



Nevada State Board of Dental Examiners
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Meeting: Notice of Intent to Act upon R119-15

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

LCB File No. R119-15

October 28, 2015

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

AUTHORITY: §1, NRS 631.190 and 631.345, as amended by section 27 of Assembly Bill No. 89, chapter 546, Statutes of Nevada 2015, at page 3877; §2, NRS 631.190 and 631.350; §3 NRS 631.190 and 631.363; §4, NRS 631.190, 631.310, 631.313 and 631.317; §5, NRS 631.190, 631.313 and 631.317.

A REGULATION relating to dentistry; requiring the Board of Dental Examiners of Nevada to charge and collect a fee for conducting certain inspections; revising provisions relating to the inspection of certain offices or facilities where dental treatments are to be performed; allowing a dentist who is licensed in this State to authorize a dental hygienist or dental assistant to perform certain procedures before the patient is examined by the dentist; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Dental Examiners of Nevada to adopt regulations governing the licensing and practice of dentists and dental hygienists, including the collection and application of fees. (NRS 631.190) Existing law also requires the Board to charge a fee, not to exceed a certain amount, for the inspection of a facility required by the Board to ensure compliance with the infection control guidelines adopted by reference in NAC 631.178. (NRS 631.345, as amended by section 27 of Assembly Bill No. 89, chapter 546, Statutes of Nevada 2015, at page 3877) **Section 1** of this regulation adds to the fee schedule a fee for the inspection of a facility required by the Board to ensure compliance with those inspection control guidelines.

Existing regulations provide for the inspection of an office or facility to ensure compliance with the infection control guidelines adopted by reference in NAC 631.178. Existing regulations also set forth the procedure that the Board is required to follow if the Board finds that the office or facility in this State where dental treatments are to be performed, other than certain medical facilities, that is inspected is not in compliance with those guidelines. (NAC 631.1785) **Section 3** of this regulation sets forth provisions relating to inspections by the Board when the Board receives evidence that an office or facility in this State where dental treatments are

performed may not be in compliance with the infection control guidelines adopted by reference in NAC 631.178.

Existing regulations provide that a dental hygienist and a dental assistant may be authorized by a dentist to perform certain procedures: (NAC 631.210, 631.220) Sections 4 and 5 of this regulation add provisions that allow a dentist to authorize a dental hygienist or dental assistant to perform certain procedures, including exposure of radiographs and taking of impressions, before the patient is examined by the dentist.

Section 1. 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 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.....	\$1,200
Application fee for an initial 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	750
Application and examination fee for a site permit to administer general anesthesia, conscious sedation or deep sedation	500
Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, conscious sedation or deep sedation.....	500
<i>Fee for the inspection of a facility required by the Board to ensure compliance with infection control guidelines.....</i>	250
Biennial renewal fee for a permit to administer general anesthesia, conscious sedation or deep sedation.....	200
Fee for the inspection of a facility required by the Board to renew a permit to administer general anesthesia, conscious sedation or deep sedation.....	350
Biennial license renewal fee for a general license or specialist's 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

Annual license renewal fee for a limited license to practice dentistry or dental hygiene	200
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	300
Reinstatement fee for a revoked license to practice dentistry or dental hygiene	500
Reinstatement fee to return an inactive or retired dentist or dental hygienist or a dentist or dental hygienist with a disability to active status	300
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. 2. NAC 631.150 is hereby amended to read as follows:

631.150 1. Each licensee shall file with the Board the addresses of his or her permanent residence and the office or offices where he or she conducts his or her practice ~~[]~~, **including, without limitation, any electronic mailing address for that practice.**

2. Within 30 days after any change occurs in any of these addresses, the licensee shall give the Board a written notice of the change. The Board will impose a fine of \$50 if a licensee does not report such a change within 30 days after it occurs.

3. The licensee shall display his or her license and any permit issued by the Board, or a copy thereof, at each place where he or she practices.

Sec. 3. NAC 631.1785 is hereby amended to read as follows:

631.1785 1. Not later than 30 days after a licensed dentist becomes the owner of an office or facility in this State where dental treatments are to be performed, other than a medical facility as defined in NRS 449.0151, the licensed dentist must request in writing that the Board conduct an initial inspection of the office or facility to ensure compliance with the guidelines adopted by reference in NAC 631.178.

2. Not later than 90 days after receiving a written request pursuant to subsection 1:

(a) The Executive Director shall assign agents of the Board to conduct the inspection; and

(b) The agents shall conduct the inspection.

