

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

LCB File No. R035-21

November 4, 2021

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

AUTHORITY: §§ 1-6, NRS 631.190 and 631.215; § 7, NRS 631.190, 631.215 and 631.342; § 8, NRS 631.190, 631.215 and 631.350.

A REGULATION relating to dentistry; providing for the issuance of a special endorsement for a dentist, dental hygienist or dental therapist to administer immunizations; imposing certain requirements concerning the administration of immunizations by the holder of such an endorsement; authorizing the imposition of disciplinary action against a dentist, dental hygienist or dental therapist for certain violations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Dental Examiners of Nevada to regulate the practice of dentistry, dental hygiene and dental therapy in this State. (NRS 631.190, 631.215) Existing law generally authorizes a dental hygienist or dental therapist to perform only the tasks authorized by a licensed dentist. (NRS 631.310, 631.3122) **Sections 2 and 3** of this regulation require the Board to issue to a licensed dentist, dental hygienist or dental therapist a special endorsement to administer immunizations generally or to administer immunizations for influenza only if the licensed dentist, dental hygienist or dental therapist completes a course of training in the administration of immunizations that is approved by the Board. **Sections 2 and 3** authorize a dental hygienist or dental therapist who holds such a special endorsement to administer immunizations only under authorization from a dentist who also holds such a special endorsement.

Section 4 of this regulation requires a dentist who holds a special endorsement to administer immunizations and administers immunizations, or under whose authorization a dental hygienist or dental therapist administers immunizations, to: (1) issue or obtain from certain persons a standing order for the administration of the immunizations; and (2) establish certain policies concerning the administration of immunizations. **Section 4** also requires a dentist, dental hygienist or dental therapist who holds such an endorsement to comply with certain requirements for reporting severe reactions to immunizations, the instructions of the manufacturer of an immunization that he or she administers and certain federal guidelines for administering immunizations.

Section 5 of this regulation requires a dentist, dental hygienist or dental therapist to provide certain information to the patient, obtain the informed written consent of the patient and review the medical history of the patient before administering an immunization. **Section 5**

additionally requires a dentist, dental hygienist or dental therapist to rely on and act in conformance with the conclusions of a physician, physician assistant or advanced practice registered nurse concerning the advisability of administering an immunization to a patient under certain circumstances. **Section 6** of this regulation requires a dentist, dental hygienist or dental therapist who holds a special endorsement to administer immunizations to maintain certain records concerning the administration of immunizations.

Existing law requires the Board to adopt regulations concerning continuing education in dentistry, dental hygiene and dental therapy. (NRS 631.342) **Section 7** of this regulation prescribes the continuing education requirement to maintain a special endorsement to administer immunizations.

Existing law and regulations prescribe certain grounds for disciplinary action against a dentist, dental hygienist or dental therapist. (NRS 631.346-631.350; NAC 631.230) **Section 8** of this regulation authorizes the Board to impose disciplinary action against a dentist, dental hygienist or dental therapist who: (1) administers an immunization without the proper special endorsement; or (2) fails to comply with existing requirements to report certain information relating to immunizations. The Board would also be authorized under existing law to impose disciplinary action against a dentist, dental hygienist or dental therapist who violates other provisions of this regulation governing the administration of immunizations. (NRS 631.3485, 631.350)

Section 1. Chapter 631 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. 1. *The Board will, upon application by a dentist, dental hygienist or dental therapist licensed pursuant to chapter 631 of NRS who has completed a course of training in the administration of immunizations that is approved by the Board, issue a special endorsement of the applicable license allowing the dentist, dental hygienist or dental therapist to administer immunizations.*

2. *The Board may approve a course of training in the administration of immunizations if the course:*

(a) Provides participants with practical training and written instructional materials concerning the administration of immunizations;

(b) Includes an evaluation of the technique of participants in the administration of immunizations; and

(c) Includes instruction consistent with the guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services concerning:

- (1) Practices for administering immunizations to children, adolescents and adults;*
- (2) Basic immunology and the mechanism by which immunizations induce protection from disease;*
- (3) Diseases that are preventable through immunizations;*
- (4) Storage and management of immunizations;*
- (5) Recommended schedules for immunization;*
- (6) Informed consent to immunization;*
- (7) Physiology and techniques for administering immunizations;*
- (8) Assessment and counseling before and after administering an immunization;*
- (9) Maintenance of records relating to immunizations; and*
- (10) Identifying, responding to and reporting adverse events resulting from immunizations.*

3. A dentist who holds a special endorsement issued pursuant to subsection 1 may administer immunizations by an intranasal, intramuscular or subcutaneous injection.

