

1 NEVADA STATE BOARD OF DENTAL EXAMINERS
2 6010 S. Rainbow Boulevard, Suite A-1
3 Las Vegas, Nevada 89118
4 Friday, January 25, 2013 at 3:00 pm
5

6 Minutes
7 Committee of Dental Hygiene
8 (Mrs. Villigan; Mrs. Guillen; Ms. Solie; Dr. Sill)
9

10 **Videoconferencing is available at the Board office, 6010 S Rainbow Boulevard, Suite A-1, in Las Vegas and at**
11 **the Nevada State Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada 89502.**
12
13

14 **Please Note:** The Nevada State Board of Dental Examiners may 1) address agenda items out of sequence to
15 accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine
16 items for consideration by the public body; 3) pull or remove items from the agenda at any time. The Board may
17 convene in closed session to consider the character, alleged misconduct, professional competence or physical or
18 mental health of a person. *See* NRS 241.030. Prior to the commencement and conclusion of a contested case or a
19 quasi judicial proceeding that may affect the due process rights of an individual the board may refuse to consider
20 public comment. *See* NRS 233B.126.
21

22 Public comment is welcomed by the Board, but at the discretion of the Chair, may be limited to five minutes per
23 person. A public comment time will be available before any action items are heard by the public body and then once
24 again prior to adjournment of the meeting. The Chair may allow additional time to be given a speaker as time allows
25 and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn. Prior to the
26 commencement and conclusions of a contested case or a quasi judicial proceeding that may affect the due process
27 rights of an individual the board may refuse to consider public comment.
28
29

30 **Call to Order**
31

32 **1. Roll call and Establish a Quorum:**
33

34 Mrs. Villigan called the meeting to order and Ms. Shaffer conducted the following roll call:
35

36 Mrs. Leslea Villigan-----PRESENT
37 Mrs. Theresa Guillen-----PRESENT
38 Ms. Caryn L Solie-----PRESENT
39 Dr. J Stephen-----PRESENT
40

41 Others present: John A Hunt, Board Legal Counsel; Debra Shaffer, Interim Executive Director.
42

43 Public attendees: Gilbert Trujillo, NDA; Michael Day, NDA; Stephen Rose, NDA; Lynn Brosy, NDA;
44 Annette Lincicome, RDH, SNDHA; David White, NDA; Spencer Armuth, NDA; Brad Wilbur, NDA;
45 Mark Handelin; Lori Benvin, NNDS; Robert Talley, NDA; Richard Dragon, NDA; Jason Ferguson,
46 NNDS; George Zatarin, NNDS; Steven Saxe; Catherine Carreiro, RDH; Barry Frank; Lydia Wyatt; Tina
47 Brandon, DDS; Jonathan White; Heather Rogers, NDHA; Michael Banks, DDS.
48

49 **2. Public Comment:** Dr. Trujillo indicated that he will have public comment at the end of the meeting.
50

51 **Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has**
52 **been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)**

53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105

***3. Old Business (For Possible Action)**

***(a) Report from the Nevada Dental Hygienists' Association (NDHA) (For Possible Action)**

Ms. Laxalt indicated that the NDHA will not be pursuing Issue item (3) and (4) on their report of issues. (See attached document for the record). She indicated that on issue item (5) they will pursue a regulatory change, and noted that any regulatory change would be a temporary change. (Document attached for the record).

Dr. Miller commented on issue item (1), and indicated that he had a discussion with the lobbyist. He indicated that the PHE facilities have to have a dental director reason being that there no funding budgeted for a State Dental Director, and therefore, the facilities that hosts PHE holders are required to have a dental director overlooking their facility/program. Ms. Laxalt indicated that they will be seeking a regulatory change to make the regulation unambiguous.

Ms. Laxalt indicated that the NDHA will be pursuing legislation on issue items (1), (2), and (5); however, are waiting on advisory opinions.

Mrs. Peterson, via teleconference, commented that they will be asking the Board for an advisory opinion to get clarification on whether or not the PHE holders must abide by the 18 month requirement of a patient having to see a dentist prior to receiving treatment by a dental hygienist. Mr. Hunt replied to Mrs. Peterson that, indeed, the PHE holders must comply with the 18 month requirement. Mrs. Peterson indicated that she would like to officially request an advisory opinion on this topic to see if they should, perhaps, pursue a regulatory change. Mr. Hunt indicated that any regulatory change will require the legislature to check with the Board to see if there will be any fiscal impact on the Board, which will fall upon the Committee on Dental Hygiene to seek a statutory change.

