

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

LCB File No. R159-08

Effective April 23, 2009

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

AUTHORITY: §§1 and 12-16, NRS 631.190; §2, NRS 631.190 and 631.360; §§3 and 6, NRS 631.190, 631.230 and 631.290; §4, NRS 631.190, 631.240 and 631.345; §5, NRS 631.190, 631.220 and 631.290; §7, NRS 631.190 and 631.240; §8, NRS 631.190 and 631.280; §§9 and 10, NRS 631.190 and 631.342; §11, NRS 631.190, 631.330 and 631.342.

A REGULATION relating to dentistry; establishing a procedure for a party to a proceeding before the Board of Dental Examiners of Nevada to apply for a subpoena from the Executive Director of the Board; establishing a hearing process for certain applicants for the issuance of a license to practice dentistry or dental hygiene; revising certain fees for the application for an initial license to practice dentistry; revising certain circumstances for which an application for licensure may be rejected; revising certain provisions regarding examinations required for licensure as a dentist or dental hygienist; revising certain continuing education requirements; 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. 1. *A party to a proceeding before the Board desiring to subpoena a witness must submit an application in writing to the Executive Director stating the reasons why the subpoena is requested.*

2. The Executive Director may require that a subpoena requested by a party for the production of health care records, papers, books, accounts or other documents be issued only after the submission of an application in writing to the Executive Director, which specifies as

clearly as may be, the health care records, papers, books, accounts or other documents desired.

3. The Executive Director, upon receipt of an application for a subpoena, shall:

(a) Grant the application and issue the subpoena;

(b) Deny the application; or

(c) Schedule a hearing to decide whether to grant or deny the application.

4. If an application to issue a subpoena is denied, the applicant may petition the Board for reconsideration.

5. As used in this section, "health care records" has the meaning ascribed to it in NRS 629.021.

Sec. 3. *1. The Executive Director or Secretary-Treasurer shall notify the Board if the Executive Director or Secretary-Treasurer finds that an applicant for the issuance of a license pursuant to chapter 631 of NRS has a claim or complaint of malpractice that is filed against him and is pending disposition.*

2. Except as otherwise provided in subsection 3, if the Board receives the notification described in subsection 1, the Board will hold a hearing to determine the qualifications of the applicant to practice dentistry or dental hygiene, as applicable.

3. The Board may approve an application for the issuance of a license without holding a hearing pursuant to subsection 2 if the Board determines that the application contains sufficient information to support a decision to approve the application.

Sec. 4. NAC 631.029 is hereby amended to read as follows:

631.029 The Board will charge and collect the following fees:

Application fee for an initial license to practice dentistry <i>if the applicant has successfully passed a clinical examination administered by the Western Regional Examining Board or a clinical examination approved by the Board and the American Board of Dental Examiners and administered by a regional examination organization other than the Board</i>	\$1,200
<i>Application and examination fee for an initial license to practice dentistry if the examination is approved by the Board and the American Board of Dental Examiners and administered by the Board</i>	<i>1,500</i>
Application fee for an initial license to practice dental hygiene	600
Application fee for a temporary license to practice dentistry	1,200
Application fee for a temporary license to practice dental hygiene	600
Application fee for a specialty license by credential.....	1,200
Application fee for a temporary restricted geographical license to practice dentistry	600
Application fee for a temporary restricted geographical license to practice dental hygiene.....	150
Application fee for a specialist’s license to practice dentistry	125
Application fee for a limited license or restricted license to practice dentistry or dental hygiene.....	125
Application and examination fee for a permit to administer general anesthesia, conscious sedation or deep sedation.....	350
Application and examination fee for a site permit to administer general anesthesia, conscious sedation or deep sedation	350

Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, conscious sedation or deep sedation.....	250
Biennial renewal fee for a permit to administer general anesthesia, conscious sedation or deep sedation.....	100
Fee for the inspection of a facility required by the Board to renew a permit to administer general anesthesia, conscious sedation or deep sedation.....	100
Biennial license renewal fee for a general license or specialist’s license to practice dentistry	600
Biennial license renewal fee for a temporary license to practice dentistry	600
Biennial license renewal fee for a restricted geographical license to practice dentistry	600
Biennial license renewal fee for a restricted geographical license to practice dental hygiene.....	300
Biennial license renewal fee for a general license to practice dental hygiene	300
Biennial license renewal fee for a temporary license to practice dental hygiene	300
Annual license renewal fee for a limited license to practice dentistry or dental hygiene	100
Annual license renewal fee for a restricted license to practice dentistry	100
Biennial license renewal fee for an inactive dentist.....	200
Biennial license renewal fee for an inactive dental hygienist	50
Reinstatement fee for a suspended license to practice dentistry or dental hygiene	200
Reinstatement fee for a revoked license to practice dentistry or dental hygiene	350

Reinstatement fee to return an inactive [] <i>or</i> retired [or disabled] dentist or dental hygienist <i>or a dentist or dental hygienist with a disability</i> to active status	200
Fee for the certification of a license	25
Fee for the certification of a license to administer nitrous oxide or local anesthesia.....	25
Fee for a duplicate wall certificate	25
Fee for a duplicate pocket card receipt.....	25
Application fee for converting a temporary license to a permanent license	125
Fee for an application packet for an examination	25
Fee for an application packet for licensure by credentials	25

Sec. 5. 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 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 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 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 and, if so, any documents relevant to any misdemeanor or felony convictions;

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

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

(l) Whether he has been refused permission to take an examination for licensure by *this State*, any other state or territory of the United States or the District of Columbia, *or any regional testing agency recognized by the Board* and, if so, any documents relevant to the refusal;

(m) Whether he has been denied licensure by *this State*, any other state or territory of the United States or the District of Columbia and, if so, 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, 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, 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, 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;

(d) A copy of current certification in administering cardiopulmonary resuscitation; and

(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 (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]~~ *Each* 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 NAC 631.035.

Sec. 6. NAC 631.050 is hereby amended to read as follows:

631.050 1. If the Executive Director or Secretary-Treasurer finds that:

(a) An application is:

(1) Deficient;

(2) Not in the proper form; or

(3) Delivered to the Board less than the 45 days required before the examination pursuant to subsection 2 of NAC 631.030 or less than the 45 days required before the meeting of the Board to consider the applicant for licensure pursuant to subsection 3 of NAC 631.030; or

(b) The applicant has:

(1) Provided incorrect information;

(2) Not attained the scores required by chapter 631 of NRS; or

(3) Not submitted the required fee,

↪ the Executive Director or Secretary-Treasurer shall reject the application and return it to the applicant with the reasons for its rejection.

2. If the Executive Director or Secretary-Treasurer finds that an applicant has:

(a) A felony conviction;

(b) A misdemeanor conviction;

(c) A malpractice judgment against him;

(d) A history of substance abuse;

(e) Been refused permission to take an examination for licensure by this State, any other state or territory of the United States or the District of Columbia;

(f) Been denied licensure by this State, any other state or territory of the United States or the District of Columbia;

(g) 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;

(h) *Not actively practiced dentistry or dental hygiene, as applicable, for 2 years or more before the date of the application to the Board;*

(i) Had his practice of dentistry or dental hygiene subject to mandatory supervision in this State, another state or territory of the United States or the District of Columbia; or

~~(j)~~ (j) 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,

↳ the Executive Director or Secretary-Treasurer may reject the application. If rejected, the application must be returned to the applicant with the reasons for its rejection.

3. If an application is rejected pursuant to subsection 2, the applicant may furnish additional relevant information to the Executive Director or Secretary-Treasurer, and request that his application be reconsidered. If an application is rejected following reconsideration by the Executive Director or Secretary-Treasurer, the applicant may petition the Board for a review of his application at the next regularly scheduled meeting of the Board.