4. A dental hygienist or dental therapist who holds a special endorsement issued pursuant to subsection 1 may administer immunizations by an intranasal, intramuscular or subcutaneous injection only under authorization from a dentist who also holds such a special endorsement.

Sec. 3. 1. The Board will, upon application by a dentist, dental hygienist or dental therapist licensed pursuant to chapter 631 of NRS who has completed a course of training in

the administration of immunizations for influenza that is approved by the Board, issue a special endorsement of the applicable license allowing the dentist, dental hygienist or dental therapist to administer immunizations for influenza only.

2. The Board may approve a course of training in the administration of immunizations for influenza if the course:

(a) Provides participants with practical training and written instructional materials concerning the administration of immunizations for influenza;

(b) Includes an evaluation of the technique of participants in the administration of immunizations for influenza; and

(c) Includes instruction consistent with the guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services concerning:

(1) The epidemiology, pathophysiology, clinical presentation, diagnosis, prevention and treatment of influenza;

(2) The administration, storage and handling of immunizations for influenza; and

(3) Counseling persons who will receive an immunization for influenza.

3. A dentist who holds a special endorsement issued pursuant to subsection 1 may administer immunizations for influenza by an intranasal, intramuscular or subcutaneous injection.

4. A dental hygienist or dental therapist who holds a special endorsement issued pursuant to subsection 1 may administer immunizations for influenza by an intranasal, intramuscular or subcutaneous injection only under authorization from a dentist who also holds a special endorsement issued pursuant to subsection 1 or section 2 of this regulation.

Sec. 4. 1. A dentist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation and who administers immunizations or under whose authorization a dental hygienist or dental therapist who holds such an endorsement administers immunizations must:

(a) Issue or obtain from a dentist, physician, physician assistant or advanced practice registered nurse a standing order for the administration of the immunization that is approved by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) Establish written policies and procedures for the handling and disposal of used or contaminated equipment; and

(c) Establish a written plan for addressing emergencies and ensure that the dentist, dental hygienist or dental therapist administering the immunization has immediate access to equipment that may be needed in an emergency, including, without limitation, equipment for administering oxygen and epinephrine.

2. A dentist who holds a special endorsement pursuant to section 2 or 3 of this regulation and who administers an immunization or under whose authorization a dental hygienist or dental therapist who holds such an endorsement administers an immunization shall report any severe reaction to the immunization as required by regulations adopted by the State Board of Health pursuant to NRS 441A.120. Such a report must be made to, without limitation, the Vaccine Adverse Event Reporting System, the Board of Dental Examiners of Nevada and the primary care provider of the patient.

3. A dentist, dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation shall comply with:

(a) The instructions prescribed by the manufacturer for storing and handling an immunization; and

(b) To the extent that such guidelines do not conflict with the instructions of the manufacturer, any applicable guidelines issued by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, including, without limitation, guidelines for storing, handling and administering immunizations, guidelines for documenting the administration of an immunization and contraindications and precautions for immunizations.

Sec. 5. 1. *A dentist, dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation shall not administer an immunization to a patient who has not been examined and evaluated by the dentist, dental hygienist or dental therapist, as applicable.*

2. Before administering an immunization, a dentist, dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation shall:

(a) Provide to the patient or, if the patient is an unemancipated minor, his or her parent or guardian, the most current Vaccine Information Statement prescribed for the immunization by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, require him or her to read the Vaccine Information Statement and answer any questions that he or she has concerning the information in the Vaccine Information Statement;

(b) Obtain the informed written consent of the patient, or, if the patient is an unemancipated minor, from the parent or guardian of the patient; and

(c) Review the medical history of the patient, including, without limitation, asking the patient or, if the patient is an unemancipated minor, the parent or guardian of the patient, to describe any medications or other treatments that the patient is currently receiving, allergies to drugs, medical conditions that the patient is currently experiencing, surgeries that the patient has had or plans to have, past pregnancy or plans to become pregnant and any previous adverse reactions to immunizations.