3. Public Comment: Dr. Trujillo commented that he will work with the NDHA, however, there were some areas that he disagreed with. He cautioned them that they do not want to impede on access to care.

Mrs. Peterson inquired on the process for those who are interested in becoming Disciplinary Screening Officers (DSO). Mr. Hunt indicated that there is a DSO application, and that anyone who is eligible to apply may apply.

Dr. Talley inquired on the requirements to request an advisory opinion. Ms. Shaffer indicated that anyone seeking an advisory opinion would simply submit their request in writing prior to the posting of the next scheduled Board meeting.


Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

5. Announcements: Mr. Hunt indicated that the issue with the statute regarding the state dental director is that such a person does not currently exist. Dr. Talley indicated that they would have to make the recommendation to the committee in writing to seek a statutory change.

***6. Adjournment (For Possible Action):** Mrs. Solie made the motion to adjourn. Second by Mrs. Villigan. All in favor.

Meeting Adjourned at 4:05 pm.

Respectfully submitted by:



Debra Shaffer, Executive Director

1/25/13
COMM. ON DH

Nevada Dental Hygienists' Association
"The Voice of Dental Hygiene in Nevada"

Issue #1- Waiting for clarification from Mike Hillerby

Restore the legislative intent of the public health dental hygiene (PHDH) endorsement whereby a PHDH can perform all duties delegable in NAC 631.210 (1) without the authorization of a dentist and without the patient being required to have had a dental examination within eighteen months.

Background

- The Public Health Endorsement was created in 2001 so that a dental hygienist could practice in their area of expertise and serve the public by increasing access to care in underserved or uninsured locations.
- A PHDH would work under the authorization of the State Dental Health Officer, however, the Nevada Legislature has never appropriated funding for this officer.
- The Nevada State Board of Dental Examiners (NSBDE) created rules to allow for the endorsement as long as the PHDH reported directly to the NSBDE.
- The PHDH existed for over ten years without any incident or harm to the public the PHDH provided services to thousands of children for free or at low cost to the public.
- The NSBDE requires annual reporting and renewal for the PHDH however, data and relevant statistics are not managed, analyzed or released by the NSBDE to determine the impact of the PHDH.

As the bill draft originator, the intent of the statute was such that an endorsement would be an additional credential that would allow the PHDH to work in any Board recognized place for a dental hygienist to practice. The NSBDE went beyond the intent of the statute and administratively interpreted that a PHDH must have an endorsement for each public health program or place of practice. Nowhere in statute or rule is this interpretation apparent. This administrative request requires a PHDH to complete redundant paperwork and report services provided annually for every public health program where they volunteer or are employed. This is an unwarranted task given that the Board does utilize the data for any purpose. The publication of such collected data should be reported annually at minimum.

Therefore, we propose the following amendments to existing statute:

NRS 631.287 Dental hygienists: Special endorsement of license to practice public health dental hygiene.

1. The Board shall, upon application by a dental hygienist who is licensed pursuant to this chapter and has such qualifications as the Board specifies by regulation, issue a special endorsement of the license allowing the dental hygienist to practice public health dental hygiene pursuant to subsection 2.

2. The State Dental Health Officer may authorize a person who holds a special endorsement issued pursuant to subsection 1 to provide or cause to be provided such services for the promotion of public health dental hygiene as the State Dental Health Officer deems appropriate. Such services:

(a) May be provided at schools, community centers, hospitals, nursing homes and such other locations as the State Dental Health Officer deems appropriate.

(b) May not be provided at a dental office that is not operated by a public or nonprofit entity.

3. *A dental hygienist who is issued a special endorsement to practice public health dental hygiene may perform the services set forth in NAC 631.210 (1) inclusive, of subsection 1 without supervision by a dentist and without authorization from the licensed dentist of the patient on whom the services are to be performed, and is not subject to the subsection postscript requiring examination within the last eighteen months.*

4. *A special endorsement to practice public health dental hygiene shall be issued and renewed upon biannual licensure, for the duration of license and shall not be limited to individual programs or sites.*

Issue #2- Waiting for clarification from Mike Hillerby

Clarify and secure that community outreach oral health programs managed or owned by a dental hygienist who has been issued a special endorsement to practice public health dental hygiene shall be exempt from **NRS 631.3452 Designation and responsibilities of dental director of dental office or clinic; retention of records**; as long as information about the practice is on file with the Board.

