PROPOSED REGULATION OF THE
BOARD OF DENTAL EXAMINERS OF NEVADA

LCB FILE NO. R182-26I

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NAC 631.210 Dental hygienists: Authorization to perform certain services; referral of patient to authorizing dentist for certain purposes. [NRS 631.030; 631.215; 631.311; 631.313]

1. A dentist who is licensed ***and practices*** in this State may authorize a dental hygienist in his or her employ, ***without the supervision of the dentist,*** to perform the following acts ***at a dental office or practice*** before a patient is examined by the dentist:

(a) Expose radiographs.

(b) Conduct an assessment of the oral health of the patient through medical and dental histories, radiographs, indices, risk assessments and intraoral and extraoral procedures that analyze and identify the oral health needs and problems of the patient.

(c) After conducting an assessment pursuant to paragraph (b), develop a dental hygiene care plan to address the oral health needs and problems of the patient.

(d) Take impressions ***or digital scans*** for the preparation of diagnostic models ***to be given to a dentist for diagnostic purposes.***

➥ The dental hygienist must obtain authorization from the licensed dentist of the patient on whom the services authorized pursuant to this subsection are to be performed.

2. This subsection does not pertain to dental hygienists who are specially endorsed to provide public health dental hygiene under NRS 631.287, except that the scope of practice for a specially endorsed dental hygienist cannot exceed the tasks allowed by dentist authorization under this subsection.

3. A dentist who is licensed ***and practices*** in this State may***, at their discretion,*** authorize a dental hygienist in his or her employ to ***perform at a dental office or practice upon any patient personally seen by the dentist within the previous 18 months, either before or after an examination by the dentist, the following duties, services, and/or tasks that are within the scope of their training and experience and within the definition of dental hygiene at NRS 631.030, without the supervision of a dentist, including:***

(a) Remove stains, deposits and accretions, including dental calculus.

(b) Smooth the natural and restored surface of a tooth by using the procedures and instruments commonly used in oral prophylaxis, except that an abrasive stone, disc or bur may be used only to polish a restoration. As used in this paragraph, "oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes the removal of calculus, soft deposits, plaques and stains and the smoothing of unattached tooth surfaces in order to create an environment in which hard and soft tissues can be maintained in good health by the patient.

(c) Provide dental hygiene care that includes:

(1) Assessment of the oral health of patients through medical and dental histories, radiographs, indices, risk assessments and intraoral and extraoral procedures that analyze and identify the oral health needs and problems of patients.

(2) Implementation of a dental hygiene care plan to address the oral health needs and problems of patients described in subparagraph (1).

(3) Evaluation of oral and periodontal health after the implementation of the dental hygiene care plan described in subparagraph (2) in order to identify the subsequent treatment, continued care and referral needs of the patient.

(d) Take the following types of impressions:

(1) Those used for the preparation of diagnostic models;

(2) Those used for the fabrication of temporary crowns or bridges; and

(3) Those used for the fabrication of temporary removable appliances, provided no missing teeth are replaced by those appliances.

(e) Perform subgingival curettage.

(f) Remove sutures.

(g) Place and remove a periodontal pack.

(h) Remove excess cement from cemented restorations and orthodontic appliances. A dental hygienist may not use a rotary cutting instrument to remove excess cement from restorations or orthodontic appliances.

(i) Train and instruct persons in the techniques of oral hygiene and preventive procedures.

(j) Recement and repair temporary crowns and bridges.

(k) Recement permanent crowns and bridges with nonpermanent material as a palliative treatment.

(l) Place a temporary restoration with nonpermanent material as a palliative treatment.

(m) Administer local intraoral chemotherapeutic agents in any form except aerosol, including, but not limited to:

(1) Antimicrobial agents;

(2) Fluoride preparations;

(3) Topical antibiotics;

(4) Topical anesthetics ***not otherwise considered minimal sedation under the definition of NRS 631.078***; and

(5) Topical desensitizing agents.

(n) Apply pit and fissure sealant to the dentition for the prevention of decay, ***except that a dental hygienist may not use a rotary cutting tool to remove pit and fissure sealant that is too tall.***

(o) Place and secure orthodontic ligatures.

(p) Fabricate and place temporary crowns and bridges.

