

**ADOPTED REGULATION OF THE
BOARD OF DENTAL EXAMINERS OF NEVADA**

LCB File No. R139-05

Effective December 29, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-3 and 6, NRS 631.190; §4, NRS 631.190 and 631.220; §5, NRS 631.190, 631.310, 631.313 and 631.317.

A REGULATION relating to dentistry; requiring an applicant for a license to practice dentistry or dental hygiene and a licensee renewing his license who uses or wishes to use laser radiation in his practice to provide certain information and proof to the Board of Dental Examiners of Nevada; providing that a dentist who is licensed in this State may authorize a dental hygienist to apply and activate agents for bleaching teeth with a light source; providing that a dentist who is licensed in this State may authorize a dental hygienist to use a laser that has been cleared by the Food and Drug Administration for certain periodontal procedures and tooth whitening procedures under certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 631 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *Each licensee who uses or wishes to use laser radiation in his practice of dentistry or dental hygiene must include with his application for renewal of his license:*

1. A statement certifying that each laser used by the licensee in his practice of dentistry or dental hygiene has been cleared by the Food and Drug Administration for use in dentistry; and

2. Proof that he has successfully completed a course in laser proficiency that:

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

(b) Is based on the Curriculum Guidelines and Standards for Dental Laser Education, adopted by reference pursuant to section 3 of this regulation.

Sec. 3. 1. *The Board hereby adopts by reference the Curriculum Guidelines and Standards for Dental Laser Education, adopted by the Academy of Laser Dentistry. The Curriculum Guidelines and Standards for Dental Laser Education is available, free of charge, from the Academy of Laser Dentistry:*

(a) By mail, at P.O. Box 8667, Coral Springs, Florida 33075;

(b) By telephone, at (954) 346-3776; or

(c) At the Internet address

<http://www.laserdentistry.org/prof/edu_curriculumguidelines.cfm>.

2. The Board will periodically review the Curriculum Guidelines and Standards for Dental Laser Education and determine within 30 days after the review whether any change made to those guidelines and standards is appropriate for application in this State. If the Board does not disapprove a change to an adopted guideline or standard within 30 days after the review, the change is deemed to be approved by the Board.

Sec. 4. NAC 631.030 is hereby amended to read as follows:

631.030 1. An applicant for licensure must provide the following information and documentation in his application:

(a) The date and place of his birth;

(b) Certification of graduation from an accredited dental school or college or from an accredited school or college of dental hygiene, whichever is applicable;

(c) Whether he has applied for similar licensure in another state or a territory of the United States or the District of Columbia [redacted] and , if so, the name of the state or territory of the United States or the District of Columbia, the date and the result of his application;

(d) If he has practiced dentistry or dental hygiene in another state or a territory of the United States or the District of Columbia, certification from the licensing authority of each state or territory of the United States or the District of Columbia in which he has practiced or is practicing that he is in good standing and that there are not any disciplinary proceedings affecting his standing pending against him in the other state or territory of the United States or the District of Columbia;

(e) Whether he has terminated or attempted to terminate a license from another state or territory of the United States or the District of Columbia [redacted] and , if so, his reasons for doing so;

(f) If he is not a natural born citizen of the United States, a copy of his certificate of naturalization or other document attesting that he is legally eligible to reside and work in the United States;

(g) All scores obtained on the examination in which he was granted a certificate by the Joint Commission on National Dental Examinations and the date it was issued;

(h) Whether he has ever been convicted of a crime involving moral turpitude or has entered a plea of nolo contendere to a charge of such a crime [redacted] and , if so, the date and place of his conviction or plea and the sentence, if any, which was imposed;

(i) Whether he has had any misdemeanor or felony convictions [redacted] and , if so, [attach] any documents relevant to any misdemeanor or felony convictions;

(j) Whether any malpractice judgment has been entered against him [redacted] and , if so, [attach] any documents relevant to the malpractice judgment;

(k) Whether he has a history of substance abuse [.] and , if so, [attach] any documents relevant to the substance abuse;

(l) Whether he has been refused permission to take an examination for licensure by any other state or territory of the United States or the District of Columbia [.] and , if so, [attach] any documents relevant to the refusal;

(m) Whether he has been denied licensure by any other state or territory of the United States or the District of Columbia [.] and , if so, [attach] any documents relevant to the denial;

(n) Whether he has had his license to practice dentistry or dental hygiene suspended, revoked or placed on probation in this State, another state or territory of the United States or the District of Columbia [.] and , if so, [attach] any documents relevant to the suspension, revocation or probation;

(o) Whether his practice of dentistry or dental hygiene has been subject to mandatory supervision in this State, another state or territory of the United States or the District of Columbia [.] and , if so, [attach] any documents relevant to the mandatory supervision;

(p) Whether he has received a public reprimand or is currently involved in any disciplinary action concerning his license to practice dentistry or dental hygiene in this State, another state or territory of the United States or the District of Columbia [.] and , if so, [attach] any documents relevant to the reprimand or disciplinary action;

(q) Two sets of certified fingerprint cards and an authorization form allowing the Board to submit the fingerprint forms to law enforcement agencies for verification of background information; and

(r) Any other information requested by the Board.