Background

- Community outreach oral health programs managed or owned by a PHDH have had a dramatic impact to the health of underserved and uninsured Nevadans. (See Future Smiles Statistical sheet)
- Community outreach oral health programs managed or owned by a PHDH operate primarily off of grants, gifts or Medicaid reimbursements.
- The NSBDE administrative interpretation to require a dental director for community outreach oral health programs managed or owned by a PHDH places an undue financial burden on the PHDH to employ a dentist as a dental director which also contradicts the intent of a PHDH.
- The requirement of employing a dental director for these programs increases expenditures and decreases revenue that should be used to provide increased services to the public.

Previous legislation for the public health dental hygiene special endorsement recognizes the value and expertise of the PHDH as a component of the oral health team that exists for the purpose of increasing access to care. More community outreach oral health programs managed or owned by a PHDH are needed in Nevada and any unwarranted constraints should be eliminated to allow for more individuals to be provided care by a PHDH.

Therefore, we propose the following amendments to existing statute:

NRS 631.3452 Designation and responsibilities of dental director of dental office or clinic; retention of records. An entity that owns or operates a dental office or clinic as described in paragraph (f) of subsection 2 of NRS 631.215 must:

1. Designate an actively licensed dentist as the dental director of the dental office or clinic, *exception; a community outreach oral health program managed or owned by a Dental Hygienist with a Public Health Endorsement of their license from the Board*. The dental director shall have responsibility for the clinical practice of dentistry at the dental office or clinic, including, without limitation:

(a) Diagnosing or treating any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof.

(b) Administering or prescribing such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases.

(c) Determining:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable.

(d) The overall quality of patient care that is rendered or performed in the clinical practice of dentistry.

(e) Supervising dental hygienists, dental assistants and other personnel involved in direct patient care and authorizing procedures performed by the dental hygienists, dental assistants and other personnel in accordance with the standards of supervision established by law or regulations adopted pursuant thereto.

(f) Providing any other specific services that are within the scope of clinical dental practice.

(g) Retaining patient dental records as required by law and regulations adopted by the Board.

(h) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

2. Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care. The records must be available to the Board upon written request.

3. *A community outreach oral health program managed or owned by a Dental Hygienist with a Public Health Endorsement of their license from the Board shall have responsibility for the public health practice of dental hygiene at the program including, without limitation:*

- (a) Duties delegable to a dental hygienist with a public health endorsement under NAC 631.210.*
- (b) The overall quality of patient care that is rendered or performed or performed in the clinical practice of public health dental hygiene.*
- (c) Supervising dental hygienists, dental assistants and other personnel involved in direct patient care and supervising procedures performed by dental assistants and other personnel in accordance with the standards of supervision established by law or regulations adopted pursuant thereto.*
- (d) Retain patient dental records as required by law and regulations adopted by the Board.*
- (e) Ensure that each patient receiving services from the community oral health program will be given a referral for oral health treatment that cannot be rendered within the scope of practice for a dental hygienist with an endorsement to practice public health dental hygiene.*
- (f) Maintain current records of the names of dental hygienists with a special endorsement to practice public health dental hygiene who supervises the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care. The records must be available to the Board upon written request.*

Issue #3- Needs discussion with NSBDE to utilize the CODH to the full extent of the NRS and original negotiated intent or pursue in legislation.

Allow for the Committee on Dental Hygiene of the Nevada State Board of Dental Examiners to appoint an advisory committee.

Background

Dental hygienists are licensed professionals with specific preventive education that is substantially different than dentists. Dental hygienists are prevention specialists and should be allowed to practice according to their education and specialization without the supervision and regulation of dentistry. There are vast disparities in the educational training of each profession in the area of preventive oral health. Dental hygiene education requires over 2000 hours of supervised education, including a minimum of 800 direct contact patient clinical hours within a two-year time frame. Dental education in Nevada accounts for only 12 hours of lab instruction in dental hygiene procedures working on models and an unspecified number of unsupervised patient clinical hours over 4 years that varies per dental student. Given this disparity, dental hygienists should be allowed greater autonomy and regulation of their licensed profession as well as have greater representation on the Board of Dental Examiners.

Therefore, we propose the following amendments to existing statute:

NRS 631.205 Creation; membership; powers and duties.

