

NEVADA STATE BOARD
of
DENTAL EXAMINERS



FORMAL HEARING & BOARD
MEETING

JULY 15, 2016

10:00 A.M.

PUBLIC BOOK

** DO NOT REMOVE BOOK FROM OFFICE **

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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL
EXAMINERS,

Complainant,

vs.

ADAM M. PERSKY, DMD

Respondent.

Case No. 74127-3088

COMPLAINT

Complainant, Nevada State Board of Dental Examiners (hereinafter referred as the "Board"), by and through its attorneys, for its Complaint against Respondent, Adam M. Persky, DMD (hereinafter referred to as "Respondent" or "Dr. Persky"), alleges and complains as follows:

GENERAL ALLEGATIONS

1. The Board is empowered to enforce the provisions of Chapter 631 of the Nevada Revised Statutes ("NRS"). NRS 631.190.
2. The Board, pursuant to NRS 631.190(6), keeps a register of all dentists and dental hygienists licensed in the State of Nevada; said register contains the names, addresses, license numbers, and renewal certificate numbers of said dentists and dental hygienists.
3. On May 31, 2002, the Board issued Respondent a temporary license (#4192) by credential pursuant to NRS 631.272. Subsequent to being issue a temporary license, Respondent was issue a permanent license (#4192).

1 4. Respondent's license, pursuant to NRS 631.330, is currently suspended due to
2 Respondent's failure to renew his license.

3
4 5. Respondent is licensed by the Board and, therefore, has submitted himself to the
5 disciplinary jurisdiction of the Board.

6
7 6. Via *Notice of Complaint & Request for Records* dated February 11, 2015, the Board
8 notified Respondent of a verified complaint received from Stephanie Cook. The notice of
9 complaint was sent to the last known address provided by Respondent on record with the Board.
10 On April 20, 2015, the Board received dental records from Michael Wendelboe, DMD,
11 regarding Stephanie Cook, copies of which were provided to Respondent and Ms. Cook on April
12 21, 2015.

13
14 7. On March 23, 2015, the Board forwarded correspondence to Respondent regarding his
15 lack of providing a factual response and/or supporting documentation in response to the Notice
16 of Complaint regarding the verified complaint of Stephanie Cook which was forwarded to
17 Respondent via regular and certified mail. The correspondence further informed Respondent that
18 failure to file and answer to the verified complaint of Stephanie Cook created a rebuttable
19 presumption that the allegations contained in the verified complaint of Stephanie Cook were
20 generally deemed admitted.

21
22 8. Respondent, to date, has not responded to the Notice of Complaint regarding the verified
23 complaint of Stephanie Cook.

24
25 9. On December 14, 2015, via certified mail, return receipt requested, regular mail and
26 personal service, Respondent was originally provided with a Notice of Informal Hearing
27 regarding the verified complaint of Stephanie Cook which set the informal hearing for 10:00 a.m.
28

1 on Friday, January 15, 2016, at the offices of Morris, Polich & Purdy, LLP, 500 South Rancho
2 Drive, Suite 17, Las Vegas, Nevada 89106. Included with the Notice of Informal Hearing dated
3 December 14, 2015, was a *Subpoena Duces Tecum* dated December 14, 2015 (see further
4 discussion below). In part, the Notice of Informal Hearing dated December 14, 2015, indicated
5 pursuant to NAC 631.250(1), the Disciplinary Screening Officer shall not limit the scope of this
6 investigation to the matters set forth in the authorized investigation noted above, “but will extend
7 the investigation to any additional matters which appear to constitute a violation of any provision
8 of Chapter 631 of the Nevada Revised Statutes or the regulations contained in Chapter 631 of
9 NAC of this Chapter.”

10
11 10. Via a *Subpoena Duces Tecum* dated December 14, 2015, Respondent was commanded to
12 appear at Morris, Polich & Purdy, LLP, 500 S. Rancho Drive, Suite 17, Las Vegas, Nevada
13 89106 on January 15, 2016, at 10:00 a.m. to produce the following documents:

14
15 1. Any and all records regarding patient: **Stephanie Cook**, including, but not
16 limited to, billing records, laboratory work orders, prescription slips, insurance
17 records (including any correspondence or billing submitted to an insurance
18 provider), health history, charts notes, informed consents, daily patient schedules
19 for the dates of treatment, day sheets, radiographs, treatment plans and patient
20 logs; and

21 Id., pg. 1 (emphasis in original).

22
23 11. On January 4, 2016, Respondent was personally served at 232 Boylston St., Chestnut
24 Hill, MA 02467, with a copy of the December 14, 2015, Notice of Informal Hearing which
25 included a copy of the *Subpoena Duces Tecum* dated December 14, 2015. See Affidavit of
26 *Service By Personal Service* dated January 16, 2016.

27
28 12. On January 13, 2016, the Board’s attorney sent correspondence (with enclosures) to
Respondent via certified mail, return receipt requested, regular mail and Federal Express
Overnight Delivery. The correspondence addressed a number of matters, including the status of

1 the informal hearing.

2
3 13. On January 13, 2016, Respondent requested and was granted a continuance of the
4 Informal Hearing set to be convened on January 15, 2016. Also on January 13, 2016, the Board's
5 attorney sent an email to Respondent which also had attached a number of PDF documents,
6 including: 1) the Notice of Complaint & Request for Records dated February 11, 2015, regarding
7 the verified complaint of Stephanie Cook; the dental records from Michael Wendelboe, DMD
8 regarding Stephanie Cook; 3) Board letter dated May 26, 2015, regarding Respondent's request
9 for voluntary surrender of license; 4) December 14, 2015, Notice of Informal Hearing; and 5)
10 Subpoena Duces Tecum dated December 14, 2015.

11
12 14. On January 27, 2016, via certified mail, return receipt requested and via regular mail,
13 based upon Respondent's requested for a continuance, Respondent was provided with a Re-
14 Notice of Informal Hearing regarding the verified complaint of Stephanie Cook which re-set the
15 informal hearing for 10:00 a.m. on Monday, March 28, 2016, at the offices of Morris, Polich &
16 Purdy, LLP, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada 89169 ("Re-Notice
17 of Informal Hearing"). In part the Re-Notice of Informal Hearing indicated pursuant to NAC
18 631.250(1), the Disciplinary Screening Officers shall not limit the scope of this investigation to
19 the matters set forth in the authorized investigation noted above, "but will extend the
20 investigation to any additional matters which appear to constitute a violation of any provision of
21 Chapter 631 of the Nevada Revised Statutes or the regulations contained in Chapter 631 of NAC
22 of this Chapter."

23
24 15. Via a *Subpoena Duces Tecum* dated January 27, 2016, Respondent was commanded to
25 appear at Morris, Polich & Purdy, LLP, 3800 Howard Hughes Parkway, Suite 600, Las Vegas,
26 Nevada 89169 on March 28, 2016 at 10:00 a.m. to produce the following documents:

27
28 1. Any and all records regarding patient: **Stephanie Cook**, including, but not

1 limited to, billing records, laboratory work orders, prescription slips, insurance
2 records (including any correspondence or billing submitted to an insurance
3 provider), health history, charts notes, informed consents, daily patient schedules
4 for the dates of treatment, day sheets, radiographs, treatment plans and patient
5 logs; and

6 Id., pg. 1 (emphasis in original) (see *Subpoena Duces Tecum* dated January 17, 2016, included
7 and served with the January 27, 2016, Re-Notice of Informal Hearing).

8 16. As partially addressed above, the Re-Notice of Informal Hearing dated January 27, 2016,
9 separate correspondence dated January 27, 2016, and the *Subpoena Duces Tecum* dated January
10 27, 2016, were sent to Respondent at three (3) addresses via Regular US Mail & Certified Mail-
11 Return Receipt Request to: 1) Dental offices at Chestnut Hill, 232 Boylston Street, Chestnut Hill,
12 MA 02467; 2) 5775 S. Rainbow Blvd., #103, Las Vegas, Nevada 89118; and 3) 309 Highland
13 Mesa Ct., Las Vegas, Nevada 89114. In addition, the Re-Notice of Informal Hearing dated
14 January 27, 2016, and *Subpoena Duces Tecum* dated January 27, 2016, were sent to Respondent
15 at email address info@fightdentist.com.

16
17 17. On February 2, 2016, the Board's attorney, John Hunt, Esq. received an email from
18 Respondent (from email info@fightdentist.com) which, in part, provides, that "I [Respondent]
19 have received all the documents and your phone message[.]"

20
21 18. On March 28, 2016, at 10:00 a.m. the above-referenced Re-Noticed Informal Hearing
22 was held in Las Vegas, Nevada, regarding the verified complaint of Stephanie Cook and/or as
23 more fully addressed in the Re-Notice of Informal Hearing. The Re-Noticed Informal Hearing
24 was held pursuant to NRS 631.363 and NAC 631.250 and 631.255.

25
26 19. In attendance at the March 28, 2016, Re-Noticed Informal Hearing was Bradley Roberts,
27 DDS, Disciplinary Screening Officer, and the Board's attorney, John A. Hunt, Esq. Respondent

28

1 did not attend the informal hearing.

2
3 20. Following the informal hearing, written findings of fact and conclusions were drafted,
4 pursuant to NRS 631.363(3). See Findings and Recommendations of the Informal Hearing Held
5 Pursuant to NRS 631 and NAC 631 & Consent of Adam M. Persky, DMD, to the Findings and
6 Recommendations Pursuant to NRS 631.363(5) dated April 5, 2016 (hereinafter "FR&C"). The
7 FR&C were forwarded to Respondent for review and consent by Respondent, pursuant to NRS
8 631.363(5). Respondent did not consent to the FR&C.

9
10 **CLAIM #1:**
11 **RESPONDENT'S VIOLATION OF NRS 631.3485(4) AND/OR NRS 631.349**

12 21. The Board repeats and realleges the allegation contained in paragraphs 1 through 20 and
13 reincorporates the same as if fully set forth herein.