3. If a dentist, dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation requests a physician, physician assistant or advanced practice registered nurse to conduct an examination and evaluation of a patient to determine whether the patient has a medical condition that would make it inadvisable to administer an immunization, the dentist, dental hygienist or dental therapist must rely on and act in conformance with the conclusions of the physician, physician assistant or advanced practice registered nurse.

Sec. 6. 1. A dentist, dental hygienist or dental therapist who holds a special endorsement issued pursuant to section 2 or 3 of this regulation shall include in the record of each patient to whom he or she administers an immunization:

(a) The date on which the immunization was administered;

(b) The site at which the immunization was administered;

(c) The brand name of the immunization, the National Drug Code number assigned to the immunization by the United States Food and Drug Administration or the code number assigned to the immunization under another nationally recognized system of coding for immunizations;

(d) The dose, manufacturer, lot number and expiration date of the immunization;

(e) The name or initials of the dentist, dental hygienist or dental therapist;

(f) Except as otherwise provided in subsection 2, the address of the location where the immunization was administered;

(g) The date on which the Vaccine Information Statement was provided to the patient pursuant to section 5 of this regulation and the date on which the Vaccine Information Statement was published; and

(h) A copy of the questions asked by the dentist, dental hygienist or dental therapist and the information provided by the patient or his or her parent or guardian, as applicable, as part of the review of the medical history of the patient conducted pursuant to section 5 of this regulation, which must be signed by the patient or, if the patient is an unemancipated minor, his or her parent or guardian.

2. A dentist, dental hygienist or dental therapist is not required to include the information described in paragraph (f) of subsection 1 if that information is automatically included in a report made pursuant to NRS 439.265.

3. The records described in subsection 1 must be maintained in accordance with all applicable federal and state laws and regulations, including, without limitation:

(a) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations adopted pursuant thereto; and

(b) NRS 629.051 to 629.069, inclusive, and any regulations adopted pursuant thereto.

Sec. 7. *A licensee who holds a special endorsement issued pursuant to section 2 or 3 of this regulation must biennially complete:*

1. At least 2 hours of continuing education concerning the life cycle of diseases, drugs and the administration of immunizations;

2. A course offered by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services concerning the epidemiology and prevention of diseases that are preventable by immunization;

3. A course of training in the administration of immunizations offered by Immunize Nevada or its successor organization or, if that organization ceases to exist, another organization prescribed by regulation of the Board; or

4. Another course of instruction relating to immunizations that is approved by:

(a) The Board;

(b) The American Dental Association, or its successor organization, or the societies which are a part of it;

(c) The American Dental Hygienists' Association, or its successor organization, or the societies which are a part of it;

(d) The Academy of General Dentistry, or its successor organization;

(e) Any nationally recognized association of dental or medical specialists;

(f) Any university, college or community college located inside or outside this State; or

(g) Any hospital accredited by The Joint Commission.

Sec. 8. NAC 631.230 is hereby amended to read as follows:

631.230 1. In addition to those specified by statute and subsection 3 of NAC 631.177, the following acts constitute unprofessional conduct:

(a) The falsification of records of health care or medical records.

(b) Writing prescriptions for controlled substances in such excessive amounts as to constitute a departure from prevailing standards of acceptable dental practice.

(c) The consistent use of dental procedures, services or treatments which constitute a departure from prevailing standards of acceptable dental practice even though the use does not constitute malpractice or gross malpractice.

(d) The acquisition of any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge.

(e) Making an unreasonable additional charge for laboratory tests, radiology services or other testing services which are ordered by the dentist and performed outside his or her own office.

(f) The failure to report to the Board as required in NAC 631.155 or to sign any affidavit required by the Board.

(g) Employing any person in violation of NAC 631.260 or failing to report to the Board as required by that section.

