

HOUSE BILL NO. 584

INTRODUCED BY E. BUTTREY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO DENTAL ANESTHESIA INSPECTIONS; AUTHORIZING THE BOARD OF DENTISTRY TO ESTABLISH STANDARDS FOR PERMITS AND INSPECTIONS RELATED TO THE ADMINISTRATION OF ANESTHESIA BY A DENTIST; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; ALLOWING FOR THE ESTABLISHMENT OF FEES; ALLOWING A TEMPORARY PERMIT; REVISING LAWS RELATING TO PERSONS NOT LICENSED BY THE BOARD; AND AMENDING SECTION 37-4-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Permit required to administer anesthesia -- board to set minimum qualifications -- inspection -- fees -- temporary permit.** (1) A dentist may administer deep sedation, general anesthesia, or moderate sedation on application of a permit and inspection by the board.

(2) (a) The board may adopt rules prescribing reasonable standards for the administration and monitoring of anesthesia and sedation, including minimum education, continuing education, and experience qualifications for deep sedation, general anesthesia, moderate sedation, and minimal sedation.

(b) The board may adopt rules prescribing standards for a facility of a licensee holding an anesthesia permit. The rules must include a minimum of equipment, supplies, and drugs necessary for a permit in deep sedation, general anesthesia, or moderate sedation and may include a minimum of equipment and supplies for a facility in which nitrous oxide or oxygen is administered alone or in conjunction with a single oral sedative agent.

(3) (a) An initial inspection must be performed at each facility where deep sedation, general anesthesia, or moderate sedation is provided, with a reinspection of the facility at intervals not to exceed 5 years.

(b) The initial inspection must be performed by an inspector appointed by the board. The applicant must be notified at least 30 days prior to the inspection, and the name of the inspector must be provided.

(4) The board may charge fees, including an application fee, permit renewal fee, initial inspection fee, and reinspection fee, to be set at the discretion of the board. Fees must be commensurate with costs.

(5) The board may grant a temporary permit, on receipt of application and payment of the initial inspection fee, authorizing a licensed dentist to administer deep sedation, general anesthesia, or moderate sedation for a period not to exceed 120 days or until an inspection is complete. The temporary permit may be extended on approval by the board.

**Section 2.** Section 37-4-101, MCA, is amended to read:

**"37-4-101. Definitions -- practice of dentistry.** (1) Unless the context requires otherwise, in this chapter, the following definitions apply:

(a) "Board" means the board of dentistry provided for in 2-15-1732.

(b) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(c) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(d) "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(e) "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.

(f) "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 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.

(2) Except for the provisions of 37-4-104 and subject to subsection (3) of this section, a person is practicing dentistry under this chapter if the person:

(a) performs, attempts, advertises to perform, causes to be performed by the patient or any other person, or instructs in the performance of dental operations, oral surgery, or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid or to be paid, directly or indirectly, to the person, any other person, or any agency;

(b) is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed, unless the person is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist, as provided in 37-4-104;

(c) directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(d) places the appliance or structure in the human mouth or attempts to adjust it;

(e) advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(f) diagnoses, professes to diagnose, prescribes for, professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(g) extracts or attempts to extract human teeth or corrects, attempts, or professes to correct malpositions of teeth or of the jaw;

(h) gives or professes to give interpretations or readings of dental roentgenograms;

(i) administers an anesthetic of any nature, subject to the limitations provided in 37-4-511, in connection with a dental operation;

(j) uses the words "dentist", "dental surgeon", or "oral surgeon", the letters "D.D.S." or "D.M.D.", or

any other words, letters, title, or descriptive matter that in any way represents the person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(k) states, advertises, or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that the person can perform or will attempt to perform dental operations or render a diagnosis in connection with dental operations; or

(l) engages in any of the practices included in the curricula of recognized dental colleges.

(3) Nothing in this chapter precludes a person or entity not licensed by the board from the following:

(a) ownership or leasehold of any assets used in the performance of dental operations, oral surgery, or dental services, including real property, furnishings, equipment, instruments, materials, supplies, and inventory, excluding dental records of patients;

(b) employing or contracting for services of personnel other than licensed dentists, licensed dental hygienists, licensed expanded function dental auxiliaries, certified dental anesthesia assistants, and registered dental assistants;

(c) providing business support and management services to a person or entity performing dental operations, oral surgery, or dental services, including as a sole provider of such services; and

(d) receiving fees for the services in subsections (3)(a) through (3)(c), calculated as agreed to by the dental practice owner or owners."

**NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 37, chapter 4, part 3, and the provisions of Title 37, chapter 4, part 3, apply to [section 1].

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