14
15 22. NRS 631.3485(4) provides:

16
17 **NRS 631.3485 Violation of chapter or regulations; failure to pay fee for license.** The
following acts, among others, constitute unprofessional conduct:
18 ***

19 4. Failure to make the health care records of a patient available for inspection and copying as
provided in NRS 629.061.

20
21 23. NRS 631.349 provides:

22 **NRS 631.349 Examples of unprofessional conduct not complete list or authorization of**
other acts; Board may hold similar acts unprofessional conduct. The acts described in NRS
23 631.346 to 631.3485, inclusive, must not be construed as a complete list of dishonorable or
unprofessional conduct, or as authorizing or permitting the performance of other and similar acts,
24 or as limiting or restricting the Board from holding that other or similar acts constitute
unprofessional or dishonorable conduct. (Added to NRS by 1983, 1108)

25
26 24. Respondent was personally served with a copy of the *Subpoena Duces Tecum* dated
27 December 14, 2015 (see discussion above in Paragraphs 9-11). Notwithstanding, Respondent
28

1 failed to produce the records of patient Stephanie Cook as commanded in the *Subpoena Duces*
2 *Tecum* dated December 14, 2015.

3
4
5 25. In light of the above, Respondent has violated NRS 631.3485(4) and/or NRS 631.349.

6
7 **CLAIM #2:**
8 **ALLEGATIONS RELATIVE TO RESPONDENT'S TREATMENT**
9 **OF PATIENT, STEPHANIE COOK**

10 26. The Board repeats and realleges the allegation contained in paragraphs 1 through 25 and
11 reincorporates the same as if fully set forth herein.

12 27. NRS 631.075 provides:

13
14 **NRS 631.075 "Malpractice" defined.** "Malpractice" means failure on the part of a dentist to
15 exercise the degree of care, diligence and skill ordinarily exercised by dentists in good standing in
16 the community in which he or she practices. As used in this section, "community" means the
17 entire area customarily served by dentists among whom a patient may reasonably choose, not
18 merely the particular area inhabited by the patients of that individual dentist or the particular city
19 or place where the dentist has an office. (Added to NRS by 1983, 1106)

20 28. NRS 631.095 provides:

21 **NRS 631.095 "Professional incompetence" defined.** "Professional incompetence" means
22 lack of ability safely and skillfully to practice dentistry, or to practice one or more specified
23 branches of dentistry, arising from:

- 24 1. Lack of knowledge or training;
- 25 2. Impaired physical or mental capability of the dentist;
- 26 3. Indulgence in the use of alcohol or any controlled substance; or
- 27 4. Any other sole or contributing cause. (Added to NRS by 1983, 1106)

28 29. NRS 631.3475(1), (2), and (4) provide:

NRS 631.3475 Malpractice; professional incompetence; disciplinary action in another state; substandard care; procurement or administration of controlled substance or dangerous drug; inebriety or addiction; gross immorality; conviction of certain crimes; certain operation of medical facility. The following acts, among others, constitute unprofessional conduct:

1. Malpractice;

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2. Professional incompetence;

4. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;

30. Respondent's treatment of Patient, Stephanie Cook, violated NRS 631.075, NRS 631.095, and/or NRS 631.3475(1), (2), and/or (4), in the following respects:

A. Respondent's placement of veneers for Teeth 6, 7, 8, 9, 10 and 11 were unacceptable due improper marginal fit and grossly over preparation of the tooth structure. Respondent's treatment caused the patient to experience unnecessary pain, suffering, and cost, resulting in the replacement of the veneers placed by Respondent on Teeth 6, 7, 8, 9, 10 and 11.

B. Respondent's treatment plan indicates this patient was billed for post(s) to be placed in Teeth 2, 3, 5, 13, 14, 18 and 19. Radiographs do not indicate that any post(s) were placed in Teeth 2, 3, 5, 13, 14, 18 and/or 19. Based on Respondent's failure to produce the dental record of this patient or respond to the verified complaint of this patient, this Disciplinary Screening Officer can only assume that Respondent falsely billed this patient for post(s) that were not place in Teeth 2, 3, 5, 13, 14, 18 and/or 19.

C. Respondent's placement of crowns of Teeth 13, 14, 18 and 19 resulted in unacceptable ill-fitting and open margins on Teeth 13, 14, 18 and 19. Respondent's treatment caused the patient to experience unnecessary pain and suffering.

1 31. In light of the above, Respondent has violated NRS 631.075, NRS 631.095, and/or NRS
2 631.3475(1), (2), and/or (4).

3
4 **CLAIM #3:**
5 **RESPONDENT'S VIOLATION OF NAC 631.150(2) RELATIVE TO RESPONDENT'S**
6 **FAILURE TO GIVE THE BOARD WRITTEN NOTICE OF HIS CHANGE OF**
7 **ADDRESSES**

8 32. The Board repeats and realleges the allegation contained in paragraphs 1 through 31 and
9 reincorporates the same as if fully set forth herein.

10 33. NAC 631.150 provides:

- 11 **NAC 631.150 Filing of addresses of licensee; notice of change; display of license. (NRS**
12 **631.190, 631.350)**
13 1. Each licensee shall file with the Board the addresses of his or her permanent residence and the
14 office or offices where he or she conducts his or her practice.
15 2. Within 30 days after any change occurs in any of these addresses, the licensee shall give the
16 Board a written notice of the change. The Board will impose a fine of \$50 if a licensee does not
17 report such a change within 30 days after it occurs.
18 3. The licensee shall display his or her license and any permit issued by the Board, or a copy
19 thereof, at each place where he or she practices. [Bd. of Dental Exam'rs, § XVI, eff. 7-21-82]—
20 (NAC A 9-6-96; R066-11. 2-15-2012)

21 34. Respondent has failed to give the Board written notice of the change in his permanent
22 residence address and his office or offices address where he conducts his practice.

23 35. In light of the above, Respondent has violated NAC 631.150(2).

24 **CLAIM #4:**
25 **RESPONDENT'S VIOLATION OF NRS 631.330 AND NRS 631.3485(2) RELATIVE TO**
26 **RESPONDENT'S FAILURE TO RENEW HIS LICENSE**

27 36. The Board repeats and realleges the allegation contained in paragraphs 1 through 35 and
28 reincorporates the same as if fully set forth herein.

1 37. NRS 631.330 provides:

2 **NRS 631.330 Renewal of license: Requirements; issuance of renewal certificate.**

3 1. Licenses issued pursuant to NRS 631.271, 631.2715 and 631.275 must be renewed annually.
All other licenses must be renewed biennially.

4 2. Except as otherwise provided in NRS 631.271, 631.2715 and 631.275:

5 (a) Each holder of a license to practice dentistry or dental hygiene must, upon:

- 6 (1) Payment of the required fee;
- 7 (2) Submission of proof of completion of the required continuing education; and
- 8 (3) Submission of all information required to complete the renewal,

9 → be granted a renewal certificate which will authorize continuation of the practice for 2 years.

10 (b) A licensee must comply with the provisions of this subsection and subsection 1 on or
before June 30. Failure to comply with those provisions by June 30 every 2 years automatically
suspends the license, and it may be reinstated only upon payment of the fee for reinstatement and
compliance with the requirements of this subsection.

11 3. If a license suspended pursuant to this section is not reinstated within 12 months after
suspension, it is automatically revoked. [Part 4:152:1951; A 1953, 363] + [8:152:1951]—(NRS A
1957, 343; 1967, 866; 1981, 1976; 1985, 381; 1997, 2124; 1999, 1656, 2849; 2005, 285, 2722,
2807; 2009, 1528)

12 38. NRS 631.3485(3) provides:

13 **NRS 631.3485 Violation of chapter or regulations; failure to pay fee for license.** The
14 following acts, among others, constitute unprofessional conduct:

15 ***

16 3. Failure to pay the fees for a license; or

17 39. Respondent failed to renew his dental license pursuant to the requirements of NRS
18 631.330, including the failure to pay the required fees for the license renewal.

19 40. Respondent's license, pursuant to NRS 631.330, is currently suspended due to
20 Respondent's failure to renew his license.

21 41. In light of the above, Respondent has violated NRS 631.330 and/or NRS 631.3485(3).

22 **CLAIM #5:**
23 **ALLEGATIONS REGARDING RECOVERY OF**
24 **ATTORNEY'S FEES AND COSTS**

25 42. The Board repeats and realleges every allegation contained in paragraphs 1 through 41
26 and reincorporates the same as if fully set forth herein.
27
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1 43. NRS 622.400 provides:
2

3 1. A regulatory body may recover from a person reasonable attorney's fees and
4 costs that are incurred by the regulatory body as part of its investigative,
5 administrative and disciplinary proceedings against the person if the regulatory
6 body:

7 (a) Enters a final order in which it finds that the person has violated any
8 provision of this title which the regulatory body has the authority to
9 enforce, any regulation adopted pursuant thereto or any order of the
10 regulatory body; or

11 (b) Enters into a consent or settlement agreement in which the regulatory
12 body finds or the person admits or does not contest that the person has
13 violated any provision of this title which the regulatory body has the
14 authority to enforce, any regulation adopted pursuant thereto or any order
15 of the regulatory body.

16 2. As used in this section, "costs" means:

17 (a) Costs of an investigation.

18 (b) Costs for photocopies, facsimiles, long distance telephone calls and
19 postage and delivery.

20 (c) Fees for court reporters at any depositions or hearings.

21 (d) Fees for expert witnesses and other witnesses at any depositions or
22 hearings.

23 (e) Fees for necessary interpreters at any depositions or hearings.

24 (f) Fees for service and delivery of process and subpoenas.

25 (g) Expenses for research, including, without limitation, reasonable and
26 necessary expenses for computerized services for legal research.

