIC) informally objected to the proposal pursuant to Mont. Code Ann. § 2-4-305(9). On May 10, 2024, EAIC issued a formal objection pursuant to Mont. Code Ann. § 2-4-406. The objection was solely as to the proposal at subsections (2)(a) and (b). The Committee did not object to the rule in place prior to the amendment (2008 Rule). The Board of Dentistry adopted the proposed rule on June 21, 2024.

The 2008 Rule and the Proposed Rule are set forth below. In short, subsection (5) of the 2008 rule is amended to be subsection (2) of the Proposed Rule. Because of the objection, the objected-to subsections of the rule may not take effect until the day following the next regular session of the legislature. Mont. Code Ann. § 2-4-306(4)(c).

2008 RULE	PROPOSED RULE
<p style="text-align: center;"><u>24.138.509 DENTAL</u></p> <p><u>HYGIENE LIMITED ACCESS PERMIT</u> (1) The board shall issue a limited access permit (LAP) to a Montana licensed dental hygienist who:</p> <ul style="list-style-type: none"> (a) possesses an active, unrestricted Montana dental hygiene license; (b) certifies that the dental hygienist has actively practiced either: <ul style="list-style-type: none"> (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 	<p style="text-align: center;"><u>24.138.509 DENTAL HYGIENE</u></p> <p><u>LIMITED ACCESS PERMIT</u> (1) The board shall issue a limited access permit (LAP) to a Montana licensed dental hygienist who:</p> <ul style="list-style-type: none"> (a) possesses an active, unrestricted Montana dental hygiene license; (b) certifies that the dental hygienist has actively practiced either: <ul style="list-style-type: none"> (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.

2008 RULE	PROPOSED RULE
<p>(f) submits a completed application and pays all appropriate fees.</p> <p>(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.</p> <p>(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.</p> <p>(4) LAPs must be renewed annually.</p> <p>(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:</p> <p>(a) Dodson School;</p> <p>(b) Great Falls Rescue Mission;</p> <p>(c) Harlem Elementary School;</p> <p>(d) Harlem Junior/Senior High School; and</p> <p>(e) Paris Gibson Education Center.</p>	<p>(2) In addition to the authorized public health facilities already defined under 37-4-405, MCA, the board identifies the following additional public health facilities and programs where LAP services may be provided:</p> <p><i>(a) schools that receive federal funds under Title I of the Elementary and Secondary Education Act;</i></p> <p><i>(b) schools in which at least 65% of the student population is eligible for free or reduced price lunch under federal guidelines;</i></p> <p>(c) hospice facilities;</p> <p>(d) family violence shelters; and</p> <p>(e) homeless shelters.</p> <p>[Bold italics identify the objected-to portion of the rule.]</p>

Because Proposed Rule (2)(c) through (e) were not objected to, those provisions, and the remainder of the Proposed Rule, became effective on June 22, 2024. Those subsections include the Great Falls Rescue Mission, which was included in the 2008 Rule as subsection (5)(b).

To alleviate any ambiguity for users of these rules, it is necessary to clarify the effective portions of the 2008 Rule and the Proposed rule. Dodson School, Harlem Elementary School, Harlem Junior/Senior High School, and the Paris Gibson Education Center (2008 Rule subsections (5)(a), (c) through (e)). Because EAIC did not object to the 2008 Rule, the Department interprets the effect of the objection, and the delayed effective date, as continuing to permit LAP practice within these facilities until the amendments take effect.