

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

LCB File No. R201-09

Effective August 13, 2010

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

AUTHORITY: §§1, 2, 5 and 7, NRS 631.190; §§3 and 4, NRS 631.190 and 631.363; §6, NRS 631.190 and 631.342.

A REGULATION relating to dentistry; requiring certain information to be provided with an application for renewal of a license to practice dentistry; providing for inspections of certain offices or facilities where dental treatments are to be performed; revising certain continuing education requirements; revising provisions relating to certain guidelines for infection control and disinfection and sterilization adopted by reference; 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 to 5, inclusive, of this regulation.

Sec. 2. *A licensed dentist who owns an office or facility where dental treatments are to be performed in this State must, on the application for renewal of his or her license, execute a certified statement that includes:*

- 1. The location of each office or facility owned by the licensed dentist where dental treatments are to be performed;*
- 2. The name and address of each employee, other than a licensed dentist or dental hygienist, who assists at the office or facility in procedures for infection control and the date the employee began to assist in procedures for infection control at the office or facility; and*
- 3. A statement that each employee identified in subsection 2:*
 - (a) Has received adequate instruction concerning procedures for infection control; and*

(b) Is qualified to:

(1) Operate sterilization equipment and other equipment in compliance with the guidelines adopted by reference in NAC 631.178; and

(2) Perform all other applicable activities in compliance with the guidelines adopted by reference in NAC 631.178.

Sec. 3. *1. Not later than 30 days after a licensed dentist becomes the owner of an office or facility in this State where dental treatments are to be performed, other than a medical facility as defined in NRS 449.0151, the licensed dentist must request in writing that the Board conduct an initial inspection of the office or facility to ensure compliance with the guidelines adopted by reference in NAC 631.178.*

2. Not later than 90 days after receiving a written request pursuant to subsection 1:

(a) The Executive Director shall assign agents of the Board to conduct the inspection; and

(b) The agents shall conduct the inspection.

3. Not later than 30 days after agents of the Board have completed the initial inspection of an office or facility to ensure compliance with the guidelines adopted by reference in NAC 631.178, the agents shall issue a report to the Executive Director indicating whether the office or facility is equipped in compliance with the guidelines adopted by reference in NAC 631.178.

If the report indicates that the office or facility:

(a) Is equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(b) Is not equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice which identifies deficiencies to the licensed dentist who owns the office or facility.

4. Not later than 72 hours after issuing a written notice of deficiencies pursuant to paragraph (b) of subsection 3:

(a) The Executive Director shall assign agents of the Board to conduct a reinspection of the office or facility to determine if the licensed dentist and the personnel supervised by the dentist have taken corrective measures; and

(b) The agents assigned pursuant to paragraph (a) shall conduct the reinspection and issue a report to the Executive Director indicating whether the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the licensed dentist and the personnel supervised by the dentist:

(1) Are in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(2) Are not in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director may, without any further action by the Board, issue an order to the licensed dentist who owns the office or facility and all other licensees employed at the office or facility that any or all of those licensees or personnel must immediately cease and desist from performing dental treatments and that some or all dental treatments must cease to be performed at the office or facility until a hearing is held before the Board. The hearing before

the Board must be convened not later than 30 days after the Executive Director issues the order to cease and desist.

Sec. 4. 1. *The Executive Director may assign agents of the Board to conduct a random inspection of an office or facility in this State where dental treatments are to be performed to ensure that the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. Random inspections conducted pursuant to this subsection may be conducted during normal business hours without notice to the licensed dentist who owns the office or facility to be inspected.*

2. Not later than 30 days after agents of the Board have completed a random inspection of an office or facility in this State where dental treatments are to be performed to ensure compliance with the guidelines adopted by reference in NAC 631.178, the agents shall issue a report to the Executive Director indicating whether the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the licensed dentist and the personnel supervised by the dentist:

(a) Are in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(b) Are not in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice which identifies deficiencies to the licensed dentist who owns the office or facility.

3. Not later than 72 hours after a licensed dentist receives a written notice of deficiencies issued pursuant to paragraph (b) of subsection 2:

(a) The Executive Director shall assign agents of the Board to conduct a reinspection of the office or facility to determine if the licensed dentist and the personnel supervised by the dentist have taken corrective measures; and

(b) The agents assigned pursuant to paragraph (a) shall conduct the reinspection and issue a report to the Executive Director indicating whether the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the licensed dentist and the personnel supervised by the dentist:

(1) Are in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(2) Are not in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director may, without any further action by the Board, issue an order to the licensed dentist who owns the office or facility and all other licensees employed at the office or facility that any or all of those licensees or personnel must immediately cease and desist from performing dental treatments and that some or all dental treatments must cease to be performed at the office or facility until a hearing is held before the Board. The hearing before the Board must be convened not later than 30 days after the Executive Director issues the order to cease and desist.