27 44. This action relates to the Board, a regulatory body, undertaking action as part of its
28 investigative, administrative, and disciplinary proceedings against Respondent as to the
enforcement of provisions of chapter 631 of the Nevada Revised Statutes and/or chapter 631 of

1 the Nevada Administrative Code which the Board has the authority to enforce and, therefore,
2 NRS 622.400(1) is satisfied.

3
4
5 45. That, as a result of NRS 622.400(1) being satisfied, as alleged immediately above, the
6 Board may, should NRS 622.400(1)(a) or (b) be satisfied, recover from Respondent its attorney's
7 fees and costs.

8
9 **WHEREFORE**, it is prayed:

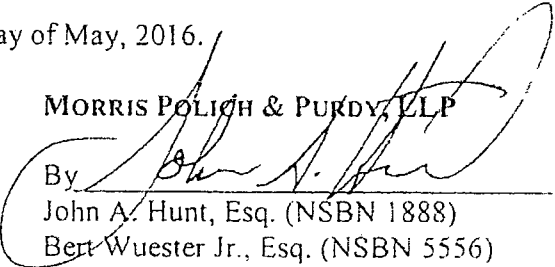
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11 1. The Board conduct a hearing regarding the above-referenced matters constituting
12 violations of the provision of chapter 631 of the NRS and/or NAC;
- 13 2. Upon conclusion of said hearing, the Board should take such disciplinary action as it
14 deems appropriate pursuant to NRS 631.350, and any other applicable provision of chapter 631
15 of the NRS and/or NAC;
- 16
17 3. To the extent the Board deems appropriate, assess against Respondent as provided by law
18 regarding attorney's fees and costs incurred by reason of the investigation, administration, and
19 prosecution, and hearing of this matter;
- 20
21 4. To the extent the Board deems appropriate, impose a fine upon Respondent in an amount
22 deemed appropriate, pursuant to NRS 631.350(1)(c);
- 23
24 5. To the extent the Board deems appropriate, order that Respondent reimburse any at-issue
25 patient(s), pursuant to NRS 631.350(1)(l);
- 26
27 6. To the extent the Board deems appropriate, issue a public reprimand upon Respondent,
28 pursuant to NRS 631.350(1)(e), based upon any findings of Respondent's violations of the

1 above-referenced provisions of chapter 631 of the Nevada Revised Statutes and Nevada
2 Administrative Code; and

3 7. Take such further action provided for and allowed pursuant to relevant authority.

4 Respectfully submitted this 31st day of May, 2016.

5
6 **MORRIS POLICH & PURDY, LLP**

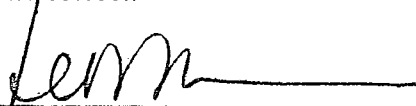
7 By 
8 John A. Hunt, Esq. (NSBN 1888)
9 Bert Wuester Jr., Esq. (NSBN 5556)
10 3800 Howard Hughes Parkway, Suite 500
11 Las Vegas, Nevada 89169
12 ph. (702) 862-8300; fax (702) 862-8400
13 email: jhunt@mpplaw.com
14 email: bwuester@mpplaw.com
15 Attorney for Complainant

16 **VERIFICATION**

17 STATE OF NEVADA)
18)
19 COUNTY OF CLARK)

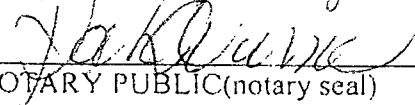
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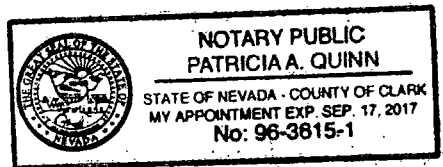
21 The foregoing Complaint has been prepared from information known to me or
22 communicated to me and/or the Board and its staff and/or upon the information available and as
23 referenced in the Complaint and any exhibit(s). Based on such information, it is believed the
24 allegations in the Complaint are true and correct.

25 
26 Debra Shaffer-Kugel, Executive Director, Nevada State Board
27 of Dental Examiners

28 SUBSCRIBED and SWORN to before me

29 this 31st day of May, 2016.

30 
31 NOTARY PUBLIC(notary seal)



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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

Case No. 74127-3088

Complainant,

CERTIFICATE OF SERVICE

vs.

ADAM M. PERSKY, DMD


Respondent.

I hereby certify on the 31st day of May, 2016, I caused a true and accurate copy of the below referenced documents to be served by placing a true and correct copy of the same in the U.S. regular mail, postage prepaid, and via certified, return receipt requested, from Las Vegas, Nevada, to the Respondent at the below referenced addresses. The documents served were (along with a copy of this *Certificate of Service*):


1. A copy of the *Complaint* dated May 31, 2016; and
2. A copy of the *Notice of Filing of Complaint, Date(s) Set for Formal Hearing, & Related Matters* dated May 31, 2016.


The above-referenced documents were served/sent, as noted above, to the following:

Adam Persky, DMD
Dental Office at Chestnut Hill
232 Boylston Street
Chestnut Hill, MA 02467

Adam Persky, DMD


Adam Persky, DMD
Gentel Dental Associates
377 Cabot Street
Beverly, Mass. 01915

Adam Persky, DMD


By: 
Employee of Morris Polich & Purdy, LLP
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STATE OF NEVADA
BEFORE THE BOARD OF DENTAL EXAMINERS

NEVADA STATE BOARD OF DENTAL EXAMINERS,

Case No. 74127-3088

Complainant,

vs.

ADAM M. PERSKY, DMD

Respondent.

NOTICE OF FILING OF COMPLAINT,
DATE(S) SET FOR FORMAL HEARING, & RELATED MATTERS

TO: ADAM M. PERSKY, DMD, Respondent.

PLEASE BE ADVISED on or about the 31st day of May, 2016, a Complaint was filed with the Nevada State Board of Dental Examiners (the "Board") which, in part, makes allegations which could result in disciplinary action against your license issued by the Nevada State Board of Dental Examiners.

YOU ARE FURTHER ADVISED the Board has scheduled a public hearing to consider the allegations contained in the Complaint. The public hearing is scheduled to commence on July 15, 2016, at 10:00 a.m. at the offices of the Nevada State Board of Dental Examiners, 6010 S. Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118. If necessary, the hearing shall continue to July 16, 2016, commencing at 9:00 am.

YOU ARE FURTHER ADVISED the hearing will be held pursuant to Nevada Revised Statutes ("NRS") chapters 233B, 622A, and 631 and Nevada Administrative Code ("NAC") chapter 631. The purpose of the hearing is to consider evidence regarding the allegations in the Complaint and to determine whether Respondent should be subject to discipline pursuant to NRS

1 and NAC chapters 631.
2

3 **YOU ARE FURTHER ADVISED** the hearing is to be an open meeting under Nevada's
4 Open Meeting Law and may be attended by the public. During the hearing, the Board may
5 choose to go into closed session to consider the character, alleged misconduct, professional
6 competence, or physical or mental health of Respondent. A verbatim record will be made by a
7 court reporter. You are entitled to a copy of the transcript, at your cost, of the open and closed
8 portions of the hearing.
9

10 **YOU ARE FURTHER ADVISED** you have the right to answer the Complaint. You
11 have the right to appear and be heard at the hearing in your defense, either personally or through
12 counsel of your choice, at your cost. At the hearing, the Board has the burden of proving the
13 allegations in the Complaint and can call witnesses and offer exhibits/evidence regarding the
14 allegations in the Complaint.
15

16 **YOU ARE FURTHER ADVISED** if a violation is found and discipline is imposed, the
17 Board may also recover reasonable attorney's fees and costs pursuant to NRS 622.400.
18

19 **YOU ARE FURTHER ADVISED** you have the right to call and examine witnesses,
20 offer exhibits/evidence, and cross-examine opposing witnesses or any matter relevant to the
21 issues involved.
22

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29

YOU ARE FURTHER ADVISED you have the right to request the Board issue subpoenas to compel witnesses to testify and/or present evidence on your behalf. When making a request to the Board for issuance of a subpoena, you may be required to demonstrate the nature and relevance of the witness' testimony and/or evidence.

DATED & DONE this 31st day of May, 2016.

NEVADA STATE BOARD OF DENTAL EXAMINERS

By 
DEBRA SHAFFER-KUGEL, Executive Director

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NEVADA STATE BOARD OF DENTAL EXAMINERS
 6010 S Rainbow Boulevard, Suite A-1
 Las Vegas, Nevada 89118
 (702) 486-7044
 Telephone Conference was Available



NOTICE OF PUBLIC MEETING

Tuesday May 17, 2016
 5:36 p.m.

ANESTHESIA SUBCOMMITTEE

(Brendan Johnson, DDS (Chair); Jade Miller, DDS; A Ted Twesme, DDS; D Kevin Moore, DDS; Amanda Okundaye, DDS; Edward Gray DDS; and Joshua Saxe, DDS)

DRAFT Minutes

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

At the discretion of the Chair, public comment is welcomed by the Board, but will be heard only when that item is reached and will be limited to five minutes per person. A public comment time will also be available as the last item on the agenda. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn.

Asterisks () denote items on which the Board may take action.
 Action by the Board on an item may be to approve, deny, amend, or table.*

1. Call to Order, roll call, and establish quorum

Dr. Johnson called the meeting to order and Mrs. Shaffer-Kugel conducted the following roll call:

- Dr. Brendan Johnson (“Dr. Johnson”) -----PRESENT
- Dr. Jade Miller (“Dr. Miller”) -----PRESENT (via Teleconference)
- Dr. A Ted Twesme (“Dr. Twesme”) -----PRESENT (via Teleconference)
- Dr. D Kevin Moore (“Dr. Moore”) -----PRESENT (via Teleconference)
- Dr. Amanda Okundaye (“Dr. Okundaye”) -----PRESENT
- Dr. Edward Gray (“Dr. Gray”) -----PRESENT (via Teleconference)
- Dr. Joshua Saxe (“Dr. Saxe”) -----PRESENT (via Teleconference)

Other Attendees: John Hunt, Board Legal Counsel; Debra Shaffer-Kugel, Executive Director.