3. Not later than 30 days after agents of the Board have completed the initial inspection of an office or facility ~~[to ensure compliance with the guidelines adopted by reference in NAC 631.178.]~~ **pursuant to subsection 2**, the agents shall issue a report to the Executive Director indicating whether the office or facility is equipped in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the office or facility

(a) Is equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(b) Is not equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice which identifies critical deficiencies to the licensed dentist who owns the office or facility.

4. Not later than 72 hours after issuing a written notice of deficiencies pursuant to paragraph (b) of subsection 3:

(a) The Executive Director shall assign agents of the Board to conduct a reinspection of the office or facility to determine if the licensed dentist and the personnel supervised by the dentist have taken corrective measures; and

(b) The agents assigned pursuant to paragraph (a) shall conduct the reinspection and issue a report to the Executive Director indicating whether the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the licensed dentist and the personnel supervised by the dentist:

(1) Are in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(2) Are not in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director may, without any further action by the Board, issue an order to the licensed dentist who owns the office or facility and all other licensees employed at the office or facility

that any or all of those licensees or personnel must immediately cease and desist from performing dental treatments and that some or all dental treatments must cease to be performed at the office or facility until a hearing is held before the Board. The hearing before the Board must be convened not later than 30 days after the Executive Director issues the order to cease and desist.

5. Not later than 72 hours after receiving material evidencing critical deficiencies by a licensed dentist who owns an office or facility in this State where dental treatments are to be performed, other than a medical facility as defined in NRS 449.0151, the Executive Director may assign agents of the Board to conduct an inspection of an office or facility to ensure that the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. An inspection conducted pursuant to this subsection may be conducted during normal business hours with notice to the licensed dentist who owns the office or facility.

6. Not later than 3 days after a dentist receives a written notice pursuant to subsection 5:

(a) The Executive Director shall assign agents of the Board to conduct the inspection; and

(b) The agents shall conduct the inspection.

7. Not later than 72 hours after agents of the Board have completed the inspection of an office or facility pursuant to subsection 6, the agents shall issue a report to the Executive Director indicating whether the office or facility is equipped in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the office or facility:

(a) Is equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(b) Is not equipped in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice which identifies all critical deficiencies to the licensed dentist who owns the office or facility.

8. Not later than 72 hours after issuing a written notice of deficiencies pursuant to paragraph (b) of subsection 7:

(a) The Executive Director shall assign agents of the Board to conduct a reinspection of the office or facility to determine if the licensed dentist and the personnel supervised by the dentist have taken corrective measures; and

(b) The agents assigned pursuant to paragraph (a) shall conduct the reinspection and issue a report to the Executive Director indicating whether the licensed dentist and the personnel supervised by the dentist are in compliance with the guidelines adopted by reference in NAC 631.178. If the report indicates that the licensed dentist and the personnel supervised by the dentist:

(1) Are in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director shall, without any further action by the Board, issue a written notice of the agents' findings to the licensed dentist who owns the office or facility.

(2) Are not in compliance with the guidelines adopted by reference in NAC 631.178, the Executive Director may, without any further action by the Board, issue an order to the

licensed dentist who owns the office or facility and all other licensees employed at the office or facility that any or all of those licensees or personnel must immediately cease and desist from performing dental treatments and that some or all dental treatments must cease to be performed at the office or facility until a hearing is held before the Board. The hearing before the Board must be convened not later than 30 days after the Executive Director issues the order to cease and desist.

9. Pursuant to subsection 3 of NRS 233B.127, if an initial inspection of an office or facility conducted pursuant to this section indicates that the public health, safety or welfare imperatively requires emergency action, the President of the Board may, without any further action by the Board, issue an order of summary suspension of the license of the licensed dentist who owns the office or facility and the licenses of any or all of the other licensees employed at the office or facility pending proceedings for revocation or other action. An order of summary suspension issued by the President of the Board must contain findings of the exigent circumstances which warrant the issuance of the order of summary suspension. The President of the Board shall not participate in any further proceedings relating to the order.

Sec. 4. NAC 631.210 is hereby amended to read as follows:

631.210. 1. *A dentist who is licensed in this State may authorize a dental hygienist in his or her employ to perform the following acts before a patient is examined by the dentist:*

- (a) Expose radiographs;*
- (b) Conduct an assessment of the oral health of the patient through medical and dental histories, radiographs, indices, risk assessments and intraoral and extraoral procedures that analyze and identify the oral health needs and problems of the patient;*

(c) After conducting an assessment pursuant to paragraph (b), develop a dental hygiene care plan to address the oral health needs and problems of the patient; and

(d) Take impressions for the preparation of diagnostic models.

↳ The dental hygienist must obtain authorization from the licensed dentist of the patient on whom the services authorized pursuant to this subsection are to be performed.

2. A dentist who is licensed in this State may authorize a dental hygienist in his or her employ to:

(a) Remove stains, deposits and accretions, including dental calculus.