3. The Committee:

- (a) May accept recommendations from dental hygienists, dentists and the general public and may meet to review such recommendations.*
- (b) May make recommendations to the Board concerning:

 - (1) The practice of dental hygiene; and*
 - (2) The licensing of dental hygienists, including, without limitation, requirements relating to the education, examination and discipline of dental hygienists.**
- (c) Shall carry out any duties the Board may assign to the Committee.*

4. May appoint advisory dental hygienists as it deems appropriate.

- (a) The advisory dental hygienists appointed pursuant to subsection 4 are not entitled to be paid a salary or to receive per diem allowances for conducting the business of the Committee on Dental Hygiene, but the Board may authorize reimbursement for the actual expenses incurred by an advisory member for traveling to and from a meeting of the committee.*

Issue #4- Will pursue in legislature

Increase the number of dental hygienists appointed to the Board. Therefore, we propose the following amendments to existing statute:

NRS 631.140 Appointment of members from particular areas of State.

1. The [six] *Five* members of the Board who are dentists, the member of the Board who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care, and the member of the Board who is a representative of the general public must be appointed from areas of the State as follows:

- (a) Three of those members must be from Carson City, Douglas County or Washoe County.
- (b) [Four] *Three* of those members must be from Clark County.
- (c) One of those members may be from any county of the State.

2. The [three] *four* members of the Board who are dental hygienists must be appointed from areas of the State as follows:

- (a) One of those members must be from Carson City, Douglas County or Washoe County.
- (b) One of those members must be from Clark County.
- (c) One of those members may be from any county of the State.

(d) One of those members must be from a county of the State other than Carson City, Douglas County, Washoe County or Clark County.

Issue #5- Will pursue in legislature. Discuss delegable duties with NSBDE

Allow for education of dental assistants and registration of dental assistants who have Dental Assisting National Board Certification.

Background:

Dental assistants in Nevada are not registered or licensed in this state and therefore the Board cannot take disciplinary action against any dental assistant that works outside of their scope of practice. Currently, anyone can be a dental assistant and there are no educational or testing requirements to become a dental assistant. Most cases of individuals unlawfully practicing dentistry are dental assistants. Discipline of these individuals is being deferred from the Board disciplinary process on to the District Attorneys office. If dental assistants were registered with the Board, the Board would have jurisdiction over the practicing dental assistants and the disciplinary process would not have to be deferred.

Dental assistants have the primary responsibility of instrument/equipment infection control procedures but are not required to have any knowledge or training that is mandated to dentists and dental hygienists. The dental practice act requires Dentists and Dental hygienists to complete 4 CEU's in infection control for licensure renewal. Several states require a course of study in infection control standards for dental assistants.

Dental assistants who are not nationally certified, can expose patients to radiation without any formal knowledge or training that is mandated to dentists or dental hygienists in their accredited curriculum. The dental practice act only requires that a dentist sign an affidavit that either the dentist, dental hygienist or dental assistant who is a Certified Dental Assistant has trained the dental assistant in radiographic technique and safety. There is no required standardized training for a procedure that is considered hazardous and federally regulated. Untrained or undertrained dental assistants can cause unseen harm to the patient by over exposure to radiation. Several states require formal training in radiation safety and technique for dental assistants to perform the task.

Dental assistants perform polishing procedures without any formal education requirements. Overuse or misuse of rubber-cup polishing can cause irreparable harm to the tooth nerve and gum tissues causing tooth death and/or gum disintegration. Dental assistants are not allowed to use air/powder spray polishing in their list of duties however some perceive that air/powder spray polishing is the same as rubber-cup polishing. Several states require formal training in rubber cup polishing for dental assistants to perform the task

Dental assistants may not assist in the administration of oxygen or nitrous oxide however this is commonly delegated from the dentist to the dental assistant. Both dentists and dental hygienists have to complete formal training in the administration of nitrous oxide within their accredited curriculum. Several states allow dental assistants to assist in the administration of nitrous oxide with formal training. Therefore, we propose the following amendments to existing statute:

GENERAL PROVISION

NRS 631.005 Definitions

“Dental assistant” defined. *“Dental assistant” means any person who assists a dentist or dental hygienist in basic supportive dental procedures specified by regulation under the direct supervision of a dentist or dental hygienist.*

“Registered dental assistant” defined. *“Registered dental assistant” means a dental assistant who has met the education and training requirements to perform advanced supportive dental procedures specified by regulation and has completed registration pursuant to this chapter.*

“Registration” defined. *“Registration” means a certificate issued by the Board to any applicant upon completion of requirements to perform advanced supportive dental procedures as a dental assistant.*

LICENSING AND REGISTRATION

NRS 631.317 Regulations concerning intraoral tasks and other practices. The Board shall adopt rules or regulations:

1. Specifying the intraoral tasks that may be assigned by a licensed dentist to a dental hygienist or dental assistant in his or her employ or that may be performed by a dental hygienist engaged in school health activities or employed by a public health agency.
2. Governing the practice of dentists and dental hygienists in full-time employment with the State of Nevada.
3. *Specifying basic supportive dental procedures and advanced supportive dental procedures delegable to a dental assistant.*

Dental assistants: examination and training requirements.