Public Attendees: Robert Talley, DDS, NDA; Richard Dragon, DDS, NDA (via teleconference).

2. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

Dr. Richard Dragon commented on behalf of the NDA, stating that they were in favor of the language proposed as draft regulation language. He added that they were not in favor of the language and recommendations proposed by Dr. Saxe.

58 Dr. Talley commented that he concurred with the proposed language as presented, and did not concur with the
59 recommendations presented by Dr. Saxe.
60

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

63
64 *3. Review, Discussion of current Anesthesia Regulations NAC 631.003; NAC 631.004 and NAC 631.2211 –
65 NAC 631.2254 and Draft Proposed Regulations for NAC 631.003; NAC 631.004 NAC 631.2211 - NAC
66 631.2254 pursuant to the new definitions for minimal and moderate sedation enacted through AB89.
67 (For Possible Action)
68

69 Dr. Johnson discussed the group categories for levels of sedation, and single-dose medication.
70

71 Mr. Hunt interjected and stated that the appropriate approach would be for someone to make a motion to adopt or
72 reject the proposed regulations, and through the discussion process either amend, delete, or change any of the
73 proposed regulations.
74

75 MOTION: Dr. Miller made the motion to adopt the proposed regulations. Motion was seconded by Dr. Okundaye.
76 Discussion:
77

78 NAC 631.003:

79 - Dr. Moore inquired if they would be using the definitions as defined in AB89, and if they were listed as
80 language in the statute. Mrs. Shaffer-Kugel responded affirmatively.
81

82 NAC 631.004:

83 There was discussion on whether or not to require a permit for minimal sedation. The consensus was
84 to not require a permit for those administering minimal sedation, and further agreed to define minimal
85 sedation as administering a single-dose medication only. Anything more than a single-dose of anything
86 would be deemed moderate sedation. There was also discussion of requiring those administering in
87 accordance to the minimal sedation definition would be required to attest on their renewal if they have
88 met the continuing education requirements for those administering minimal sedation. After further
89 discussion on minimal sedation, it was decided that they would remove the terms “minimal” and “pediatric
90 minimal” as to avoid confusion.
91

92 NAC 631.2211:

93 There was a consensus to include the term ‘minimal’ so that it could be more clearly defined to avoid
94 ambiguity for those wishing to use minimal sedation.
95

96 NAC 631.2212:

97 There were no recommended changes or amendments.
98

99 NAC 631.2213:

100 There was discussion regarding the joint commission and other changes to be made or taken into
101 consideration. There was additional discussion regarding Advanced Cardiac Life Support and approved
102 entities.
103

104 NAC 631.2217 – NAC 631.2223: No recommended amendments or changes.
105

106 NAC 631.2225:

107 Discussed and agreed to remove “allergy to.”
108

109 NAC 631. 2227:

110 Dr. Okundaye recommended removing items (f) and (h), changing ‘paddles’ to “pads”, and to include
111 “oral and/or nasal air ways.” There was discussion to add a section that would outline what is needed for those
112 with a pediatric moderate sedation permit.
113
114

115 NAC 631.2229:

116 Dr. Johnson recommended that they add “time administered” to (2)(b). There was a recommendation
117 to add “AS Classification” to (1), and the subcommittee agreed to the amendment.

118
119 NAC 631.2231:

120 Dr. Okundaye commented that subsection (d) and (e) could be deleted as they were now obsolete.
121 There was a long discussion and a difference of opinion in requiring an Epi Pen Jr. or whether to allow for
122 the use of an Epi Pen where dentists will need to draw the appropriate dosage needed to be administered
123 on pediatric patients. The recommendation was that they change the language to give dentists the option
124 to use an Epi Pen in the appropriate dosage amount for pediatric patients or to have the Epi Pen Jr.

125
126 NAC 631.2233 and NAC 631.2235:

127 There were no recommended changes or amendments.

128
129 NAC 631.2236:

130 There was a brief discussion regarding fees, to which Mrs. Shaffer-Kugel explained that the Board
131 would address at a future time once the regulations become codified.

132
133 MOTION: Dr. Miller withdrew his original motion to adopt the proposed regulations. Dr. Okundaye agreed to
134 withdraw her second to the original motion. Motion was withdrawn.

135
136 4. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

137
138 Dr. Dragon commend that he would like the subcommittee to clarify the term “single-dose. “

139
140

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142
143 5. Announcements

144
145 *6. Adjournment (For Possible Action)

146
147 MOTION: Dr. Miller made the motion to adjourn. Motion was seconded by Dr. Twesme. All were in favor of the
148 motion.

149
150
151
152
153 Meeting Adjourned at 7:36 p.m.

154
155 Respectfully submitted by:

156
157 _____
158 Debra Shaffer-Kugel, Executive Director



NEVADA STATE BOARD OF DENTAL EXAMINERS
 6010 S Rainbow Boulevard, Suite A-1
 Las Vegas, Nevada 89118
 (702) 486-7044



Video Conferencing available for this meeting at the Nevada State Board of Medical Examiners located at
 1105 Terminal Way, Suite 301, Reno, NV 89502

NOTICE OF PUBLIC MEETING

Friday, May 20, 2016
 9:07 a.m.

DRAFT MINUTES

Notice of Public Workshop, Notice of Hearing to Adopt Regulations and Board Meeting Agenda

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

At the discretion of the Chair, public comment is welcomed by the Board, but will be heard only when that item is reached and will be limited to five minutes per person. A public comment time will also be available as the last item on the agenda. The Chair may allow additional time to be given a speaker as time allows and in his/her sole discretion. Once all items on the agenda are completed the meeting will adjourn.

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 Action by the Board on an item may be to approve, deny, amend, or table.*

1. Call to Order, roll call, and establish quorum

Dr. Pinther called the meeting to order and Mrs. Shaffer-Kugel conducted the following roll call:

Dr. Timothy Pinther-----PRESENT	Dr. Ali Shahrestani-----EXCUSED
Dr. Byron Blasco-----PRESENT	Mrs. Leslea Villigan-----EXCUSED
Dr. J Gordon Kinard-----EXCUSED	Ms. Theresa Guillen -----PRESENT
Dr. Brendan Johnson-----PRESENT	Ms. M Sharon Gabriel-----PRESENT
Dr. Gregory Pisani -----PRESENT	Ms. Stephanie Tyler -----PRESENT
Dr. Jason Champagne-----PRESENT	

Others Present: John Hunt, Board Legal Counsel; Debra Shaffer-Kugel, Executive Director.

Public Attendees: Marjorie Kratsas, Counsel for Barry Frank, DDS; Terri Chandler, Future Smiles; Brenda Aires, Future Smiles; Elizabeth Metz, Future Smiles; Brad Wilbur, NDA; Mary Bobbett, RDH; Robert Smith, Counsel for Jennifer Cha; Annette Lincicome, NDHA; Steven Saxe, NSSOMS; Sara Mercier, NDHA; Sherry Clough, NDHA; Ian Houston, Counsel for Felipe Paleracio; Rick Thiriot, UNLV; Richard Dragon, NDA; Joanna Jacob, Ferrari Public Affairs/NDA; Xuan-Thu Failing, NDHA; Syd McKenzie, NDHA/Oral health NV Cusp.

Pledge of Allegiance

59 2. Public Comment: (Public Comment is limited to three (3) minutes for each individual)

60
61 Ms. Terri Chandler commented to the Board that Future was recognized for their work and were given a grant.
62 She read a statement into the record regarding the organization and the wonderful work they have accomplished
63 that earned them the grant.
64

65 Ms. Sherry Clough advocated for favorable consideration for the regulations being considered that would permit
66 for dental hygienists' to administer facial injectables. She added that dental hygienists are capable to administer
67 such procedures and that they are educated and well trained to administer facial injectables.
68

69 Ms. Xuan-Thu Failing read a statement into the record on behalf of the NDHA and their support in favor of the
70 proposed regulations as proposed regarding dental hygiene duties. She thanked the Board providing clarification
71 on several regulations in the newsletter that was sent out. She thanked the Committee on Dental Hygiene, the
72 Continuing Education Committee (hereinafter "CE Committee"), and the Board for considering the proposed
73 changes.
74

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

77
78
79 *3. Notice of Public Workshop, Request for Comments and Consideration of Recommendations from the
80 Continuing Education Resource Group regarding amendments/changes to Nevada Administrative Code
81 Chapter 631 the general topics include the following; Use of laser radiation in practice (NAC 631.033);
82 Continuing Education (NAC 631.175); Dental hygienists, authorization to perform certain services (NAC
83 631.210). (For Possible Action)
84

85 Mrs. Shaffer-Kugel stated that on March 18, the Board approved three amendments to the regulation. She stated
86 further that the CE Committee recommended that the Board draft language that would set the parameters for
87 adequate training requirements. She added that it was decided to include an attestation section to the renewals,
88 similar to that of laser training. She elaborated on the breakdown of the hours and areas required in order to meet
89 the minimum requirements to be permitted to administer facial injectables. Dr. Blasco stated that prior to the CE
90 Committee, he researched different courses and aspects, and because he noticed the difference in training,
91 particularly in the administration of dermal fillers and botulinum, the number of hours they are recommending
92 would adequately cover all areas proposed. Mr. Hunt stated that if licensee were to inject outside of the oral cavity
93 it would be deemed the illegal practice of medicine.
94