Sec. 7. NAC 631.090 is hereby amended to read as follows:

631.090 ~~(h)~~ *Except as otherwise provided in NRS 622.090, in* fulfillment of the statutory requirements of *subparagraph (1) of* paragraph (b) of subsection 1 of NRS 631.240, ~~the~~ *an* applicant *taking the clinical examination approved by the Board and the American Board of Dental Examiners* must:

~~{1. Demonstrate proficiency in the fabrication of dentures by performing procedures authorized by the Board;~~

~~—2. Restore a tooth, using silver alloy (a class II restoration);~~

~~—3. Restore a tooth, using a partial veneer crown which covers the entire occlusal surface while maintaining sound enamel on the buccal or lingual surfaces, or both;~~

~~—4. Make such other restorations as the Board requires; and~~

~~—5.] 1. Pass the Dental Simulated Clinical Examination;~~

2. Demonstrate proficiency in endodontics as the organization administering the clinical examination requires;

3. Demonstrate proficiency in fixed prosthodontics as the organization administering the clinical examination requires;

4. Demonstrate proficiency in restorative dentistry as the organization administering the clinical examination requires;

5. Demonstrate proficiency in periodontics as the organization administering the clinical examination requires; and

6. Perform such other procedures as the Board requires.

Sec. 8. NAC 631.140 is hereby amended to read as follows:

631.140 1. ~~[An]~~ *Except as otherwise provided in NRS 622.090, an* applicant who does not pass *all sections of* the examination *approved by the Board and the American Board of Dental Examiners* may apply for a reexamination. The application must be made on a form furnished by the Board.

2. ~~[If, within 1 year after filing his application for licensure, an applicant files an application for reexamination, the applicant must revise the information on the original application by furnishing the Board with a supplement when subsequent changes have taken place.~~

~~—3.]~~ An applicant who does not pass ~~[an]~~ *the* examination may not take another examination without completing such additional professional training as is required by the Board.

~~[4.]~~ 3. An applicant who does not pass the examination solely because he fails one of the ~~[clinical]~~ demonstrations required pursuant to ~~[subsections 1, 2 and 3 of]~~ NAC 631.090 may, at the next scheduled examination, complete the remaining demonstration . ~~[without being required to retake any other part of the examination.]~~ If he does not successfully complete the remaining demonstration at the next scheduled examination ~~[,]~~ *or within the timeline approved by the American Board of Dental Examiners for a person who takes the examination as part of an integrated curriculum,* he must retake the entire examination.

~~[5.]~~ 4. For the purposes of NRS 631.280, an applicant who attempts to complete successfully a demonstration pursuant to subsection ~~[4]~~ 3 shall not be deemed to have failed the examination twice if he fails to complete that demonstration successfully.

Sec. 9. NAC 631.173 is hereby amended to read as follows:

631.173 1. Each dentist licensed to practice in this State must *annually* complete ~~[annually]~~ at least 20 hours of instruction in approved courses of continuing education ~~[,]~~ *or biennially complete at least 40 hours of instruction in approved courses of continuing education, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dentist.* Hours of instruction may not be transferred or carried over from one licensing period to another.

2. Each dental hygienist licensed to practice in this State must *annually* complete ~~[annually]~~ at least 15 hours of instruction in approved courses of continuing education ~~[.]~~ *or biennially complete at least 30 hours of instruction in approved courses of continuing education, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dental hygienist.* Hours of instruction may not be transferred or carried over from one licensing period to another.

3. In addition to the hours of instruction prescribed in subsections 1 and 2, each dentist and dental hygienist must maintain current certification in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life. Any course taken pursuant to this subsection must be taught by a certified instructor.

4. Any provider of or instructor for a course in continuing education relating to the practice of dentistry or dental hygiene which meets the requirements of this section must be approved by the Board, unless the course is for training in cardiopulmonary resuscitation or is approved by:

- (a) The American Dental Association or the societies which are a part of it;
- (b) The American Dental Hygienists' Association or the societies which are a part of it;
- (c) The Academy of General Dentistry;
- (d) Any nationally recognized association of dental or medical specialists;
- (e) Any university, college or community college, whether located in or out of Nevada; or
- (f) Any hospital accredited by ~~[the]~~ *The* Joint Commission . ~~[on Accreditation of Healthcare Organizations.]~~

5. To be approved as a provider of a course in continuing education, the instructor of the course must complete a form provided by the Board and submit it to the Board for review by a committee appointed by the Board not later than 45 days before the beginning date of the course.