(b) Smooth the natural and restored surface of a tooth by using the procedures and instruments commonly used in oral prophylaxis, except that an abrasive stone, disc or bur may be used only to polish a restoration. As used in this paragraph, "oral prophylaxis" means the preventive dental procedure of scaling and polishing which includes the removal of calculus, soft deposits, plaques and stains and the smoothing of unattached tooth surfaces in order to create an environment in which hard and soft tissues can be maintained in good health by the patient.

(c) Provide dental hygiene care that includes:

(1) Assessment of the oral health of patients through medical and dental histories, radiographs, indices, risk assessments and intraoral and extraoral procedures that analyze and identify the oral health needs and problems of patients.

(2) ~~Development and implementation~~ **Implementation** of a dental hygiene care plan to address the oral health needs and problems of patients described in subparagraph (1).

(3) Evaluation of oral and periodontal health after the implementation of the dental hygiene care plan described in subparagraph (2) in order to identify the subsequent treatment, continued care and referral needs of the patient.

(d) Take the following types of impressions:

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

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

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

(e) Perform subgingival curettage.

(f) ~~Expose radiographs.~~ **Remove sutures.**

(g) Place and remove a periodontal pack.

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

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

(j) Recement and repair temporary crowns and bridges.

(k) Recement permanent crowns and bridges with nonpermanent material as a palliative treatment.

(l) Place a temporary restoration with nonpermanent material as a palliative treatment.

(m) Administer local intraoral chemotherapeutic agents in any form except aerosol, including, but not limited to:

(1) Antimicrobial agents;

- (2) Fluoride preparations;
- (3) Topical antibiotics;
- (4) Topical anesthetics; and
- (5) Topical desensitizing agents.

(n) Apply pit and fissure sealant to the dentition for the prevention of decay.

↪ Before performing any of the services set forth in this subsection, the dental hygienist must obtain authorization from the licensed dentist of the patient on whom the services are to be performed and the patient must have been examined by that dentist not more than 18 months before the services are to be performed. After performing any of the services set forth in this subsection, the dental hygienist shall refer the patient to the authorizing dentist for follow-up care or any necessary additional procedures that the dental hygienist is not authorized to perform.

~~2.3.~~ A dentist who is licensed in this State may authorize a dental hygienist in his or her employ and under his or her supervision to:

- ~~(a)~~ ~~Remove sutures.~~
- ~~(b)~~ Place and secure orthodontic ligatures.
- ~~(c)~~ ~~(b)~~ Fabricate and place temporary crowns and bridges.
- ~~(d)~~ ~~(c)~~ 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 hygienist to perform this procedure.
- ~~(e)~~ ~~(d)~~ Perform nonsurgical cytologic testing.
- ~~(f)~~ ~~(e)~~ Apply and activate agents for bleaching teeth with a light source.

~~{(g)}~~ (f) Use a laser that has been cleared by the Food and Drug Administration to perform intrasulcular periodontal procedures or tooth whitening procedures if:

(1) The use of such a laser for those purposes is within the scope of the education, experience and training of the dental hygienist;

(2) Before operating the laser, the dental hygienist has provided proof to the supervising dentist that the dental hygienist has successfully completed a course in laser proficiency that:

(I) Is at least 6 hours in length; and

(II) Is based on the *Curriculum Guidelines and Standards for Dental Laser Education*, adopted by reference pursuant to NAC 631.035; and

(3) The supervising dentist has successfully completed a course in laser proficiency that:

(I) Is at least 6 hours in length; and

(II) Is based on the *Curriculum Guidelines and Standards for Dental Laser Education*, adopted by reference pursuant to NAC 631.035.

↪ The dental hygienist must obtain authorization from the licensed dentist of the patient on whom the services authorized pursuant to this subsection are to be performed.

~~{3-}~~ 4. If a dentist who is licensed in this State has in his or her employ and under his or her supervision a dental hygienist who has:

(a) Successfully completed a course of continuing education in the administering of local anesthetics or nitrous oxide-oxygen analgesia, or both, which has been approved by the Board; or

(b) Graduated from an accredited program of dental hygiene which includes the administering of local anesthetics or nitrous oxide-oxygen analgesia, or both, in its curriculum,

↪ the dentist may authorize the dental hygienist to administer local anesthetics or nitrous oxide-oxygen analgesia, or both, as appropriate, if the dental hygienist has received from the Board a certificate or permit certifying the hygienist for this level of administration. The dental hygienist must obtain the authorization from the licensed dentist of the patient on whom the services are to be performed.