95 MOTION: Dr. Blasco made the motion to approve the proposed regulation changes to NAC 631.033(3) as written,
96 with the exception to change the term spelling from "microfacial" to "myofascial" and to submit the language to the
97 Legislative Counsel Bureau ("LCB"). Motion was seconded by Dr. Pisani. Discussion: Dr. Pinther noted that there
98 was comment submitted by Dr. Stephen Sill and asked for comments from the Board regarding Dr. Sill's concerns
99 and comments. Dr. Blasco stated that he believed the Board adequately covered Dr. Sill's concerns. Dr. Pisani
100 stated his disagreement with Dr. Sill's suggestion that there not be a CE requirement for facial injectables. Roll call
101 vote:
102

103 Dr. Timothy Pinther-----yes Dr. Ali Shahrestani-----excused
104 Dr. Byron Blasco-----yes Mrs. Leslea Villigan -----excused
105 Dr. J Gordon Kinard-----excused Ms. Theresa Guillen -----yes
106 Dr. Brendan Johnson-----yes Ms. M Sharon Gabriel----yes
107 Dr. Gregory Pisani -----yes Ms. Stephanie Tyler-----yes
108 Dr. Jason Champagne-----yes
109

110 Motion is agreed to; motion passes.
111
112
113
114
115
116

117 ● Use of Lasers (NAC 631.175):
118

119 Mrs. Shaffer-Kugel stated that there was a senate bill that passed that encouraged licensing boards to request or
120 mandate that licensees take a course regarding the use and abuse of controlled substances. She added that this
121 proactive measure would be added to license renewals, and if approved by the Board, the language to be used
122 would come directly from the senate bill. She added that the one (1) hour CE requirement would be part of the
123 required number of hours for both dentists' and dental hygienists'. Ms. Tyler stated that as a public member, she
124 believed that this was something the Board should embrace and include this requirement, and hoped that the
125 board would move forward to approve the proposed regulation change.
126

127 MOTION: Ms. Tyler made the motion to approve. Motion was seconded by Dr. Pisani. Roll Call vote:
128

129 Dr. Timothy Pinther-----yes	Dr. Ali Shahrestani-----excused
130 Dr. Byron Blasco-----yes	Mrs. Leslea Villigan -----excused
131 Dr. J Gordon Kinard-----excused	Ms. Theresa Guillen -----yes
132 Dr. Brendan Johnson-----yes	Ms. M Sharon Gabriel----yes
133 Dr. Gregory Pisani -----yes	Ms. Stephanie Tyler-----yes
134 Dr. Jason Champagne-----yes	

135
136 Motion is agreed to; motion passes.
137

138 ● Duties Delegable to Dental Hygienists (NAC 631.210):
139

140 Mrs. Shaffer-Kugel stated that CE Committee amended NAC 631.210 to include the use and administration of
141 botulinum, dermal fillers, and other facial injectables as a duty delegable to a dental hygienist.
142

143 MOTION: Dr. Pisani made the motion to approve. Motion was seconded by Dr. Blasco. Roll Call vote:
144

145 Dr. Timothy Pinther-----yes	Dr. Ali Shahrestani-----excused
146 Dr. Byron Blasco-----yes	Mrs. Leslea Villigan -----excused
147 Dr. J Gordon Kinard-----excused	Ms. Theresa Guillen -----yes
148 Dr. Brendan Johnson-----yes	Ms. M Sharon Gabriel----yes
149 Dr. Gregory Pisani -----yes	Ms. Stephanie Tyler-----yes
150 Dr. Jason Champagne-----yes	

151
152 Motion is agreed to; motion passes. Mrs. Shaffer-Kugel stated that she would send the language to LCB for review.
153
154

155 *4. Notice of Intent to Act Upon Regulations-LCB File No R119-15

156 Notice of Hearing for the Adoption of Regulations of the Nevada State Board of Dental Examiners
157 Chapter 631 regarding: (For Possible Action)
158

159 *(a) Adoption of Proposed/Revised Regulations:
160

- 161 (1) NAC 631.029-Schedule of Fees
- 162 (2) NAC 631.150- Filing of addresses of licensee; notice of change; display of license
- 163 (3) NAC 631.1785-Initial inspection of office or facility:
- 164 (4) NAC 631.210- Dental hygienists: Authorization to perform certain services; referral of patient
165 to authorizing dentist for certain purposes
- 166 (5) NAC 631.220- Dental assistants: Authorization to perform certain services; supervision by
167 dental hygienist for certain purposes
168

169 Mrs. Shaffer-Kugel stated that the language in R110-15 was previously approved by the Board and were revisited at
170 the request of dental hygienists, but no changes were made.
171

172 MOTION: Ms. Guillen made the motion to adopt (4)(a)(1-5). Motion was seconded by Dr. Pisani. All were in
173 favor of the motion.
174
175

176 *5. Executive Director's Report (For Possible Action)

177
178 *a. Minutes-NRS 631.190 (For Possible Action)

- 179
180 (1) Continuing Education Resource Group Meeting - 03/11/2016
181 (2) Anesthesia Subcommittee Meeting - 03/11/2016
182 (3) Board Meeting - 03/18/2016
183 (4) Committee on Dental Hygiene Meeting - 03/18/2016
184 (5) Formal Hearing - 04/22/2016
185

186 MOTION: Ms. Guillen made the motion to approve the draft minutes. Motion seconded by Ms. Gabriel. All were
187 in favor of the motion.
188

189 b. Financials-NRS 631.180/NRS 631.190

- 190
191 (1) Review Balance Sheet and Statement of Revenues, Expenses and Balances for fiscal period
192 July 1, 2015 through March 31, 2016
193

194 Mrs. Stacie Hummel went over the main items of the Statement of Revenues, Expenses and balances. She noted
195 that they were approaching the end of the fiscal year and drew their attention to the areas that they were over
196 budget on. She added that the Board did approve the items that were over budget, which were additional expenses
197 incurred that were not foreseen at the time they original budget was proposed for the current fiscal year. She
198 noted further that there were some fee increases by certain vendors that were, also, not anticipated. There was
199 discussion regarding stipulation agreements, revocation of licenses due to board action and the probability of the
200 Board collecting fees for reimbursement of legal services and investigation costs. Mr. Hunt provided some options
201 that are made available to the Board through the State controller, however, that once the board revokes the license
202 of a dentist or dental hygienist they are not likely to receive reimbursement for investigation costs and legal fees.
203 Mrs. Shaffer-Kugel went over the fees incurred this year that they almost certainly will not receive.
204

205 *d. Correspondence: (For Possible Action)

- 206
207 (1) Letter from the Office of the Attorney General dated March 10, 2016 regarding Joint Legal
208 Counsel Representation (For Possible Action)
209

210 Mrs. Shaffer-Kugel indicated that the correspondence provided by the Attorney General was just to clarify to the
211 Board that they have joint representation and that they do collaborate with the Attorney General's office. Dr.
212 Pisani inquired if other Boards also used independent counsel. Mrs. Shaffer-Kugel named the other boards that
213 currently have independent counsel, and stated that the use of independent counsel varied based on the needs of
214 other boards. Dr. Pisani stated that that historically the Board has always used independent counsel.
215

216 *e. Contracts: NRS 631.190 (For Possible Action)

- 217
218 (1) Review, Approval or Rejection of Employment Contract-NRS 631.190 (For Possible Action)
219 (a) Debra Shaffer-Kugel, Executive Director
220
221

222 Mrs. Shaffer-Kugel noted that her contract expires June 30 and in order to continue her employment, the board
223 would need to approve to renew or to not renew her contract.
224

225 MOTION: Ms. Tyler made the motion to approve the contract. Motion was seconded by Dr. Blasco. All were in
226 favor of the motion.
227

- 228 (2) Review, Approve/Reject Amendment to Current Contract for Legal Services-NRS 631.190
229 (For Possible Action)
230

- 231 (a) John Hunt, Esquire, Morris Polich & Purdy, LLP
232

233 Mrs. Shaffer-Kugel indicated that the contract previously approved with Mr. Hunt stated a limit to be paid to Mr.
234 Hunt; however, that currently they had exceeded the amount stated in his contract. Therefore, she stated that they
235 would need to amend his contract to expand the amount listed.

236 MOTION: Dr. Pisani made the motion to amend Mr. Hunt's contract. Motion was seconded by Dr. Blasco.
237 Discussion: Dr. Pinther stated that he appreciated Mr. Hunt's knowledge and his invaluable expertise. Dr. Pisani
238 reiterated and concurred with Dr. Pinther's comments, and added that Mr. Hunt was a true asset. Dr. Blasco
239 commented that as a representative for Nevada at the WREB exams, he attests that all of the legal counsels from
240 numerous other states pursue Mr. Hunt and his expertise, to enquire on how he is able to do such a tremendous
241 job for the Board and while preserving costs for the Board. He added further, that their Board was envied by other
242 states for Mr. Hunt's work. Ms. Tyler stated that as the Consumer member, it was her standpoint that the purpose
243 of the Board is to protect the public, and that without the support of their legal counsel, no one would really
244 understand the parameters, which are critical in conserving that purpose. Mr. Hunt thanked everyone for their
245 comments and stated that he was humbled and honored to represent the Board and that his paramount concern is
246 to always protect the public. Dr. Pinther stated that they were a better team with him, his knowledge, and that his
247 enthusiasm did not go unnoticed.

248
249 *f. Travel: NRS 631.190 (For Possible Action)

- 250
251 (1) Approval of Board Member to present report to the Nevada Dental Association (NDA) Summer
252 Meeting June 16-18, 2016 Napa, California (For Possible Action)

253
254 (a) J. Gordon Kinard, DDS

255
256 MOTION: Dr. Pisani made the motion to approve. Motion was seconded by Ms. Guillen. All were in favor of the
257 motion.