(q) Fit orthodontic bands and prepare teeth for orthodontic bands if the bands are cemented or bonded, or both, into the patient's mouth by the dentist who authorized the dental hygienist to perform this procedure.

(r) Perform nonsurgical cytologic testing ***if recommended by the dentist.***

(s) Apply and activate agents for bleaching teeth with a light source.

(t) Use a laser that has been cleared by the Food and Drug Administration to perform intrasulcular periodontal procedures or tooth whitening procedures if:

(1) The use of such a laser for those purposes is within the scope of the education, experience and training of the dental hygienist;

(2) Before operating the laser, the dental hygienist has provided proof to the ***authorizing*** dentist that the dental hygienist has successfully completed a course in laser proficiency that:

(I) Is at least 6 hours in length; and

(II) Is based on the *Curriculum Guidelines and Standards for Dental Laser Education*, adopted by reference pursuant to NAC 631.035; and

(3) The ***authorizing*** dentist has successfully completed a course in laser proficiency that:

(I) Is at least 6 hours in length; and

(II) Is based on the *Curriculum Guidelines and Standards for Dental Laser Education*, adopted by reference pursuant to NAC 631.035.

4. The tasks outlined in paragraphs (a) through (t) of subsection 3 is an all-inclusive list of those tasks that a dental hygienist can perform unsupervised with only a dentist's authorization and with only referring to the task title in any practice agreement set forth in subsection 3 of this regulation.

(b) Any task not on this list that otherwise is within the scope of a dental hygienist's training and education and that a directing dentist wants a dental hygienist to perform with authorization only and no supervision can be added to the practice agreement set forth in subsection 3, but the task must be described in detail with allowances and limitations for the unsupervised tasks clearly documented.

(a) If an employing dentist does not use their discretion to authorize performance of these tasks outside their supervision, these tasks may still be performed by the dental hygienist under the dentist's supervision.

5. (a) All the tasks set forth in subsection 1 and paragraphs (a) to (t) of subsection 3 will require supervision unless the employing dentist that the dental hygienist have in place an agreement stating that the dental hygienist is authorized

to perform said tasks without the dentist's supervision. A copy of this agreement does not need to be in every patient chart so long as each individual patient's clinical records clearly indicate when a dental hygienist performed the tasks with dentist authorization.

(b) If an employing dentist elects to authorize some of the tasks set forth in subsection 1 and paragraphs (a) to (u) of subsection 2 and simultaneously elects to supervise some of the tasks set forth in subsection 1 and paragraphs (a) to (u), any distinction in which tasks are authorized versus which require dentist supervision must be set forth in a document provided to the dental hygienist and maintained by the dentist for the duration of the hygienist's employment and for 5 years thereafter. There must also be documentation demonstrating the hygienist was knowingly apprised of any authorization limitations.

(c) An employing dentist may elect to authorize any of the tasks set forth in subsection 1 and paragraphs (a) to (u) of subsection 2, but with conditions such as, but not limited to, when the dentist must be called to evaluate or assist or limitations on authorization based on level of patient periodontic disease presentation or health comorbidities. Any authorizations subject to conditions must be set forth in a document provided to the dental hygienist and maintained by the dentist for the duration of the hygienist's employment and for 5 years thereafter. There must also be documentation demonstrating the hygienist was knowingly apprised of any authorization limitations.

(d) Both the employing dentist and the dental hygienist authorized to perform any task in subsection 1 and paragraphs (a) through (t) of subsection 2 must separately carry their own respective medical or dental malpractice insurance.

6. Unless a dental hygienist holds a special endorsement to practice restorative dental hygiene consistent with NRS 631.288, under which he or she may perform restorative dental hygiene with only a dentist's authorization, a non-endorsed dental hygienist cannot engage in any restorative dental hygiene unless supervised by a dentist.

(a) A dental hygienist holding a special endorsement to practice restorative dental hygiene is prohibited from entering into any authorizing relationship with a dentist not licensed to practice in Nevada.

7. (a) Any patient receiving dental hygiene services must have been examined by a dentist not more than 18 months before the dental hygiene services are to be performed, except that a patient who has not been examined in the prior 18 months can be examined by a dentist on the same day as a dental hygiene service is performed, either immediately before or immediately after the dental hygiene services are provided.