4. Pursuant to subsection 3 of NRS 233B.127, if a random inspection of an office or facility conducted pursuant to this section indicates that the public health, safety or welfare imperatively requires emergency action, the President of the Board may, without any further action by the Board, issue an order of summary suspension of the license of the licensed

dentist who owns the office or facility and the licenses of any or all of the other licensees employed at the office or facility pending proceedings for revocation or other action. An order for summary suspension issued by the President of the Board must contain findings of the exigent circumstances which warrant the issuance of the order for summary suspension. The President of the Board shall not participate in any further proceedings relating to the order.

Sec. 5. *Nothing in sections 3 and 4 of this regulation prevents the Board from initiating disciplinary proceedings or additional disciplinary proceedings against a licensed dentist who owns an office or facility in this State where dental treatments are to be performed or against other licensees or personnel of the office or facility for failure to comply with the guidelines adopted by reference in NAC 631.178.*

Sec. 6. NAC 631.175 is hereby amended to read as follows:

631.175 1. Approved subjects for continuing education in dentistry and dental hygiene are:

(a) Clinical subjects, including, without limitation:

- (1) Dental and medical health;
- (2) Preventive services;
- (3) Dental diagnosis and treatment planning; and
- (4) Dental clinical procedures, including corrective and restorative oral health procedures

and basic dental sciences, dental research and new concepts in dentistry; and

(b) Nonclinical subjects, including, without limitation:

- (1) Dental practice organization and management;
- (2) Patient management skills;
- (3) Methods of health care delivery; and

(4) Teaching methodology.

2. In completing the hours of continuing education required pursuant to NAC 631.173, a dentist must annually complete at least 15 hours in clinical subjects approved pursuant to subsection 1 or biennially complete at least 30 hours in clinical subjects approved pursuant to subsection 1, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dentist.

3. In completing the hours of continuing education required pursuant to NAC 631.173, a dental hygienist must annually complete at least 12 hours in clinical subjects approved pursuant to subsection 1 or biennially complete at least 24 hours in clinical subjects approved pursuant to subsection 1, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dental hygienist.

4. *In completing the hours of continuing education required pursuant to NAC 631.173, a dentist or dental hygienist must annually complete at least 2 hours in the clinical subject of infection control in accordance with the provisions of the guidelines adopted by reference in NAC 631.178 or biennially complete at least 4 hours in the clinical subject of infection control in accordance with the provisions of the guidelines adopted by reference in NAC 631.178, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dentist or dental hygienist.*

5. The Board will credit, as a maximum in any one year of an annual or biennial licensing period, the following number of hours of instruction for the following types of courses or activities:

(a) For approved study by a group, 3 hours.

(b) For attendance at a meeting or convention of a dental or dental hygiene society, 1 hour for each meeting, but not more than 3 hours, exclusive of hours of continuing education offered in conjunction with the meeting.

(c) For courses completed in the home through correspondence or videocassettes, 6 hours.

(d) For all other courses conducted by an approved instructor, the number of hours completed by the dentist or dental hygienist.

(e) For approved dental or dental hygiene services provided in approved nonprofit settings, 6 hours, except that not more than 3 hours will be allowed for any day of volunteer services provided.

Sec. 7. NAC 631.178 is hereby amended to read as follows:

631.178 **1.** Each person who is licensed pursuant to the provisions of chapter 631 of NRS shall comply with ~~the~~ :

(a) **The** provisions of the *Guidelines for Infection Control in Dental Health-Care Settings-2003* adopted by the Centers for Disease Control **and Prevention** which is hereby adopted by reference. ~~[A copy of the publication may be obtained from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, for the price of \$5.]~~ The publication is ~~also~~ available, free of charge, from the Centers for Disease Control **and Prevention** at the Internet address <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5217a1.htm> ~~[+]~~ ; **and**

(b) **As applicable to the practice of dentistry, the provisions of the Guideline for Disinfection and Sterilization in Healthcare Facilities, 2008, adopted by the Centers for Disease Control and Prevention which is hereby adopted by reference. The publication is available, free of charge, from the Centers for Disease Control and Prevention at the Internet address http://www.cdc.gov/ncidod/dhqp/pdf/guidelines/Disinfection_Nov_2008.pdf.**

2. The Board will periodically review the guidelines adopted by reference in this section and determine within 30 days after the review whether any change made to the guidelines is appropriate for application in this State. If the Board does not disapprove a change to the guidelines within 30 days after the review, the change is deemed to be approved by the Board.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB File No. 201-09**

The following statement is submitted for adopted regulations within Nevada Administrative Code (NAC) 631.

