

BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

IN REGARDS TO THE MATTER OF:

Request for the Advisory Opinion by licensee J. Stephen Sill, DMD regarding NAC 631.033 and NAC 631.035 for clarification on the types of lasers to be utilized pursuant to NAC 631.033 and NAC 631.035.

AO—15-0619

On June 19, 2015 pursuant to agenda item 8(a) 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	Excused
Dr. Gregory Pisani	Present
Dr. Jason Champagne	Present
Dr. Timothy Pinther	Present
Dr. James G Kinard	Excused
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

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.

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, J. Stephen Sill, DMD, requested an advisory opinion regarding NAC 631.033 and NAC 631.035 for clarification on the types of lasers to be utilized pursuant to NAC 631.033 and NAC 631.035.
- C. Public notice of the above-referenced request for an advisory opinion was provided in accordance with state law.

II.

DISCUSSION

- D. J. Stephen Sill, DMD was present at the meeting to discuss clarification of NAC 631.033 and NAC 631.035 with regards to the types of laser to be utilized pursuant to these regulations. Dr Sill explained the use of Diagnodent to detect caries for diagnostic purposes and explained that certain radiographic devices have lasers for the positioning of patients for diagnostic purposes and was requesting an advisory opinion to ensure compliance with NAC 631.033 and NAC 631.035.

Board Legal Counsel addressed the following; NAC 631.033; NAC 631.035 and NRS 631.215(2)(a). Board Counsel's review of NAC 631.033 which states each licensee who uses or wishes to use laser radiation in his or her practice of dentistry or dental hygiene must include with the application for renewal of his or her license a statement certifying that each laser used by the licensee in his or her practice of dentistry or dental hygiene has been cleared by the Food and Drug Administration for use in

dentistry and submit proof that he or she has successfully completed a course in laser proficiency that is at least 6 hours in length and based on the *Curriculum Guidelines and Standards for Dental Laser Education*.

The discussion included the use of lasers to cut, cauterize and alter tissue. Board Counsel stated the lasers used to cut, cauterize or alter tissue that have been cleared by the Food and Drug Administration and that each licensee using lasers that cut, cauterize, healing or alter tissue fall under NAC 631.033 and NAC 631.035. Lasers used for diagnostic purposes such as, for radiographic purposes and caries detection (Diagnodent) are exempt from certification as set forth in NAC 631.033 and NAC 631.035. However, the lasers used for diagnostic purposes are required to be cleared by the Food and Drug Administration.

Therefore, it is the legal opinion of Board Counsel that lasers used for diagnostic purposes are exempt from NAC 631.033 and NAC 631.035 but are required to be cleared by the Food and Drug Administration.

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

III. CONCLUSION

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 Pisani that the Board issue an opinion that lasers used for diagnostic purposes are exempt from NAC 631.033 and NAC 631.035 but are required to be cleared by the Food and Drug Administration.

The motion was seconded by Board Member Blasco. No discussion:

III

Dr. Pinther called for the motion:

Dr. Jade A Miller	excused
Dr. Gregory Pisani	yes
Dr. Jason Champagne	yes
Dr. Timothy Pinther	yes
Dr. James G Kinard	excused
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 that the Board issue an opinion that lasers used for diagnostic purposes are exempt from NAC 631.033 and NAC 631.035 but are required to be cleared by the Food and Drug Administration.



TIMOTHY PINTER, DDS, PRESIDENT
Nevada State Board of Dental Examiners