

Nevada State Board of Dental Examiners



6010 S. Rainbow Blvd., Bldg. A, Ste.1 • Las Vegas, NV 89118 • (702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

August 18, 2016

Legislative Committee on Healthcare

Dear Committee Members:

Respectfully, the Nevada State Board of Dental Examiners submits the timeline of events leading up to the proposed regulation changes referenced in R086-16. Specifically, the proposed regulation changes to NAC 631.033 and NAC 631.210.

Over the past ten (10) years the Board has addressed several requests by licensees pursuant to NAC 631.279 for a determination or advisory opinion as to the applicability of any provision of chapter 631 of NRS or any regulation regarding the use of botulinum toxins (Botox) and other facial injectables. Prior to September 18, 2015, the Board's advisory opinion(s) allowed general dentists to administer botulinum toxins (Botox) for the purpose of TMD or TMJ treatment only and an advisory opinion issued for Oral & Maxillofacial Surgeons was that an OMS may administer for all treatment of the oral and maxillofacial region, including but not limited to, cosmetic purposes.

On September 18, 2015, the Board considered a request from licensee, Nicole Mackie, DDS, MS, FACP for a determination or advisory opinion as to the applicability of any provision of chapter 631 of NRS or any regulation. This request was whether NRS 631.215 and/or NRS 631.255 allows a person who has a valid specialty license in the area of Prosthodontics to administer Botox, dermal fillers or other injectables in clinical practice. At this meeting, discussion was held and the matter was tabled in order for the Board to do their due diligence and request clarification from the Nevada State Board of Medical Examiners that issuing such an advisory opinion would not conflict with any provisions of chapter 630 of NRS or any regulation. Our agency received correspondence from the Nevada State Board of Medical Examiners that issuing an advisory opinion relative to the administration of botulinum toxins, dermal fillers or other injectables in dental clinical practice would not be problematic.

On November 20, 2015, the Board considered the request of Dr Mackie for an advisory opinion and in addition received a request from licensee, Jonathan White, DDS to review the two (2) advisory

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opinions previously issued on May 18, 2006 and December 12, 2014 regarding the use of botulinum toxins (Botox), dermal fillers and/or other agents by general dentists under the scope of practice set forth in NRS 631.215.

On November 20, 2015, the Board considered the request for advisory opinion made by Dr. Mackie and the request by Dr White to review the prior advisory opinions. The Board entertained a motion and combined both requests together, discussion was held and at that time and a request from Board Member Caryn Solie, RDH asked the Board consider allowing dental hygienists pursuant to NAC 631.210(1)(m) and under the direct supervision of a dentist be able to administer Botox and dermal fillers as long as the dental hygienist possess the skills and training to safely administer injectables (Botox and dermal fillers) and that a dental hygienist may only administer to a patient under the direct supervision of a Nevada licensed dentist who has the same adequate training and skills to safely administer the injectables (Botox and dermal fillers.)

On November 20, 2015 the Board issued an advisory opinion that states; *a person who holds a valid dental license and who possesses the skills and training to safely administer injectables (Botox and dermal fillers) be allowed and that a licensed dental hygienists who possesses adequate skills and training to safely administer injectables (Botox and dermal fillers), but that a dental hygienist may only administer to a patient under the direct supervision of a Nevada licensed dentist who has the same adequate training and skills to safely administer the injectables (Botox and dermal fillers).*

Upon further review of NAC 631.210(1)(m) which states; a dental hygienist may administer chemotherapeutic agents intraoral only. In light of this specific language, the Board amended the advisory opinion on January 22, 2016 to exclude dental hygienists until the regulation is changed. The proposed language change is contained in R086-16.

As for the proposed regulation change to NAC 631.175 that would require; *each holder of a license to practice dentistry who is registered to dispense controlled substances pursuant to NRS 453.231 shall complete a minimum of 1 hour of continuing education relating specifically to the misuse and abuse of controlled substances during each licensure renewal period. Any such holder of a license may use such training to satisfy 1 hour of any continuing education requirement established by the Board.* This proposed regulation change is to help combat the misuse and over prescribing of controlled substances to patients and provide the practitioners with the education to determine when a patient may be abusing controlled substances.