Upon receipt of the form, the committee shall, within 10 days after receiving the form, approve or disapprove the application and inform the applicant of its decision.

6. Study by group may be approved for continuing education if the organizer of the group complies with the requirements of subsection 5 and furnishes the Board with a complete list of all members of the group, a synopsis of the subject to be studied, the time, place and duration of the meetings of the group, and the method by which attendance is recorded and authenticated.

7. Credit may be allowed for attendance at a meeting or a convention of a dental and dental hygiene society.

8. Credit may be allowed for courses completed at home which are taught through correspondence or videocassettes.

9. Credit may be allowed for dental and dental hygiene services provided on a voluntary basis to nonprofit agencies and organizations approved by the Board.

Sec. 10. 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. ~~At~~ *In completing the hours of continuing education required pursuant to NAC 631.173, a dentist must annually complete at least 15 ~~of the~~ hours ~~of continuing education required for dentists by NAC 631.173 must be~~ in clinical subjects approved pursuant to ~~paragraph (a) of~~ 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. ~~At~~ *In completing the hours of continuing education required pursuant to NAC 631.173, a dental hygienist must annually complete at least 12 ~~of the~~ hours ~~of continuing education required for dental hygienists by NAC 631.173 must be~~ in clinical subjects approved pursuant to ~~paragraph (a) of~~ 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. The Board will credit, as a maximum in any *one* year ~~or~~ *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. 11. NAC 631.177 is hereby amended to read as follows:

631.177 1. When requesting a renewal or reinstatement of his license, each:

(a) Dentist shall submit a signed, written statement in substantially the following language for each year since his last renewal:

I,, hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 20 approved hours of instruction in continuing education during the period July 1,, through and including June 30,, I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this (day) of (month) of (year)

.....

Signature of Dentist

(b) Dental hygienist shall submit a signed, written statement in substantially the following language for each year since his last renewal:

I,, hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 15 approved hours of instruction in continuing education during the period July 1,, through and including June 30,, I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this (day) of (month) of (year)

.....
Signature of Dental Hygienist

(c) Dentist or dental hygienist shall submit proof of his current certification in administering cardiopulmonary resuscitation or other medically acceptable means of maintaining basic bodily functions which support life.

2. Legible copies of all receipts, records of attendance, certificates and other evidence of attendance by a dentist or dental hygienist at an approved course in continuing education must be retained by the dentist or dental hygienist and made available to the Board for inspection or copying for 3 years after attendance at the course is submitted to meet the continuing education requirements of the Board. Proof of attendance and completion of the required credit hours of instruction must be complete enough to enable the Board to verify the attendance and completion of the course by the dentist or dental hygienist and must include at least the following information:

- (a) The name and location of the course;
- (b) The date of attendance;
- (c) The name, address and telephone number of its instructor;
- (d) A synopsis of its contents; and
- (e) For courses designed for home study, the number assigned to the provider by the Board at the time the course was approved and the name, address and telephone number of the producer or author of the course.

3. The third or subsequent failure of a dentist and dental hygienist to obtain or file proof of completion of the ~~annual~~ credit hours of instruction required by this section and NAC 631.173 and 631.175 is unprofessional conduct.

4. The Board will conduct random audits of dentists or dental hygienists to ensure compliance with the requirements of this section and NAC 631.173 and 631.175.

Sec. 12. NAC 631.2213 is hereby amended to read as follows:

631.2213 1. Except as otherwise set forth in NAC 631.2211 to 631.2256, inclusive, no dentist may:

(a) Use general anesthesia or deep sedation for dental patients, except in a facility accredited by ~~the~~ *The* Joint Commission , ~~[on Accreditation of Healthcare Organizations,]~~ unless he first obtains a general anesthesia permit; or

(b) Use conscious sedation for dental patients, except in a facility accredited by ~~the~~ *The* Joint Commission , ~~[on Accreditation of Healthcare Organizations,]~~ unless he first obtains a general anesthesia permit or conscious sedation permit.

↪ A separate general anesthesia permit or conscious sedation permit, as appropriate, is required for each location at which a dentist administers general anesthesia, deep sedation or conscious sedation.