- 258
259 (2) Approval of Board Members to attend the AADB Annual Meeting October 18-19, 2016
260 Denver, CO (For Possible Action)

261
262 Mrs. Shaffer-Kugel stated that the deadline to book the hotel accommodations for the October meeting is on June
263 24th, and therefore, needed to get approval now so that the accommodations could be booked before the deadline.
264 Dr. Pinther, Ms. Gabriel, Ms. Guillen, and Mrs. Shaffer-Kugel stated that they were all available to attend. Dr.
265 Pinther stated that traditionally 4-5 board members travel for the AADB meetings. Mrs. Shaffer-Kugel stated that
266 they budgeted for 5 members to attend. Ms. Tyler and Mr. Hunt stated that they would possibly be available.

267
268 MOTION: Dr. Pisani made the motion to approve for 5 attendees to attend the AADB meeting in October. Motion
269 seconded by Dr. Blasco. All were in favor of the motion.

270
271 *6. Board Counsel's Report (For Possible Action)

272
273 *a. Legal Actions/Lawsuit(s) Update (For Possible Action)

- 274
275 (1) District Court Case(s) Update

276
277 Mr. Hunt reminded the Board members to never discuss any cases amongst each other, especially if they're
278 contacted by someone regarding issues. He asked that they refer individuals to Mrs. Shaffer-Kugel. He stated that
279 there was no pending litigation.

280
281 *b. Consideration of Stipulation Agreements (For Possible Action)

- 282
283 (1) Thomas Gonzales, DDS

284
285 Counsel for Dr. Gonzales was present and stepped forward. Mr. Hunt went over the provisions of the proposed
286 stipulation agreement.

287
288 MOTION: Dr. Blasco made the motion to adopt the stipulation agreement of Dr. Gonzales. Motion was seconded
289 by Dr. Pisani. All were in favor of the motion.

- 290
291 (2) Barry Frank, DDS

292
293 Counsel for Dr. Frank was present and stepped forward. Mr. Hunt went over the provisions of the proposed
294 stipulation agreement.

296 MOTION: Dr. Pisani made the motion to adopt the stipulation agreement of Dr. Frank. Motion was seconded by
297 Dr. Blasco. Discussion: Dr. Blasco asked for a roll call vote. Dr. Johnson stated that Dr. Frank was a former
298 employee of his and would like to abstain from the vote. Roll call vote:
299

300 Dr. Timothy Pinther-----yes	Dr. Ali Shahrestani-----excused
301 Dr. Byron Blasco-----yes	Mrs. Leslea Villigan -----excused
302 Dr. J Gordon Kinard-----excused	Ms. Theresa Guillen -----yes
303 Dr. Brendan Johnson-----abstain	Ms. M Sharon Gabriel----yes
304 Dr. Gregory Pisani -----yes	Ms. Stephanie Tyler-----yes
305 Dr. Jason Champagne-----yes	

306
307 Motion was agreed to; Stipulation agreement was adopted.
308

309 (3) Frank D Nguyen, DDS
310

311 Mr. Hunt went over the provisions of the proposed stipulation agreement.
312

313 MOTION: Dr. Blasco made the motion to adopt the stipulation agreement of Dr. Nguyen. Motion was seconded
314 by Ms. Tyler. All were in favor of the motion.
315

316 (4) Felipe Paleracio, DDS
317

318 Mr. Hunt went over the provisions of the proposed stipulation agreement.
319

320 MOTION: Dr. Pisani made the motion to adopt the stipulation agreement of Dr. Paleracio. Motion was seconded
321 by Ms. Guillen. All were in favor of the motion.
322

323 (5) Jennifer Cha, DMD
324

325 Counsel for Dr. Cha was present and stepped forward. Mr. Hunt went over the provisions of the proposed
326 stipulation agreement.
327

328 MOTION: Dr. Blasco made the motion to adopt the stipulation agreement of Dr. Cha. Motion was seconded by
329 Dr. Pisani. All were in favor of the motion.
330

331 ***7. New Business** (For Possible Action)
332

333 ***a. Request for an Advisory Opinion for clarification as to whether CPR on-line training complies**
334 **with NAC 631.173(3)-NAC 631.279 (For Possible Action)**
335

336 (1) Mary Bobbett, BA, RDH
337

338 Ms. Bobbett was present and stepped forward. Mrs. Shaffer-Kugel indicated that they received a request from Ms.
339 Bobbett to determine if online CPR training would comply with the requirements of licensees. She read into the
340 record NAC 631.173(3). She added that historically, the board's position has been that CPR training was required
341 to be completed in person in a live lecture by a certified instructor. Dr. Pinther noted that CPR courses have a
342 didactic and a clinical portion. Dr. Blasco stated that overtime the methods for teaching CPR had evolved since the
343 time that the regulation was written. Mr. Hunt stated that the clinical portion of training should be completed in
344 person. Ms. Bobbett contended that the regulation did not state that CPR training had to be completed in person,
345 and therefore, asked for an advisory opinion so that the Board could clarify the current ambiguous language. The
346 board members agreed that it would, perhaps, be best to have the CE committee review the language and revise it
347 so that it is unambiguous.
348

349 MOTION: Dr. Blasco stated that the Board would not be issuing an advisory opinion; however, that they would
350 like to revert the language in question to the CE committee for review and possible revision. Motion was seconded
351 by Dr. Johnson. Discussion: Dr. Blasco commented that he believed that at the time that the regulation was
352 written, it was assumed that training would be entirely hands-on. Furthermore, that with the advancement of
353 technology, he believed it best to update the regulation so that it would be reflective of the current training option
354 available. All were in favor of the motion.

355 *b. Request for an Advisory Opinion for clarification as to whether the applicants referenced below
356 meet the eligibility requirements for dental hygiene licensure pursuant to NRS 631.290-
357 NAC 631.279 (For Possible Action)
358

- 359 (1) Juan Carlos Garcia-Perez
360 (2) Esther Rodriguez-Fernandez
361

362 Both Mr. Garcia-Perez and Ms. Rodriguez-Fernandez were present and stepped forward. Mrs. Shaffer-Kugel
363 stated that the applicants were requesting an advisory opinion to determine if they met the eligibility requirements
364 for dental hygiene licensure. She stated that they were both dentists' in Cuba and that both had taken and passed
365 the national boards. Dr. Pinther stated that the regulation stated that applicants had to have completed an
366 accredited dental or dental hygiene program. Mr. Hunt inquired of Mr. Garcia-Perez and Ms. Rodriguez-
367 Fernandez if the dental school they graduated from in Cuba was an accredited program. They indicated that it was
368 not. Mr. Hunt stated that the statute was clear in that in order to be eligible for dental or dental hygiene licensure
369 in the State of Nevada that an applicant had to have completed an accredited program. Thus, that the Board could
370 only give the opinion that pursuant to the statutes and regulations, they did not meet the requirements to apply for
371 licensure. Ms. Rodriguez-Fernandez stated that they had many years of experience. She added that WREB was
372 requiring that they be furnished a letter from the Board stating that they would be eligible for licensure if they
373 passed their exam. Dr. Pinther stated that though he appreciated their experience, the Board could not go against
374 the current regulations or statutes, which legally does not consider them eligible to become licensed as dental
375 hygienists in the state of Nevada. Mrs. Shaffer-Kugel suggested that they consider completing an international
376 program, and noted that the UNLV School of Dental Medicine was developing one. She encouraged them to seek
377 an international program so that upon completion they could then meet the criteria for licensure.
378

379 MOTION: Dr. Blasco gave the opinion that in lieu of violating NRS 631.290 the Board was unable to grant a letter
380 of permission to allow them to take the WREB exam since they would not be eligible for dental or dental hygiene
381 licensure in the State of Nevada since they had not completed an accredited dental or dental hygiene program.
382 Motion was seconded by Ms. Tyler. All were in favor of the motion.
383

384 *c. Approval for Disciplinary Screening Officer-NRS 631.190 (For Possible Action)
385

- 386 (1) Richard Dragon, DDS
387

388 Mrs. Shaffer-Kugel indicated that Dr. Dragon was invited to become a DSO for the Board.
389

390 MOTION: Dr. Pisani made the motion to approve Dr. Dragon as a DSO for the Board. Motion was seconded by
391 Ms. Guillen. All were in favor of the motion.
392

393 *d. Approval of Public Health Endorsement – NRS 631.287 (For Possible Action)
394

- 395 (1) Brenda K. Alires, RDH – Future Smiles
396 (2) Elizabeth A. Metz, RDH – Future Smiles
397 (3) Lancette L Barney-VanGuilder, RDH – Future Smiles
398

399 Dr. Blasco indicated that he reviewed the applications and recommended approval.
400

401 MOTION: Ms. Guillen made the motion to approve the PHE applications. Motion was seconded by Dr. Pisani.
402 All were in favor; Dr. Blasco abstained.
403

404 *e. Approval of Voluntary Surrender of License – NAC 631.160 (For Possible Action)
405

- 406 (1) L. Scott Brooksby, DDS
407

408 Mrs. Shaffer-Kugel stated that Dr. Brooksby submitted a Voluntary Surrender form, which pursuant to NAC
409 631.160, a licensee can request to voluntarily surrender their license; however, that if there are pending actions, the
410 Board can deny the request to voluntary surrender a license from a licensee. Mr. Hunt stated that Dr. Brooksby's
411 license had been revoked due to recent and pending matters with the Board. He stated that Dr. Brooksby was
412 served with an order notifying him of the revocation.
413

414 MOTION: Dr. Pisani made the motion to reject the voluntary surrender of license request from Dr. Brooksby.
415 Motion was seconded by Dr. Johnson. All were in favor of the motion.

416 (2) Nancy Oxsen, RDH

417
418 Mrs. Shaffer-Kugel stated that Ms. Oxsen had no pending matters.

419
420 MOTION: Ms. Tyler made the motion to approve the voluntary surrender of license request from Ms. Oxsen.
421 Motion was seconded by Ms. Guillen. All were in favor of the motion.

422
423 (3) Mary E. Shields, RDH

424
425 Mrs. Shaffer-Kugel stated that Ms. Shields had no pending matters.

