

BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

IN REGARDS TO THE MATTER OF:

Request for the Advisory Opinion by licensee John Bocchi, DDS as to whether a licensee may be a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would violate any provision of Chapter 631 of Nevada Revised Statutes and Nevada Administrative Codes

AO-14-1212

On December 12, 2014, pursuant to agenda item 5(a)(1) at a properly noticed meeting held at the Nevada State Board of Dental Examiners ("Board") office located at 6010 S Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118 the "Board" issued the following advisory opinion.

Dr. Jade A Miller	Present
Dr. Gregory Pisani	Present
Dr. Jason Champagne	Present
Dr. Timothy Pinther	Present
Dr. James G Kinard	Present
Dr. J. Stephen Sill	Present
Dr. Byron Blasco	Present
Ms. Caryn Solie	Present
Mrs. Leslea Villigan	Present
Mrs. Theresa Guillen	Present
Mrs. Lisa Wark	Present

ADVISORY OPINION

I.
BACKGROUND

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

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

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

- A. The Board has discretion whether or not to issue an advisory opinion pursuant to NAC 631.279.
- B. Licensee, John Bocchi, DDS, is requesting an advisory opinion as to whether a licensee may be a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would violate any provision of Chapter 631 of Nevada Revised Statutes and Nevada Administrative Codes.
- C. Public notice of the above-referenced request for an advisory opinion was provided in accordance with state law.

II
DISCUSSION

- A. This matter was previously tabled from the Board's meeting of October 3, 2014. Dr. John Bocchi, was present to discuss his request for the advisory opinion as to whether a licensee may be a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would violate any provision of Chapter 631 of Nevada Revised Statute and Nevada Administrative Codes

Board Legal Counsel advised the Board that a licensee participating as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would currently be in violation of federal law pursuant the

Controlled Substances Act, 28, U.S.C. 801 et seq., because marijuana: 1) Is classified as a Schedule 1 drug; 2) has not been fully evaluated and approved by the Food and Drug Administration for medicinal purposes; 3) lacks accepted safety standards for use; and 4) has a high potential of abuse.

Board Legal Counsel advised the Board could adopt a policy that the Board will not authorize and/or conduct investigations based solely on their participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A. However, if the Board receives a complaint alleging misconduct or other possible violations regarding the licensee's participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, the Board is obligated by law to investigate the allegations contained in the Complaint.

Board Legal Counsel advised the Board that if a licensee is convicted of violating the Controlled Substances Act, or any other federal or state law regarding possession, distribution or use of any controlled substance or any dangerous drug as defined in Chapter 454 of the NRS the Board will be obligated by law to investigate the matter pursuant to NRS 631.3485.

Board Legal Counsel advised the Board whether a licensee participates or not as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, a licensee they may be subject to potential disciplinary process by the Board for the following violations; administering, dispensing or prescribing any controlled substance, or any dangerous drug pursuant to NRS 631.3475(5) and NRS 631.3475(6); dividing fees or agreeing to divide fees received for services for bringing or referring a patient pursuant to NRS 631.346.

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

III CONCLUSION

- A. After considering and discussing public comment pursuant to the authority set forth in NAC 631.279, NRS 631.190 and NRS 233B.120, a motion was made by Board Member Blasco that the Board issue the following advisory opinion regarding whether a licensee may be a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or

entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would violate any provision of Chapter 631 of Nevada Revised Statutes and Nevada Administrative Codes.

1. The Board is of the opinion that a licensee participating as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would currently be in violation of federal law pursuant to the Controlled Substances Act, 28, U.S.C. 801 et seq., because marijuana: 1) is classified as a Schedule 1 drug; 2) has not been fully evaluated and approved by the Food and Drug Administration for medicinal purposes; 3) lacks accepted safety standards for use; and 4) has a high potential of abuse.
2. Based upon a possible conflict between State and Federal Law the Board will not authorize and/or conduct investigations based solely on a licensee's participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A. However, should the Board receive a complaint alleging misconduct or other possible violations regarding a licensee's participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, the Board is obligated by law to investigate the allegations contained in the Complaint.
3. The Board is of the opinion that if a licensee is convicted of violating the Controlled Substances Act or any other federal or state law regarding possession, distribution or use of any controlled substance or any dangerous drug as defined in Chapter 454 of the NRS the Board will be obligated by law to investigate the matter pursuant to NRS 631.3485.
4. The Board is of the opinion whether a licensee participates or not as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, a licensee they may be subject to potential disciplinary process by the Board for the following violations; administering, dispensing or prescribing any controlled substance, or any dangerous drug pursuant

to NRS 631.3475(5) and NRS 631.3475(6); dividing fees or agreeing to divide fees received for services for bringing or referring a patient pursuant to NRS 631.346.

The motion was seconded by Board Member Sill. There was no further discussion.

III

Dr. Kinard called for the motion:

Dr. Jade A Miller	Yes
Dr. Gregory Pisani	Yes
Dr. Jason Champagne	Yes
Dr. Timothy Pinther	Yes
Dr. James G Kinard	Yes
Dr. J. Stephen Sill	Yes
Dr. Byron Blasco	Yes
Ms. Caryn Solie	Yes
Mrs. Leslea Villigan	Yes
Mrs. Theresa Guillen	Yes
Mrs. Lisa Wark	Yes

The motion was passed unanimously and therefore the Board issues the following advisory opinion:

1. The Board is of the opinion that a licensee participating as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A would currently be in violation of federal law pursuant the Controlled Substances Act, 28, U.S.C. 801 et seq., because marijuana: 1) Is classified as a Schedule 1 drug; 2) has not been fully evaluated and approved by the Food and Drug Administration for medicinal purposes; 3) lacks accepted safety standards for use; and 4) has a high potential of abuse.
2. Based upon a possible conflict between State and Federal Law the Board will not authorize and/or conduct investigations based solely on a licensee's participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised

Statutes (NRS) Chapter 453A. However, should the Board receive a complaint alleging misconduct or other possible violations regarding a licensee's participation as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, the Board is obligated by law to investigate the allegations contained in the Complaint.

3. The Board is of the opinion that if a licensee is convicted of violating the Controlled Substances Act or any other federal or state law regarding possession, distribution or use of any controlled substance or any dangerous drug as defined in Chapter 454 of the NRS the Board will be obligated by law to investigate the matter pursuant to NRS 631.3485.
4. The Board is of the opinion whether a licensee participates or not as a shareholder, officer or managing member of any medical marijuana cultivation facility, dispensary or other establishment or entity authorized under Nevada Revised Statutes (NRS) Chapter 453A, a licensee they may be subject to potential disciplinary process by the Board for the following violations; administering, dispensing or prescribing any controlled substance, or any dangerous drug pursuant to NRS 631.3475(5) and NRS 631.3475(6); dividing fees or agreeing to divide fees received for services for bringing or referring a patient pursuant to NRS 631.346.



JAMES G. KINARD, DDS, PRESIDENT
Nevada State Board of Dental Examiners