2. To obtain a general anesthesia permit or conscious sedation permit, a dentist must apply to the Board for such a permit on a form prescribed by the Board, submit any fees that are set by the Board pursuant to NRS 631.345 and produce evidence showing that he is a dentist who is licensed in this State, and:

(a) For a conscious sedation permit, the applicant must show evidence of:

(1) The completion of a course of study, subject to the approval of the Board, of not less than 60 hours dedicated exclusively to the administration of conscious sedation, and the successful management of the administration of conscious sedation to not less than 20 patients;

or

(2) The completion of a program for specialty training which is approved by the Commission on Dental Accreditation of the American Dental Association and which includes education and training in the administration of conscious sedation that is equivalent to the education and training described in subparagraph (1) and completion of an Advanced Cardiac Life Support course given by the American Heart Association or, if licensed as a specialist in pediatric dentistry, completion of a Pediatric Advanced Life Support course given by the American Heart Association.

(b) For a general anesthesia permit, the applicant must show evidence of the completion of an Advanced Cardiac Life Support course given by the American Heart Association and:

(1) The completion of a program, subject to the approval of the Board, of advanced training in anesthesiology and related academic subjects beyond the level of undergraduate

dental school in a training program as described in ~~[Part H of]~~ the *Guidelines for Teaching ~~[the Comprehensive Control of Pain and Anxiety in Dentistry,]~~ Pain Control and Sedation to Dentists and Dental Students*, published by the ~~[Council on Dental Education and available from the]~~ American Dental Association, 211 East Chicago ~~[Ave.,]~~ *Avenue*, Chicago, Illinois 60611 ~~[;]~~ *and available, free of charge, at the Internet address http://www.ada.org/prof/resources/positions/statements/anxiety_guidelines.pdf*; or

(2) The completion of a graduate program in oral and maxillofacial surgery which has been approved by the Commission on Dental Accreditation of the American Dental Association.

Sec. 13. NAC 631.2236 is hereby amended to read as follows:

631.2236 1. A dentist who is licensed in this State may employ:

(a) An anesthesiologist who is licensed as such by the State of Nevada; or

(b) A dentist who is licensed in this State and who holds a general anesthesia permit or conscious sedation permit,

↳ to administer general anesthesia, deep sedation or conscious sedation, as appropriate, to his patients at his office if he holds a certificate of site approval issued pursuant to this section.

2. A dentist who is licensed in this State and who desires to receive or renew a certificate of site approval must submit to the Board:

(a) An application for a certificate or for the renewal of a certificate, in a form approved by the Board;

(b) The fee for the inspection of a facility which is established by the Board pursuant to NRS 631.345; and

(c) Written documentation which demonstrates that the anesthesiologist or dentist who is to be employed to administer the general anesthesia, deep sedation or conscious sedation holds an

appropriate license or permit issued by the appropriate board in this State to administer such anesthesia or sedation ~~[]~~ and , if the person to be employed is an anesthesiologist, that the anesthesiologist maintains unrestricted active staff privileges within the department of anesthesiology at a hospital or surgical center approved by ~~[the]~~ *The* Joint Commission . ~~[on Accreditation of Healthcare Organizations.]~~

3. Upon receipt of an application pursuant to this section, the Board will appoint one of its members or a representative of the Board to inspect the office of the applicant to determine whether the office complies with the requirements set forth in NAC 631.2227, 631.2229 and 631.2231. The person conducting the inspection shall report his determination to the Board.

4. If the person conducting the inspection determines that the office of the applicant complies with the requirements of NAC 631.2227, 631.2229 and 631.2231 and the applicant has otherwise met the requirements of this section, the Executive Director shall issue a certificate of site approval to the applicant.

5. A holder of a certificate of site approval shall maintain the information described in paragraph (c) of subsection 2 at his office at all times.

6. Each certificate of site approval issued by the Board must be renewed annually or biennially, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the holder of the certificate.