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 June 27, 2008 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A second public workshop was held August 22, 2008 after a 15 day notice was posted in compliance with the Nevada Administrative Rulemaking requirements. A third public workshop was held October 30, 2008 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A fourth public workshop was held May 1, 2009 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A fifth public workshop was held August 14, 2009 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A fifth public workshop was held September 12, 2009 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A sixth public workshop was held February 19, 2010 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A public hearing and adoption of regulations was held April 30, 2010 after a 30 day notice was posted in compliance with the Nevada administrative rulemaking requirements. Public comment was sought in all workshops, hearings and adoptions. 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 workshop/hearing:	Approx 29	6/27/2008
	Approx 31	8/22/2008
	Approx 29	10/30/2008
	Approx 23	5/1/2009
	Approx 41	8/14/2009
	Approx 19	9/12/2009
	Approx 32	2/19/2010
	Approx 29	4/30/2010

- (b) Testified at the workshop/hearing:

2	6/27/2008
3	8/22/2008
2	10/30/2008
2	5/1/2009
0	8/14/2009
4	9/12/2009

3 2/19/2010
1 4/30/2010

(c) Submitted to the agency written comments:

2 individuals other than staff/members submitted information for review regarding CDC Infection Control issues and guidelines. All submitted information was processed from one workshop to the next and a record kept.

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 workshops 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. Notices were also posted on the website maintained by the Board. Notification was also made in the board newsletter mailed to all licensees. Comments were recorded at each meeting and are available in the minutes of those meetings which can be inspected at the board office. 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.

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

The regulations went through a few revisions during the workshops and all changes were openly and publicly discussed. The regulations were adopted at the Nevada State Board of Dental Examiners hearing on April 30, 2010 without changes to the final version provided by LCB. Seven workshops were held to accept and consider all comments and change proposals.

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.

There are no expected adverse economic effects for licensees or applicants for licensure. The CDC Infection Control Guidelines are required to be complied with now and thus no additional cost is borne by licensees. Licensees are required to complete continuing education courses and will now have a requirement that hours must be completed in the area of infection control. There is no additional cost to the licensee since no additional hours of CE were required just the requirement that current hours must include a course(s) related to

infection control. There may be some cost to the board for implementation and inspection of offices and the random audit for compliance; however, as only those found to be in violation would be fined or disciplined wherein the board could recover cost through reimbursement, the cost would not be borne by all licensees necessarily. However, if conducting random audits and inspections is found to adversely impact board funding, consideration for a fee increase may be considered as it would for any enforcement cost for the board regarding NRS/NAC Chapters 631.

The beneficial effects are to identify more specifically in regulation compliance with infection control procedures and activities for public welfare and safety. There is a mechanism for remediation of deficiencies found when inspections are conducted as well as an immediate action if serious threat and harm to patients is imminent. Universal precautions are necessary to prevent spread of infectious disease and a practitioner's compliance is required. The random audit and inspection process will allow identify locations and individuals who need to take necessary corrective actions in infection control to avoid public exposure and contraction of infectious disease. It is a public health and safety concern the board is addressing.

(b) Both immediate and long-term effects.

The immediate and long-term effects are the same. To ensure public health and safety through compliance with all patient safeguards for infection control.

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

There will be cost to the board for audits and inspections to enforce provisions of law already in place. Cost recovery ability exists for those found to be in violation of the infection control guidelines; however, the cost for inspections not resulting in violations would be borne by the board as all other enforcement of chapters 631 of NRS and NAC. Should the costs of such inspections and audits, like other provisions enforced, adversely impact the board budget, consideration for fee increases would take place.

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 amendments duplicate specifically; however, the Occupational Safety and Health Administration of the federal government does have guidelines and standards for creating a safe work environment for employees that have similar infection control guidelines to prevent spread and/or exposure to infectious disease to employees.

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

The regulations do not include provisions more stringent, just consistent with a different defined purpose for safety.

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.

The regulation does provide for a new fee or increase an existing fee.