(h) The failure of a dentist who is administering or directly supervising the administration of general anesthesia, deep sedation or moderate sedation to be physically present while a patient is under general anesthesia, deep sedation or moderate sedation.

(i) Administering moderate sedation to more than one patient at a time, unless each patient is directly supervised by a person authorized by the Board to administer moderate sedation.

(j) Administering general anesthesia or deep sedation to more than one patient at a time.

(k) The failure to have any patient who is undergoing general anesthesia, deep sedation or moderate sedation monitored with a pulse oximeter or similar equipment required by the Board.

(l) Allowing a person who is not certified in basic cardiopulmonary resuscitation to care for any patient who is undergoing general anesthesia, deep sedation or moderate sedation.

(m) The failure to obtain a patient's written, informed consent before administering general anesthesia, deep sedation or moderate sedation to the patient or, if the patient is a minor, the

failure to obtain his or her parent's or guardian's consent unless the dentist determines that an emergency situation exists in which delaying the procedure to obtain the consent would likely cause permanent injury to the patient.

(n) The failure to maintain a record of all written, informed consents given for the administration of general anesthesia, deep sedation or moderate sedation.

(o) The failure to report to the Board, in writing, the death or emergency hospitalization of any patient to whom general anesthesia, deep sedation or moderate sedation was administered. The report must be made within 30 days after the event.

(p) Allowing a person to administer general anesthesia, deep sedation or moderate sedation to a patient if the person does not hold a permit to administer such anesthesia or sedation unless the anesthesia or sedation is administered in a facility for which a permit is held as required by NRS 449.442.

(q) The failure of a dentist who owns a dental practice to provide copies of the records of a patient to a dentist or dental hygienist who provided the services as an employee or independent contractor of the dentist when the records are the basis of a complaint before the Board. Nothing in this paragraph relieves the treating dentist or dental hygienist from the obligation to provide records of the patient to the Board.

(r) The failure of a dentist who owns a dental practice to verify the license of a dentist or dental hygienist before offering employment or contracting for services with the dentist or dental hygienist as an independent contractor.

(s) The failure of a dentist who owns a dental practice and participates in the diagnosis and treatment of any patient to ensure that the services rendered by a dentist or dental hygienist who is an employee or independent contractor of that dentist meet the prevailing standards of

acceptable dental practice. If a dentist or dental hygienist who is an employee or independent contractor of the dentist is found by substantial evidence to have provided services below the prevailing standards of acceptable dental practice, the dentist who owns the dental practice may be required to reimburse the patient to whom the services were provided pursuant to paragraph (l) of subsection 1 of NRS 631.350.

(t) The failure of a dentist who owns a dental practice to record the name of the dentist or dental hygienist who provided the services in the records of a patient each time the services are rendered.

(u) *Administering an immunization if the dentist, dental hygienist or dental therapist does not hold a special endorsement issued pursuant to section 2 or 3 of this regulation.*

(v) *Administering an immunization, other than an immunization for influenza, if the dentist, dental hygienist or dental therapist holds a special endorsement issued pursuant to section 3 of this regulation.*

(w) *Failure to comply with the requirements of NRS 439.265.*

(x) The failure of a dentist who is registered to dispense controlled substances with the State Board of Pharmacy pursuant to chapter 453 of NRS to conduct annually a minimum of one self-query regarding the issuance of controlled substances through the Prescription Monitoring Program of the State Board of Pharmacy.

2. For purposes of NRS 631.347, a plan or practice requiring a patient to select a dentist from a specific group does not provide the patient with a reasonable opportunity to select a dentist of his or her own choice, and constitutes unprofessional conduct on the part of any dentist participating in such a plan or practice, unless it, or another plan concurrently available to the patient, allows the patient to:

(a) Have an annual opportunity, lasting for a minimum of 30 days, to select a dentist of his or her own choice for all dental work to be performed during the subsequent 12 months. Any new patient added to the plan or practice must immediately be given an initial opportunity, lasting at least 30 days, to select the coverage supplied by the plan or practice or a dentist of his or her own choice.

(b) Receive the allowance for a procedure performed by a dentist of his or her own choice in substantially the same amount as he or she would if he or she used the services of one of the group of dentists specified by the plan or practice.