2. An applicant for licensure with examination must deliver to the Board, at least 45 days before the examination:

- (a) The information and documentation listed in subsection 1;
- (b) *If applicable, the certified statement and proof required by subsection 5;*
- (c) A completed and signed application form issued by the Board, including a properly executed request to release information;
- ~~[(e)]~~ (d) A copy of current certification in administering cardiopulmonary resuscitation; and
- ~~[(d)]~~ (e) A copy of his malpractice insurance policy showing the effective dates, which must cover his examination dates, and the limits of liability.

3. An applicant for licensure pursuant to NRS 631.272 must deliver to the Board, at least 45 days before the meeting of the Board to consider the applicant for licensure, the documents listed in paragraphs (a) to ~~[(d)]~~ (e), inclusive, of subsection 2 and proof that the applicant has actively practiced dentistry for the 5 years immediately preceding the date of submission of the application. If the applicant fails to deliver to the Board, at least 45 days before the meeting of the Board to consider the applicant for licensure, any of the documents required pursuant to this subsection, the Executive Director or the Secretary-Treasurer shall reject the application and inform the applicant that he is not eligible for consideration for licensure pursuant to NRS 631.272 until the next scheduled meeting of the Board.

4. An applicant for licensure pursuant to NRS 631.255, 631.272 or 631.274 must, at least 45 days before the meeting of the Board to consider the applicant for licensure, pass an examination on the contents and interpretation of this chapter and chapter 631 of NRS. The examination will be given on the first Monday of each month. If the first Monday of the month is a legal holiday, the examination will be given on the first Tuesday of the month.

5. An applicant for licensure who wishes to use laser radiation in his practice of dentistry or dental hygiene must provide to the Board:

(a) A statement certifying that each laser that will be used by the licensee in his practice of dentistry or dental hygiene has been cleared by the Food and Drug Administration for use in dentistry; and

(b) Proof that he has successfully completed a course in laser proficiency that:

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

(2) Is based on the Curriculum Guidelines and Standards for Dental Laser Education, adopted by reference pursuant to section 3 of this regulation.

Sec. 5. NAC 631.210 is hereby amended to read as follows:

631.210 1. A dentist who is licensed in this State may authorize a dental hygienist in his employ to:

(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) Development and 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) Expose radiographs.

(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; and
- (5) Topical desensitizing agents.

(n) Apply pit and fissure sealant to the dentition for the prevention of decay.

↪ Before performing any of the services set forth in this subsection, the dental hygienist must obtain authorization from the licensed dentist of the patient on whom the services are to be performed and the patient must have been examined by that dentist not more than 18 months before the services are to be performed. After performing any of the services set forth in this subsection, 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.

2. A dentist who is licensed in this State may authorize a dental hygienist in his employ and under his supervision to:

- (a) Remove sutures.
- (b) Place and secure orthodontic ligatures.
- (c) Fabricate and place temporary crowns and bridges.
- (d) 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.
- (e) Perform nonsurgical cytologic testing.
- (f) Apply and activate agents for bleaching teeth with a light source.*

(g) 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 supervising 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 section 3 of this regulation; and

(3) The supervising 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 section 3 of this regulation.

↪ 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.

3. If a dentist who is licensed in this State has in his employ and under his supervision a dental hygienist who has:

(a) Successfully completed a course of continuing education in the administering of local anesthetics or nitrous oxide-oxygen analgesia, or both, which has been approved by the Board; or

(b) Graduated from an accredited program of dental hygiene which includes the administering of local anesthetics or nitrous oxide-oxygen analgesia, or both, in its curriculum,

↪ the dentist may authorize the dental hygienist to administer local anesthetics or nitrous oxide-oxygen analgesia, or both, as appropriate, if the dental hygienist has received from the Board a certificate certifying the hygienist to this level of proficiency. The dental hygienist must obtain the authorization from the licensed dentist of the patient on whom the services are to be performed.