426
427 MOTION: Dr. Pisani made the motion to approve the voluntary surrender of license request from Ms. Shields.
428 Motion was seconded by Ms. Guillen. All were in favor of the motion.

429
430 (4) Lyn K. Vehorn, RDH

431
432 Mrs. Shaffer-Kugel stated that Ms. Vehorn had no pending matters.

433
434 MOTION: Ms. Guillen made the motion to approve the voluntary surrender of license request from Ms. Vehorn.
435 Motion was seconded by Ms. Gabriel. All were in favor of the motion.

436
437 (5) Doreen S. Craig, RDH

438
439 Mrs. Shaffer-Kugel stated that Ms. Craig had no pending matters.

440
441 MOTION: Ms. Guillen made the motion to approve the voluntary surrender of license request from Ms. Craig.
442 Motion was seconded by Ms. Gabriel. All were in favor of the motion.

443
444 *f. **Approval for Anesthesia-Permanent Permit – NAC 631.2233** (For Possible Action)

445
446 (1) **Conscious Sedation** (For Possible Action)

447 (a) Demitri Villarreal, DDS

448
449 Dr. Blasco stated that Dr. Villarreal passed the inspection and recommended approval.

450
451 MOTION: Dr. Johnson made the motion to approve the permanent permit. Motion was seconded by Dr. Pisani.
452 All were in favor of the motion; Dr. Blasco and Dr. Johnson abstained.

453
454 *g. **Approval for Anesthesia-Temporary Permit – NAC 631.2254** (For Possible Action)

455
456 (1) **Conscious Sedation** (For Possible Action)

457 (a) Amy M.K. French, DMD

458 (b) Drew D. Richards, DDS

459
460 Dr. Blasco stated that he reviewed the applications, that they met the criteria and recommended approval.

461
462 MOTION: Ms. Guillen made the motion to approve the temporary permits. Motion was seconded by Ms. Gabriel.
463 All were in favor of the motion.

464
465
466 *8. **Resource Group Reports**

467
468 *a. **Legislative and Dental Practice** (For Possible Action)

469 (Chair: Dr. Pinther; Dr. Champagne; Dr. Blasco; Dr. Kinard; Ms. Guillen)

470
471 Dr. Pinther indicated that there was no report.

472
473 *b. **Legal and Disciplinary Action** (For Possible Action)

474 (Chair: Dr. Kinard; Dr. Pisani; Dr. Blasco; Dr. Shahrestani, Mrs. Villigan)

475
476 Dr. Pisani indicated that there was no report.

478 *c. Examinations Liaisons (For Possible Action)

479
480 *(1) WREB/HERB Representatives (For Possible Action)
481 (Dr. Blasco; Ms. Gabriel)
482

483 Dr. Blasco stated that there was a WREB meeting in June that he will be attending.
484

485 *(2) ADEX Representatives (For Possible Action)
486 (Dr. Kinard)
487

488 There was no report.
489

490 *d. Continuing Education (For Possible Action)
491 (Dr. Blasco, Chair; Dr. Shahrestani, Dr. Pisani; Mrs. Villigan; Ms. Gabriel)
492

493 Dr. Blasco stated that they will be scheduling a meeting to review the regulations regarding CPR.
494

495 *e. Committee of Dental Hygiene (For Possible Action)
496 (Chair: Ms. Guillen; Mrs. Villigan; Ms. Gabriel, Dr. Shahrestani)
497

498 Ms. Guillen indicated that there was no report.
499

500 *f. Specialty (For Possible Action)
501 (Chair: Dr. Pisani; Dr. Johnson; Dr. Pinther)
502

503 Dr. Pisani indicated that there was no report.
504

505 *g. Anesthesia (For Possible Action)
506 (Chair: Dr. Johnson; Dr. Pinther; Dr. Champagne; Dr. Kinard)
507 (For Possible Action)
508

509 (1) **Recommendations from Anesthesia Sub Committee to Board regarding**
510 **amendments/changes to NAC 631.003; NAC 631.004 and NAC 631.2211-631.2254** (For Possible
511 Action)
512

513 Dr. Johnson stated that the subcommittee was almost through with reviewing the regulations and asked that they
514 table this item.
515

516 MOTION: Ms. Tyler made the motion to table agenda item (8)(g)(1). Motion was seconded by Dr. Pisani. All
517 were in favor of the motion.
518

519 *h. Infection Control (For Possible Action)
520 (Chair: Mrs. Villigan; Dr. Blasco; Dr. Champagne; Dr. Pisani; Ms. Gabriel)
521

522 Dr. Blasco indicated that there was no report.
523

524 *i. Budget and Finance Committee (For Possible Action)
525 (Chair: Dr. Blasco, Dr. Pinther, Ms. Tyler, Ms. Guillen)
526

527 Dr. Blasco indicated that Ms. Hummel covered all topics related to the finances.
528
529

530 9. Public Comment: (Public Comment is limited to three (3) minutes for each individual)
531

532 Mr. Hunt stated to the Board that the audit conducted by the LCB, there was a report issued that they were only
533 permitted to share with Dr. Pinther only. He added that Mrs. Shaffer-Kugel replied to their report.
534

535 Mrs. Shaffer-Kugel stated that the Legislative and Dental Practice Committee needed to meet so that they could
536 discuss a replacement lobbyist.
537

538 Ms. Elizabeth thanked that Board for granting her a Public Health Endorsement (PHE).
539

540 Ms. Brenda Alires thanked that Board for granting her a Public Health Endorsement (PHE).

541

542 Ms. Terri Chandler stated that she was one of the first to hold a PHE back in 2004. She thanked the Board for the
543 honor and privilege to hold a PHE.

544

545 Dr. Blasco commented that Ms. Chandler was indispensable and congratulated Future Smiles on their recent grant.

546

547 Ms. Syd McKenzie congratulated Future Smiles on their grant and the dental hygienists' that were granted a PHE.
548 She inquired on what the process will be for the language that was approved to be sent to the LCB. Mrs. Shaffer-
549 Kugel explained the process that would lead to codification of the proposed regulations.

550

551 Ms. Xuan-Thu Failing, on behalf of the NDHA, thanked the Board for opening the conversation to dental
552 hygienists in drafting and amending regulations related to their practice.

553

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

556 **10. Announcements:**

557

558 Dr. Pinther announced that he and Dr. Blasco will need to schedule a Budget and Finance Committee meeting.

559

560 Mrs. Shaffer-Kugel announced that they sent out a remind postcard to all dental hygienists' that they have until
561 June 30 to renew their licenses. She indicated that she will be scheduling a Budget and Finance Committee
562 meeting, and that she and Ms. Hummel will be working on the Fiscal Year 17 budget, which she will have for their
563 review at the July 15 Board meeting. She added that there may be a full board hearing in June.

564

565 ***11. Adjournment (For Possible Action)**

566

567 **MOTION:** Dr. Blasco made the motion to adjourn the meeting. Motion was seconded by Dr. Johnson. All were in
568 favor of the motion.

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Meeting Adjourned at 11:25 am.

Respectfully submitted by:

Debra Shaffer-Kugel, Executive Director

STATE OF NEVADA

Performance Audit

Nevada State Board of Dental Examiners

2016



Legislative Auditor
Carson City, Nevada

Audit Highlights



Nevada State Board of Dental Examiners

Highlights of performance audit report on the Nevada State Board of Dental Examiners issued on May 24, 2016. Legislative Auditor report # LA16-14.

Background

Assembly Bill 6 of the 1951 Session, known as the Nevada Dental Practice Act established the current system of regulation related to dentistry. The Board consists of 11 members appointed by the Governor who are to 1) develop and maintain programs to ensure only qualified professionals are licensed to practice dentistry and dental hygiene and 2) ensure violators of the laws regulating dental practitioners are sanctioned. The Board's register showed 1,809 and 1,393 actively licensed dentists and hygienists as of April 1, 2016.

The Board's office is located in Las Vegas and staffed with six people including the Executive Director. For fiscal year 2015, the Board had revenues of \$1.3 million and expenses of \$1.1 million.

The Board receives complaints from the public and licensed practitioners regarding services provided. The Board received 374 complaints from July 1, 2013, to December 31, 2015. About 64% of complaints were remanded, 32% resulted in some form of additional Board action, and 4% were not yet resolved.

Purpose of Audit

The purpose of this audit was to determine whether the Board has assessed reasonable costs to licensees for investigating and resolving complaints and disciplinary matters.

The scope of our audit focused on a review of the Board's disciplinary process and costs assessed for investigations resulting from approved Board actions during calendar years 2014 and 2015. Certain information included data from prior years to provide additional context or complete our analysis.

Audit Recommendations

This audit report contains 14 recommendations to improve the cost assessment and investigation processes. These recommendations address cost tracking, developing Board approved policies regarding cost assessment, a review of DSO investigations, and ensuring records are sufficient, accurate, and retained.

The Board accepted 11 recommendations and rejected 3 recommendations.

Recommendation Status

The Board's 60-day plan for corrective action is due on August 18, 2016. In addition, the six-month report on the status of audit recommendations is due on February 20, 2017.

Summary

The Board did not always assess reasonable costs to licensees for investigating and resolving complaints and disciplinary matters. Due to the Board's inadequate tracking of costs, many licensees were overcharged for the cost of investigations. Although the amounts overcharged were not significant to the Board overall, some amounts that individual licensees were overcharged were substantial. In addition, four licensees made charitable contributions totaling over \$140,000 as required by stipulation agreements; however, charitable contributions are not allowed under NRS 631.350. Board management has started making changes to correct problems found during the audit.

The Board's reporting and monitoring of legal expenses was not adequate. First, the manner in which legal expenses are reported reflects a lower amount than is actually spent. Second, the Board can reduce its legal expenses by hiring its own General Counsel. Since the Board is funded by fees, it is responsible for monitoring expenses to ensure resources are spent efficiently to minimize the burden on licensees.