On July 15, 2016, under the public comment section of our Board Meeting, a representative from the Nevada Medical Association requested our Board not approve the proposed changes to NAC 631.033 and NAC 631.210 relative to the administration of botulinum toxins, dermal fillers and other facial

injectable. The Board has expressed to me that they are inclined not to move forward with the approval of the proposed regulation changes to NAC 631.033 and NAC 631.210 until additional language is added and additional Public Workshops are held. Currently, the Board has Noticed the Intent To Act on R086-16 to address the request by the Nevada Medical Association and NAC 631.175.

The Board will have representatives available at the meeting to address any questions. Thank you.

Sincerely,



Debra Shaffer-Kugel, Executive Director
Nevada State Board of Dental Examiners

/enclosures

ADVISORY OPINION
JANUARY 22, 2016

BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

IN REGARDS TO THE MATTER OF:)
)
)
Nevada State Board of Dental Examiners)
Review, Discussion and Modification of the) AMENDED ADVISORY OPINION
advisory opinion issued on November 20,)
2015 regarding the administration of botox,)
dermal fillers and injectables by a licensed)
dental hygienist)

On January 22, 2016, pursuant to agenda item 7(a) at a properly noticed meeting held at the Nevada State Board of Dental Examiners (“Board”) office located at 6010 S Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118 the “Board” issued the following AMENDED advisory opinion.

BOARD MEMBER PARTICIPATION:

Dr. Brendan Johnson	Present
Dr. Gregory Pisani	Present
Dr. Jason Champagne	Present
Dr. Timothy Pinther	Present
Dr. James G Kinard	Present
Dr. Ali Shahrestani	Present
Dr. Byron Blasco	Present
Maria Gabriel, RDH	Present
Leslea Villigan, RDH	Present
Theresa Guillen, R	Present
Lisa Wark, Public Member	Present

ADVISORY OPINION

I.
BACKGROUND

1. As set forth in NAC 631.279 through authority of NRS 631.190 and NRS 233B.120 the Board is authorized to provide advisory opinions.
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NAC 631.279 Proceedings to determine applicability and construction of statutes and regulations. (NRS 631.190)

1. Any applicant or licensed dentist or dental hygienist may obtain a determination or advisory opinion from the Board as to the applicability of any provision of chapter 631 of NRS or any regulation adopted pursuant thereto by bringing an action for a declaratory judgment before the Board.

2. The Board will construe any statute or regulation reviewed pursuant to this section in a manner consistent with the declared policy of the State of Nevada.

A. The Board has discretion whether or not to issue an advisory opinion pursuant to NAC 631.279.

B. Public notice of the above-referenced request for an advisory opinion was provided in accordance with state law.

II.

DISCUSSION

Board Counsel upon a thorough review of the statutes and regulations pertaining to the duties delegable to dental hygienists under NRS 631.310 and NAC 631.210 believes the Advisory Opinion issued by the Nevada State Board of Dental Examiners on November 20, 2015 allowing dental hygienists to administer botox, dermal fillers or other injectables under the authorization and supervision of the licensed dentists reaches upon the regulatory authority set forth in NAC 631.210. Board Counsel's opinion is that it is not currently permissible under NAC 631.210 for a dental hygienist to administer botox, dermal fillers or other injectables. In order to allow a dental hygienist to administer botox, dermal fillers, or other injectables under the authorization and supervision of the licensed dentist would require a regulation change.

III.

CONCLUSION

After considering and discussing public comment pursuant to the authority set forth in NAC 631.279, NRS 631.190 and NRS 233B.120, a motion was made by Board Member Blasco that the Board **AMEND** the original Advisory Opinion issued on November 20, 2015 to exclude dental hygienists from administering botox, dermal fillers, or other injectables until such time as it is a duty delegable to dental hygienists in statute and/or regulation.