(b) A dental practice may schedule a dental hygiene appointment even if the patient has not been seen in the prior 18 months so long as the dentist approves the time-restriction exception and the patient chart reflects the dentist's approval for an examination to occur in greater than an 18-month interval, and so long as a dental examination occurs immediately before or immediately after and on the same day as the dental hygiene appointment.

(c) After performing any of the services set forth in this regulation, the dental hygienist shall refer the patient to the authorizing dentist for follow-up care or any necessary additional procedures that the dental hygienist is not authorized to perform.

8. Not including topical chemotherapeutic agents that can be administered by a dental hygienist with a dentist's authorization, a dental hygienist in a ***dental office or*** health care facility ***may, with either written dentist authorization or dentist supervision at the dentist's discretion,*** administer ***non-topical*** local intraoral chemotherapeutic agents ***to treat periodontal pockets and gingivitis, if:***

(a) The dental office of facility where the local chemotherapeutic agent will be provided has the necessary emergency supplies, equipment, and auxiliary personnel to safely provide local intraoral chemotherapeutic agents;

(b) when used at a medical facility as defined in NRS 449.0151, the intraoral chemotherapeutic agents in accordance with facility rules and policies; and

(c) the use of the chemotherapeutic agent by the hygienist is in accordance with the manufacturer's guidelines.

9. The Board may revoke the authorization described in subsection 6 if the:

(a) Dental hygienist fails to renew his or her license or it is cancelled, suspended or revoked;

(b) Board receives a complaint filed against the dental hygienist;

(c) Dental hygienist commits an act which constitutes a cause for disciplinary action; or

(d) Dental hygienist violates any provision of this chapter or chapter 631 of NRS.

➥ Nothing in this subsection prohibits a dental hygienist from reapplying for authorization to perform the services described in subsection 6 if the Board revokes the authorization pursuant to this subsection.

10. As used in this section:

(a) "Health care facility" has the meaning ascribed to it in NRS 162A.740.

(b) "Health facility" has the meaning ascribed to it in subsection 6 of NRS 449.260.

(c) "School" means an elementary, secondary or postsecondary educational facility, public or private, in this State.

(d) "Public health dental hygiene program" has the meaning ascribed to "public health program" as defined in paragraph (b) of subsection 5 of NRS 631.34583.

(e) A dental hygienist may provide minimal sedation, including but not limited to, local sedation or nitrous oxide, consistent with the general allowances under subsection 2 of NRS 631.215 but subject to any limitations or requirements set forth in any applicable Board regulations and subsection 4 of NRS 631.313.

11. No single dentist may have an authorization agreement as outlined in paragraph (a) of subsection 5 of this regulation operating with more than 3 dental hygienists on any given day.

[what is currently NAC 631.210 (6), which is:

The Board may authorize a dental hygienist to perform the services set forth in subsection 1 and paragraphs (a) to (n), inclusive, of subsection 2 without supervision by a dentist and without authorization from the licensed dentist of the patient on whom the services are to be performed, at a health facility, a school or a place in this State approved by the Board after the Board:

(a) Issues a special endorsement of the dental hygienist's license.

(b) Approves the treatment protocol submitted by the dental hygienist which includes an explanation of the methods that the dental hygienist will use to:

(1) Treat patients; and

(2) Refer patients to a dentist for:

(I) Follow-up care;

(II) Diagnostic services; and

(III) Any service that the dental hygienist is not authorized to perform.

needs to be removed from NAC 631.210 and moved to its own newly numbered regulation, with the highlighted language (n) changed to (t).]

[We need the following to be made into its own separate newly numbered regulation consistent with NRS 631.210(1)(f):

1. In addition to those locations of approved practice listed in paragraph (f) of subsection (1) of NRS 631.310, a dental hygienist, whether or not possessing a public health special endorsement, may, so long as the facility has passed an infection control

inspection either under NRS Chapter 449 or Chapter 631 and so long as they adhere to the policies and regulation governing that type of location, also practice at:

(a) a pediatrician's office;
(b) an oncologist's office or other center for the treatment of cancer;
(b) a facility for hospice care;
(c) an inpatient drug and alcohol rehabilitation facility;
(d) a long-term care facility, if allowed by NRS Chapter 654;
(e) a facility for skilled nursing or inpatient rehabilitation;
(f) a facility for care of adults during the day or for dependent care; or
(g) any other Board-approved facility at which the provision of dental hygiene care will increase access to care in underserved populations.]