7. The Board may reinspect the office of the holder of a certificate of site approval at any time.

Sec. 14. NAC 631.224 is hereby amended to read as follows:

631.224 1. Any dentist who holds a general anesthesia permit pursuant to the provisions of NAC 631.2211 to 631.2256, inclusive, may employ a certified registered nurse anesthetist to

administer the general anesthesia, deep sedation or conscious sedation to a patient if the dentist is physically present and directly supervises the administration of the general anesthesia, deep sedation or conscious sedation to the patient. The holder of the permit must maintain at his office evidence in writing that the certified registered nurse anesthetist is licensed to practice in the State of Nevada and maintains unrestricted active staff privileges within the department of anesthesiology at a hospital or surgical center which is certified by ~~the~~ *The* Joint Commission . ~~[on Accreditation of Healthcare Organizations.]~~

2. Except as otherwise provided in NAC 631.2236, a dentist who does not hold a general anesthesia permit may not allow any person to administer general anesthesia, deep sedation or conscious sedation to his patients unless the treatment is rendered within a facility approved by ~~the~~ *The* Joint Commission . ~~[on Accreditation of Healthcare Organizations.]~~

Sec. 15. NAC 631.2241 is hereby amended to read as follows:

631.2241 Each holder of a general anesthesia permit, conscious sedation permit or certificate of site approval shall submit to the Board a complete report regarding any mortality or unusual incident which occurs outside a facility accredited by ~~the~~ *The* Joint Commission ~~[on Accreditation of Healthcare Organizations]~~ and produces permanent injury to a patient or requires the hospitalization of a patient, as a direct result of the administration of general anesthesia, deep sedation or conscious sedation. The report must be submitted within 30 days after the date of the incident. If a dentist fails to report any incident as required by this section, his permit may be revoked.

Sec. 16. 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 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 conscious sedation to be physically present while a patient is under general anesthesia, deep sedation or conscious sedation.
- (i) Administering conscious sedation to more than one patient at a time, unless each patient is directly supervised by a person authorized by the Board to administer conscious 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 conscious 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 conscious sedation.

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

(1) In a facility approved by ~~the~~ *The* Joint Commission ; ~~on Accreditation of Healthcare Organizations;~~ or

(2) By an anesthesiologist in an office for which a certificate of site approval has been issued.

(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.

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 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 , ~~[within which]~~ to select a dentist of his 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 own choice.

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

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R159-08

The Board of Dental Examiners of Nevada adopted regulations assigned LCB File No. R159-08 which pertain to chapter 631 of the Nevada Administrative Code.

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 November 1, 2007 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A second public workshop was held January 17, 2008 after a 15 day notice was posted in compliance with the Nevada Administrative Rulemaking requirements. A public hearing and adoption was held on January 17, 2008 after a thirty day notice 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, Notice List maintained by the board; and the Clark County Health District. Public comment was sought; however no written comments were forthcoming at the workshops, nor the hearing. A copy of the written minutes of the 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.

A public workshop, hearing and adoption was again held October 30, 2008 after a greater than 30 day posting was made of LCB File No. R159-08 to the main library in all counties in Nevada, offices of the Attorney General, State Library and Archives, Board Notice List, Clark County Health District, Professional Associations of both Licensing Populations, and the Board website. Public comment was sought; however the only comments received were written regarding the use of "he" throughout the regulations which was explained by the board legal counsel as general and applying to both genders. The board did approve minor changes to the submitted R159-08 which are attached hereto to clarify the regulatory changes sought to NAC 631.050, 631.029, and 631.140.

2. The number of persons who:
- (a) Attended the hearing: Approx. 20 11/1/2007
 Approx. 25 1/17/2008
 Approx 25 10/30/08
 - (b) Testified at the hearing: 0 11/1/2007
 0 1/17/2008
 0 10/30/08
 - (c) Submitted to the agency written comments: NONE
 1 10/30/08

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. Representation was specifically made from one affected practitioner association present at the meetings. (Dr. Robert Talley, NDA). No specific concerns were raised and few questions were addressed to the Executive Director and Board regarding the proposed regulatory changes concerning subpoenas. The Executive Director did review the Legislative Commission and Legislative Committee (Senate Commerce and Labor) comments and questions posed to the Director regarding the issuance of subpoenas that had taken place during the previous year with both bodies. Language change in statute had been completed in the 2007 Legislative Session which authorized this regulatory creation.