The motion was seconded by Board Member Pisani- Discussion:

Board Member Johnson stated his concerns for the record with regards to complications and being able to adequately treat those complications.

III

Dr. Pinther called for the motion:

Dr. Brendan Johnson	Yes
Dr. Gregory Pisani	Yes
Dr. Jason Champagne	Yes
Dr. Timothy Pinther	Yes
Dr. James G Kinard	Yes
Dr. Ali Shahrestani	Yes
Dr. Byron Blasco	Yes
Maria Gabriel, RDH	Yes
Leslea Villigan, RDH	Yes
Theresa Guillen, RDH	Yes
Lisa Wark, Public Member	Yes

The motion passed that the Board AMEND the original Advisory Opinion issued on November 20, 2015 to exclude dental hygienists from administering botox, dermal fillers, or other injectables until such time as it is a duty delegable to dental hygienists in statute and/or regulation.



TIMOTHY PINTHER, DDS, PRESIDENT
Nevada State Board of Dental Examiners

Original Advisory Opinion

November 20, 2015

**Regarding the administration of
Botox, Dermal Fillers, and other
injectables administered by
Prosthodontists' & General Dentists'**

BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

IN REGARDS TO THE MATTER OF:)
)
)
Request for the Advisory Opinion by)
licensee Nicole Mackie, DDS regarding)
whether NRS 631.215 and/or)
NRS 631.255 allows a person who)
has a valid specialty license in the) AO—15-1120
area of Prosthodontics to administer)
Botox, dermal fillers or other injectables)
in clinical practice and request by)
Jonathan White, DDS for the NSBDE)
to review the two Advisory Opinions)
issued on May 18, 2006 and)
December 12, 2014 regarding the use)
of Botox, dermal fillers and/or other agents))
by general dentists)

On November 20, 2015 pursuant to agenda item 3(a) at a properly noticed meeting held at the Nevada State Board of Dental Examiners (“Board”) office located at 6010 S Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118 the “Board” issued the following advisory opinion.

BOARD MEMBER PARTICIPATION:

Dr. Jade A Miller	Present
Dr. Gregory Pisani	Excused
Dr. Jason Champagne	Present
Dr. Timothy Pinther	Present
Dr. James G Kinard	Excused
Dr. Ali Shahrestani	Present
Dr. Byron Blasco	Present
Ms. Caryn Solie	Present
Mrs. Leslea Villigan	Present
Mrs. Theresa Gullen	Present
Mrs. Lisa Wark	Excused

ADVISORY OPINION

I.
BACKGROUND

1. As set forth in NAC 631.279 through authority of NRS 631.190 and NRS 233B.120 the Board is authorized to provide advisory opinions.

NAC 631.279 Proceedings to determine applicability and construction of statutes and regulations. (NRS 631.190)

1. Any applicant or licensed dentist or dental hygienist may obtain a determination or advisory opinion from the Board as to the applicability of any provision of chapter 631 of NRS or any regulation adopted pursuant thereto by bringing an action for a declaratory judgment before the Board.

2. The Board will construe any statute or regulation reviewed pursuant to this section in a manner consistent with the declared policy of the State of Nevada.

- A. The Board has discretion whether or not to issue an advisory opinion pursuant to NAC 631.279.
- B. Licensee, Nicole Mackie, DDS, requested an advisory opinion whether NRS 631.215 and/or NRS 631.255 allows a person who has a valid specialty license in the area of Prosthodontics to administer Botox, dermal fillers or other injectables in clinical practice
- C. Public notice of the above-referenced request for an advisory opinion was provided in accordance with state law.
- D. A motion was made by Board Member Blasco to consider Agenda 3(a) the request by Nicole Mackie, DDS, for an advisory opinion whether NRS 631.215 and/or NRS 631.255 allows a person who has a valid specialty license in the area of Prosthodontics to administer Botox, dermal fillers or other injectables in clinical practice and Agenda 6(a) the request by Jonathan White, DDS for the Board to review the two Advisory Opinions issued on May 18, 2006 and December 12, 2014 regarding the use of Botox, dermal fillers and/or other agents by general dentists at the same time. Seconded by Board Member Guillen.