1. *Shall successfully pass an examination on the contents and interpretation of this chapter and the regulations of the Board.*
2. *Complete a course of study in radiation safety and technique that is approved by the Board.*
3. *Complete CPR certification biannually.*
4. *Complete 4 continuing education credits in infection control procedures biannually.*

Dental assistants: supervision and performance of procedures.

1. *A dental assistant in this State shall only perform procedures under the direct supervision of a dentist or dental hygienist.*

Dental assistants: Eligibility to apply for permit of registration.

1. *Any person is eligible to apply for a dental assisting permit of registration in this State who:*

(a) *Is of good moral character;*

(b) *Is over 18 years of age;*

(c) *Is a citizen of the United States or is lawfully entitled to remain and work in the United States; and*

(d) *Is certified by the Dental Assisting National Board Inc. and maintains annual certification.*

(e) *Is a graduate of a program of dental assisting from an institution which is accredited by a regional educational accrediting organization that is recognized by the United States Department of Education.*

The program of dental assisting must:

(1) *Be accredited by the Commission on Dental Accreditation of the American Dental Association or its successor specialty accrediting organization; and*

(2) *Include a curriculum of not less than 1 year of academic instruction in dental assisting or its academic equivalent.*

2. *To determine whether a person has good moral character, the Board may consider whether his or her license or registration to practice dental assisting in another state has been suspended or revoked or whether he or she is currently involved in any disciplinary action concerning his or her license or registration in that state*

Dental assistants: *issuance of permit of registration and registration renewal.*

1. *Any person desiring to obtain a permit of registration in dental assisting, after having complied with the regulations of the Board to determine eligibility shall be listed as a registered dental assistant on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.*

2. *A registered dental assistant must apply for registration renewal biannually.*

It is understood that the NSBDE would generate rules and regulations to identify basic and advanced supportive dental procedures. NDHA identifies the following items from NAC 631.220 that should be considered supportive procedures.

Basic

(b) *Retract a patient's cheek, tongue or other tissue during a dental operation.*

(c) *Remove the debris that normally accumulates during or after a cleaning or operation by the dentist by using mouthwash, water, compressed air or suction.*

(g) *Place and remove a periodontal pack.*

(i) *Administer a topical anesthetic in any form except aerosol.*

(j) *Train and instruct persons in the techniques of oral hygiene and preventive procedures.*

(k) *Take the following types of impressions:*

(1) *Those used for the preparation of diagnostic models;*

(2) *Those used for the preparation of counter or opposing models;*

(o) *Administer a topical fluoride.*

Advanced:

(a) *Expose radiographs.*

(d) *Place or remove a rubber dam and accessories used for its placement.*

(e) *Place and secure an orthodontic ligature.*

(f) *Remove sutures.*

(h) *Remove excess cement from cemented restorations and orthodontic appliances. A dental assistant may not use a rotary cutting instrument **or ultrasonic device** to remove excess cement from restorations or orthodontic appliances.*

(k) *Take the following types of impressions:*

(3) *Those used for the fabrication of temporary crowns or bridges; and*

(4) Those used for the fabrication of temporary removable appliances, provided no missing teeth are replaced by those appliances.

(l) Fabricate and place temporary crowns and bridges. This procedure must be checked and approved by the supervising dentist before dismissal of the patient from the office of the dentist.

(m) Retract gingival tissue if the retraction cord contains no medicaments that have potential systemic side effects.

(n) Remove soft plaque and stain from exposed tooth surfaces, utilizing an appropriate rotary instrument with a rubber cup or brush and a suitable polishing agent. A licensed dentist or dental hygienist shall determine that the teeth to be polished are free of calculus or other extraneous material.

(p) Apply pit and fissure sealant to the dentition for the prevention of decay. This procedure must be checked and approved by the supervising dentist before dismissal of the patient from the office of the dentist.

(q) Fit orthodontic bands and prepare teeth for orthodontic bands if the bands are cemented or bonded, or both, into the patient's mouth by the dentist who authorized the dental assistant to perform this procedure.

(r) Assist in the administration of Oxygen during Nitrous Oxide administration by a Dentist or Dental Hygienist.