The other regulatory amendments address consistency with current statutes. Again, public comment and licensee comment was sought; however, no written or spoken comment was submitted or presented at either workshop or hearing. Specific changes in regulations are to be consistent with statutory language for examination, application for licensure, and renewal of licensure. As Nevada no longer administers an independent clinical examination for dentistry, but administers the nationally recognized ADLEX clinical examination for dentistry, requirements for passing such examination components were amended to be consistent with national standards as well as NRS 622. Other amendments address minimal application standards for practice and are consistent with current standards for existing licensees. Continuing education requirements are modified to recognize the recent change to biennial licensure for most licensees while maintaining current requirements consistently for annually renewing licensees. 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. The subsequent hearing and adoption held on October 30, 2008 did not yield any public comments regarding the proposed regulation changes nor any comment in opposition to the adopted language by the board to clarify the regulations with respect to intent and purpose of the proposed changes. Only written comment was submitted regarding the use of the term “he” throughout the language draft of the regulations which was explained by board legal counsel as referring to both genders “he” and “she.”

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 were adopted at the Nevada State Board of Dental Examiners hearing on January 17, 2008. No substantive changes were proposed at either workshop, public hearing or adoption hearing after thorough review and discussion with extensive explanations were given at each meeting and hearing to ensure understanding. The regulatory language submitted by LCB to the Board in file no. R159-08 were not adopted as written with changes noted on the attached

document. The Board changes proposed to NAC 631.050 address initial license applicants with pending malpractice claims or complaints and active practice requirements. The Board also proposed changes to the fee schedule which included the examination and license application fee for those applicants taking the board administered ADEX examination for licensure through the curriculum integrated format (CIF) in dental school prior to graduation. Finally, the other adopted language change from the LCB submitted regulations related to passing requirements for the examination administered by the Board. The ADEX examination administered in the CIF format has particular retake options within the ADEX approved examination. To be consistent with the approved ADEX examination in statute and administration by the Nevada Board, the board proposed the regulatory changes in NAC 631.140 to be consistent with the retake options in the CIF before failures would be appropriately noted for complete examination retake and affect licensing requirements with respect to passing the examination.

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 beneficial effects are to identify more specifically in regulation what is authorized in statute. During the hearing process related to a notice of complaint, the Executive Director may issue subpoenas to either party submitting an application for such with specific language regarding the nature and scope of the subpoena to be issued pursuant to direction of NRS and NAC Chapters 631. The active practice requirement for applicants is consistent with the current requirements for existing licensees to maintain skill and education within the profession. As there are now other methods for licensure than clinical examination it is appropriate to ensure safe and current practice standards and address through existing mechanisms should an applicant be out of practice for years.

There is an economic benefit to the ADEX examination candidates from UNLV SDM as the fee for license examination and license application is combined as the board is 'examining' the candidates should they then apply for licensure in Nevada.

(b) Both immediate and long-term effects.

Immediate and long term effects are to clarify more specifically the statutes of Chapter 631. The issuance of subpoenas by the Executive Director for efficiency of the complaint/hearing process similar to other boards and courts is timely. Additionally, other regulatory changes recognize the changes to statute for licensure, renewal, and examination and are consistent with those statutes.

The public benefit for the regulatory clarification regarding active practice is to ensure that license applicants are current with practice skills and education. Having an applicant for licensure that is a non-practicing dentist or hygienist for more than 2 years (current examples have been 9, 11, and 13 years out of practice) may pose a safeguard issue whether said applicant is a competent practitioner that has remained current within their respective profession. Ensuring

qualified, competent, and safe practitioners of dentistry and dental hygiene is a public trust ceded to the NSBDE by the Nevada Legislature.

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

There are no greater costs to the board for enforcement of these regulations than what is already incurred through application of the statutes currently.

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; however, with respect to the examination requirements for passing, they are consistent with NRS 622 and the national body's standard for passing the examination and the CIF format standards as adopted by ADEX (American Board of Dental Examiners).

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.

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.