II.
DISCUSSION

Nicole Mackie, DDS was present at the meeting to discuss clarification of NRS 631.215 and/or NRS 631.255 allows for a person who has a valid specialty license in the area of Prosthodontics to administer Botox, dermal fillers or other injectables in clinical practice. Dr Mackie read her statement into the record and discussed the training a person receives through a prosthodontic residency program to administer botox, dermal fillers and other agents for clinical and cosmetic treatments. Dr. Brooksby suggested to the Board that if the original Advisory Opinion given by previous board members was given prior to changes made by CODA, that perhaps, they could state in their new opinion that prosthodontists would be limited to cheekbone area and below. Board Counsel noted that when oral and maxillofacial surgeons came before the board for clarification, the board at the time made it clear in their opinion that they were limited to administering within their scope. Thus, Dr. Miller commented that the advisory opinion would be solely related to the scope of prosthodontics. Dr. Mackie commented that the administration would be adjunct to all prosthodontic treatment.

J. Stephen Sill, DMD on behalf of Jonathan White, DDS read his statement into the record. The statement included that dentists can be trained to the same level as other providers and that general dentists should be able to administer injectables (botox, and dermal fillers) Dr Sill would like the Board to grant an advisory opinion where dentists who are adequately trained be allowed to administer botox and dermal fillers. Board Counsel clarified that the Board should be specific in declaring who may administer the injections, and perhaps should add that dentists will only be allowed to administer said injections only if the dentist possesses the adequate skills, training and can safely administer these agents to patients.

Board Member Blasco made a motion that any dentists who holds a valid license and possesses the proper training may be able to administer botox, dermal fillers and other injectables. Motion seconded by Board Member Guillen. Board Member Solie inquired whether a dental hygienist who receives adequate training and possesses the skills necessary to safely administer botox and dermal fillers be allowed under the supervision of a dentist. Board Member Blasco amended his motion to include dental hygienists. Motion to amend was seconded Board Member Guillen.

Board Counsel then advised the Board Members the proper language necessary to issue an advisory opinion.

III. CONCLUSION

After considering and discussing public comment pursuant to the authority set forth in NAC 631.279, NRS 631.190 and NRS 233B.120, a motion was made by Board Member Blasco that the Board issue an opinion that a person who holds a valid

dental license and who possesses the necessary skills and training to safely administer injectables (botox and dermal fillers) be allowed and that a licensed dental hygienists who possesses the necessary and skills and adequate training to safely administer injectables, but a dental hygienist may only administer to a patient under the direct supervision of a Nevada licensed dentist who has the same adequate training and skills to safely administer the injectables (botox and dermal fillers).

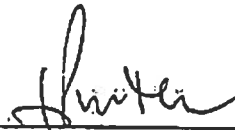
The motion was seconded by Board Member Guillen. No discussion:

III

Dr. Pinther called for the motion:

Dr. Jade A Miller	no
Dr. Gregory Pisani	excused
Dr. Jason Champagne	yes
Dr. Timothy Pinther	yes
Dr. James G Kinard	no
Dr. Ali Shahrestani	yes
Dr. Byron Blasco	yes
Ms. Caryn Solie	yes
Mrs. Leslea Villigan	yes
Mrs. Theresa Guillen	yes
Mrs. Lisa Wark	excused

The motion passed that the Board issue an opinion that a person who holds a valid dental license and who possesses the skills and training to safely administer injectables (botox and dermal fillers) be allowed and that a licensed dental hygienists who possesses adequate skills and training to safely administer injectables (botox and dermal fillers), but that a dental hygienist may only administer to a patient under the direct supervision of a Nevada licensed dentist who has the same adequate training and skills to safely administer the injectables (botox and dermal fillers).



TIMOTHY PINTHER, DDS, PRESIDENT
Nevada State Board of Dental Examiners