4. A dental hygienist in a health care facility may administer local intraoral chemotherapeutic agents and, if he has complied with paragraph (a) or (b) of subsection 3, may administer local anesthetics or nitrous oxide-oxygen analgesia, or both, as appropriate, if he first:

(a) Obtains written authorization from the licensed dentist of the patient to whom the local anesthetics, nitrous oxide-oxygen analgesia or local intraoral chemotherapeutic agents are to be administered; and

(b) Submits to the Secretary-Treasurer a written confirmation from the director of the health care facility that the facility has licensed medical personnel and necessary emergency supplies and equipment that will be available when the local anesthetics, nitrous oxide-oxygen analgesia or local intraoral chemotherapeutic agents are administered.

5. The Board may authorize a dental hygienist to perform the services set forth in paragraphs (a) to (n), inclusive, of subsection 1 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.

6. The Board may revoke the authorization described in subsection 5 if the:

(a) Dental hygienist fails to renew his 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 5 if the Board revokes the authorization pursuant to this subsection.

7. As used in this section:

(a) “Health care facility” has the meaning ascribed to it in subsection 1 of NRS 449.800.

(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.

Sec. 6. Notwithstanding the provisions of section 2 of this regulation, a licensee who, on December 29, 2005, is using laser radiation in his practice of dentistry or dental hygiene is not required to comply with the provisions of section 2 of this regulation:

1. Until December 29, 2006; or

2. Until June 30 of the year in which his license is required to be renewed pursuant to NRS 631.330,

↳ whichever occurs later.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R139-05

The Board of Dental Examiners of Nevada adopted regulations assigned LCB File No. R139-05 which pertain to chapter 631 of the Nevada Administrative Code on December 22, 2005.

Notice date: 11/16/2005
Hearing date: 12/22/2005

Date of adoption by agency: 12/22/2005
Filing date: 12/29/2005

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

A public workshop was held October 10, 2005 and November 15, 2005 and was posted in compliance with the Nevada administrative rulemaking requirements. The second workshop was then followed by a public hearing and adoption on December 22, 2005 after a thirty posting of the proposed regulations which was noticed to the main library in all counties in Nevada along with the Las Vegas and Carson City offices of the Attorney General, State Library and Archives, and the Clark County Health District as well as the board website and both professional associations. Public comment was forthcoming from the Academy of Laser Dentistry; WCLI, dental practitioners, and hygiene practitioners. A copy of the written minutes of the meetings may be obtained by contacting the Nevada State Board of Dental Examiners at (702) 486-7044 or by writing to the Board at 6010 S. Rainbow Blvd, A-1, Las Vegas, NV 89118.

2. The number of persons who:
 - (a) Attended the hearing: approx. 26
 - (b) Testified at the hearing: approx. 5
 - (c) Submitted to the agency written comments: 2
3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Public notices of the workshop and hearing were posted at a site in each county along with the Las Vegas and Carson City offices of the Attorney General, State Library and Archives, the Clark County Health District, and mailings of said notices to interested parties including affected practitioner associations within Nevada as well as the 2 prominent laser education entities nationally and internationally recognized. Practitioners were present at the workshops and offered their comments and suggested regulatory changes. A copy of the written minutes of the workshop and meeting may be obtained by contacting the Nevada State Board of Dental Examiners at (702) 486-7044 or by writing to the Board at 6010 S. Rainbow Blvd, A-1, Las Vegas, NV 89118.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulations without change.

The permanent regulations were adopted at the Nevada State Board of Dental Examiners hearing on December 22, 2005 with no changes to the posted language for adoption; however, regulation changes made from input given by ALD, WCLI, dental and dental hygiene practitioners. No substantive changes were made to the posted proposed regulations which included changes made by the Legislative Counsel Bureau.

5. The estimated economic effect of the adopted regulations on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include: (a) both adverse and beneficial effects; and (b) both immediate and long-term effects.

(a) Both adverse and beneficial effects.

The beneficial effects are recognizing the technological advances in the practice of dentistry and dental hygiene with new techniques as well as advanced devices and appropriately regulating the safe use of such equipment by qualified practitioners. Ensuring that those using laser radiation in their practice have received the proper education and training for public safety as well as their own safety.

(b) Both immediate and long-term effects.

Immediate effects are authorizing a dental hygienist, within the scope of duties as well as education and training, to utilize laser radiation. Other effects would be to require the appropriate education and training for all practitioners utilizing laser radiation in their practices. Ensuring public health and safety within emerging and approved technologies for dentistry.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is minor cost to the board for enforcement of the regulation as use is reported by the renewing licensee or the applicant for a license.

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating agency.

There are no other state or government agency regulations that the proposed regulation duplicates but does relate to use of radiation devices and appropriate maintenance and disposal of waste.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

There are no federal regulations providing these provisions other than those regarding appropriate uses of radiation devices in medical and dental practice.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not provide or involve a new fee.