~~{4.}~~ 5. A dental hygienist in a health care facility may administer local intraoral chemotherapeutic agents and, if he or she has complied with paragraph (a) or (b) of subsection ~~{3.}~~ 4, may administer local anesthetics or nitrous oxide-oxygen analgesia, or both, as appropriate, if he or she first:

(a) Obtains written authorization from the licensed dentist of the patient to whom the local anesthetics, nitrous oxide-oxygen analgesia or local intraoral chemotherapeutic agents are to be administered; and

(b) Submits to the Secretary-Treasurer a written confirmation from the director of the health care facility that the facility has licensed medical personnel and necessary emergency supplies and equipment that will be available when the local anesthetics, nitrous oxide-oxygen analgesia or local intraoral chemotherapeutic agents are administered.

~~{5.}~~ 6. The Board may authorize a dental hygienist to perform the services set forth in *subsection 1 and* paragraphs (a) to (n), inclusive, of subsection ~~{1.}~~ 2 without supervision by a dentist and without authorization from the licensed dentist of the patient on whom the services are to be performed, at a health facility, a school or a place in this State approved by the Board after the Board:

(a) Issues a special endorsement of the dental hygienist's license.

(b) Approves the treatment protocol submitted by the dental hygienist which includes an explanation of the methods that the dental hygienist will use to:

(1) Treat patients; and

(2) Refer patients to a dentist for:

(I) Follow-up care;

(II) Diagnostic services; and

(III) Any service that the dental hygienist is not authorized to perform.

~~{6.}~~ 7. The Board may revoke the authorization described in subsection ~~{5}~~ 6 if the:

(a) Dental hygienist fails to renew his or her license or it is cancelled, suspended or revoked;

(b) Board receives a complaint filed against the dental hygienist;

(c) Dental hygienist commits an act which constitutes a cause for disciplinary action; or

(d) Dental hygienist violates any provision of this chapter or chapter 631 of NRS.

Nothing in this subsection prohibits a dental hygienist from reapplying for authorization to perform the services described in subsection ~~{5}~~ 6 if the Board revokes the authorization pursuant to this subsection.

~~{7.}~~ 8. As used in this section:

(a) "Health care facility" has the meaning ascribed to it in NRS 162A.740.

(b) "Health facility" has the meaning ascribed to it in subsection 6 of NRS 449.260.

(c) "School" means an elementary, secondary or postsecondary educational facility, public or private, in this State.

Sec. 5. NAC 631.220 is hereby amended to read as follows:

631:220 1. ~~A dentist who is licensed in the State of Nevada may authorize a dental assistant in his or her employ and under his or her supervision to perform the following procedures before the patient is examined by the dentist:~~

~~(a) Expose radiographs; and~~

~~(b) Take impressions for the preparation of diagnostic models.~~

2. A dentist who is licensed in the State of Nevada may authorize a dental assistant in his or her employ and under his or her supervision only to do one or more of the following ~~{}~~ procedures after the patient has been examined by the dentist:

~~(a) Expose radiographs.~~

~~(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.~~

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

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

~~(f) Remove sutures.~~

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

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

~~(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)]~~ (j) Take the following types of impressions:

(1) ~~[(These used for the preparation of diagnostic models;~~

~~—(2)]~~ Those used for the preparation of counter or opposing models;

~~[(3)]~~ (2) Those used for the fabrication of temporary crowns or bridges; and

~~[(4)]~~ (3) Those used for the fabrication of temporary removable appliances, provided no missing teeth are replaced by those appliances.

~~[(4)]~~ (k) 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)]~~ (l) Retract gingival tissue if the retraction cord contains no medicaments that have potential systemic side effects.

~~[(n)]~~ (m) 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.

~~[(o)]~~ (n) Administer a topical fluoride.

~~[(p)]~~ (o) 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)]~~ (p) 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.

~~{2.}~~ 3. A dentist who is licensed in the State of Nevada may authorize a dental hygienist to supervise a dental assistant in the assistance of the hygienist's performance of one or more of the following:

(a) ~~{Expose radiographs:~~

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

~~{(e)}~~ (b) Remove the debris that normally accumulates during or after a cleaning or operation by the dental hygienist by using mouthwash, water, compressed air or suction.

~~{(d)}~~ (c) Train and instruct persons in the techniques of oral hygiene and preventive procedures.

~~{(e)}~~ (d) 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.

~~{(f)}~~ (e) Administer a topical fluoride:

~~{3.}~~ 4. A dental hygienist, who is authorized by the Board to perform the services described in subsection ~~{5}~~ 6 of NAC 631.210, may authorize a dental assistant under his or her supervision to assist the hygienist in the performance of the services described in paragraphs (a) to ~~{(f)}~~ (e), inclusive, of subsection ~~{2.}~~ 3.