The Board needs to provide greater oversight of complaint investigations performed by Disciplinary Screening Officers (DSOs). Investigation results are not reviewed and sufficient guidance has not been developed to provide additional assurance that DSO conclusions and recommendations are based on sufficient evidence. Without a review process, variations in DSO decisions are more likely to occur. In addition, we found the Board's investigation files were incomplete.

Key Findings

The Board overcharged licensees for investigative costs in almost half of the investigations in the last 2 years, including several over \$1,000. Overcharges were likely due to the Board lacking an effective process for accurately determining the amount of investigative costs for individuals. At the same time the Board overcharged some licensees, other licensees were charged less than actual investigation costs after negotiations between the parties. (page 8)

As part of the provisions imposed in Board approved stipulation agreements, four licensees agreed to donate over \$140,000 to organizations that provide health-related services. However, charitable contributions are not allowable under NRS 631.350. Furthermore, these amounts were not recorded in accounting records since the checks were made payable to the charitable organizations. (page 11)

The Board paid about \$200,000 more, on average, in legal expenses in fiscal years 2014 and 2015 than shown in its financial statements. Actual legal expenses were almost three times the reported amounts and exceeded the annual contract maximum for one firm. This occurred because the actual amount paid for legal expenses was reduced by the cost recoveries and assessments related to disciplinary matters. Recording expenses in this manner reduces transparency and, therefore, may impact decisions made by policy makers and others. (page 13)

The practice of reducing actual legal expenses also affected the Board's contract with outside counsel. Specifically, the contract approved in October 2013 stated payments will not exceed \$175,000 per year. However, payments exceeded \$300,000 in both calendar years 2014 and 2015, the first two full years under the new contract terms. Additionally, the overall contract maximum of \$700,000 has almost been reached with over a year left in the 4-year contract. (page 14)

The Board could save approximately \$100,000 per year by hiring a General Counsel while still utilizing the services of outside counsel when necessary. This estimate assumes the Board would still use outside counsel about 20% of the time. Boards have a fiduciary duty to be an effective steward of public resources, which in this case is fees collected from licensees. (page 15)

Investigation results and conclusions of DSOs are not reviewed by supervisory personnel or an independent review committee. A review process would help verify conclusions and recommendations are based on clear and sufficient evidence. Without a review process, there is an increased risk that investigations could result in licensees being treated too harshly or lightly. Although disciplinary actions are approved at Board meetings, Board members are not reviewing documentation specifically related to investigations and negotiations. Other state's dental boards and Nevada medical boards we contacted have review processes in place for investigations, including review committees. (page 16)

The Board's office does not have critical documentation related to the disciplinary process. In addition, when documentation was located it was often not in the disciplinary file as anticipated. The Board does not have certain documentation related to disciplinary proceedings because it is generated by, or submitted directly to, the Board's outside counsel. Furthermore, the Board does not have an organized filing method with checklists to ensure standard documentation related to disciplinary actions is onsite and retained. Without adequate documentation, the Board cannot fully support disciplinary actions or ensure compliance with statutes. (page 19)

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Legislative Commission
Legislative Building
Carson City, Nevada

This report contains the findings, conclusions, and recommendations from our performance audit of the Nevada State Board of Dental Examiners. This audit was conducted pursuant to a special request by the Sunset Subcommittee of the Legislative Commission and was authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 14 recommendations to improve the cost assessment and investigation processes. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Rocky Cooper, CPA
Legislative Auditor

May 13, 2016
Carson City, Nevada

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Nevada State Board of Dental Examiners

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Introduction

Background

The Legislature established a board in 1895 to provide for the regulation of dental surgery. Various revisions to the regulation of dental providers occurred until 1951 when Assembly Bill 6, known as the Nevada Dental Practice Act, repealed all previous acts and made various changes to the board and practice of dentistry and dental hygiene.

The mission of the Nevada State Board of Dental Examiners (Board) is to protect the dental health interests of Nevadans by 1) developing and maintaining programs to ensure only qualified professionals are licensed to practice dentistry and dental hygiene, and 2) ensuring violators of the laws regulating the dental and dental hygiene professionals are sanctioned as appropriate. The Board consists of 11 members appointed by the Governor and must include:

- Six dentists who are residents and have practiced for at least 5 years.
- Three dental hygienists who are residents and have practiced for at least 5 years.
- One member who represents persons or agencies who provide health care to patients who are indigent, uninsured, or unable to afford health care.
- One member of the general public.

The Board is charged with adopting rules and regulations, appointing committees and other professionals and staff as necessary to carry out the provisions of NRS 631. It is also responsible for licensing and examining applicants, collecting appropriate fees, and maintaining a list of licensed dentists and hygienists. As of April 1, 2016, the Board's register showed 1,809 and 1,393 active licensed dentists and hygienists, and 904

dentists and 609 hygienists whose licenses were inactive, retired, revoked or suspended. The Board also investigates and disciplines licensees for violations of the Nevada Dental Practice Act (NRS and NAC 631). Board records must be open to public inspection per NRS 631.190(8).

Staffing and Budget

The Board's office is located in Las Vegas with six staff members, including the Executive Director. Licensed dentists and hygienists act as Disciplinary Screening Officers (DSOs), but are not staff of the Board. Furthermore, Board legal services are largely provided by one outside attorney who carries out certain duties on behalf of the Board. For the fiscal year ended June 30, 2015, the Board had revenues of almost \$1.3 million, which consisted mainly of licensing fees. Exhibit 1 shows the details of the Board's revenues for the past 3 years ended June 30.

Financial Statement Revenues Fiscal Years 2013 to 2015

Exhibit 1

Description	2013	2014	2015
Licensing	\$ 886,689	\$ 992,448	\$1,097,013
Exam Fees	48,041	-	-
Other Revenues ⁽¹⁾	17,662	16,888	18,727
Interest Income	1,310	1,761	548
Revenues per Financial Statements	953,702	1,011,097	1,116,288
Expenses Reimbursed by Licensees ⁽²⁾	123,528	186,915	220,648
Total Revenues	\$1,077,230	\$1,198,012	\$1,336,936

Source: Audited financial statements, with auditor reclassification related to expenses reimbursed by licensees.

⁽¹⁾ Other revenues consists of fines and miscellaneous provider fees.

⁽²⁾ Expenses reimbursed by licensees are primarily legal, DSO fees, and monitoring assessments.

The Board's expenditures for the fiscal year ended June 30, 2015, exceeded \$1.1 million. Major expenditures, other than personnel, were for legal and other investigative costs. Some of the legal and investigation costs are reimbursed under NRS 622.400 by dentists and hygienists who enter into agreements with the Board for matters related to complaints received. Exhibit 2 shows the details of the Board's expenses for the past 3 fiscal years ended June 30.

**Financial Statement Expenses
Fiscal Years 2013 to 2015**

Exhibit 2

Description	2013	2014	2015
Payroll	\$ 278,834	\$ 262,732	\$ 292,664
Legal (net of reimbursements)	160,816	123,266	103,315
Rent	76,909	65,620	66,768
Travel	52,455	12,640	19,580
Accounting	26,110	22,359	19,042
Exam Expense	22,937	—	—
Professional Fees	19,278	9,125	11,893
Equipment	18,707	7,712	1,021
Pension	—	—	56,842
Other ⁽¹⁾	368,899	325,571	346,190
Expenses Per Financial Statements	1,024,945	829,025	917,315
Expenses Reimbursed by Licensees ⁽²⁾	123,528	186,915	220,648
Total Expenses	\$1,148,473	\$1,015,940	\$1,137,963

Source: Audited financial statements, with auditor reclassification related to expenses reimbursed by licensees.

⁽¹⁾ Major other expenses include health insurance, DSO fees, legislative services, teleconference, scanning, information system, and credit card fees.

⁽²⁾ Expenses reimbursed by licensees are primarily legal, DSO fees, and monitoring assessments.

Complaint Resolution and Disciplinary¹ Process

The Board receives complaints from the public and licensed practitioners regarding services provided to the public.

Complaints must be in writing and verified by the complainant. In certain instances, the Board will allow for anonymous complaints if documentation or verification of the charges can be provided to support the complaint. The Board also authorizes investigations, by a vote of the Board, if it receives sufficient, verifiable information that a provision of NRS or NAC 631 may have been violated. Exhibit 3 provides details on the resolution of complaints received by the Board from July 1, 2013, to December 31, 2015.

¹ The Board enters into stipulation agreements that are non-disciplinary as well as disciplinary. For purposes of this report, we refer to the process as the "disciplinary" process or proceedings.

**Resolution of Complaints Received
July 1, 2013, to December 31, 2015**

Exhibit 3

Resolution	Number	Percentage
Remanded	185	63.8%
Corrective Action or Disciplinary Agreement ⁽¹⁾	82	28.3%
Scheduled for Further Action	13	4.5%
Good Faith Offer	3	1.1%
License Suspended	2	0.7%
Formal Board Hearing	2	0.7%
License Revoked	1	0.3%
Court Order Issued	1	0.3%
Held in Abeyance	1	0.3%
Total Complaints Resolved	290	100.0%
No Board Action ⁽²⁾	84	
Total Complaints Received	374	

Source: Auditor summary of Board records.

⁽¹⁾ These 82 complaints resulted in 41 agreements, since an agreement can address multiple complainants.

⁽²⁾ Typically these complaints are not resolved yet, or they were resolved by other means such as being withdrawn by the complainant.

Each complaint is submitted to the DSO Coordinator (a dentist paid on an hourly basis) who verifies the Board has jurisdiction over the matter and assigns it to a DSO to investigate. The Board then notifies the licensee of the complaint. The licensee has 15 days to respond and submit copies of the patient's records. The DSO investigates the matter by reviewing the complaint, the licensee's response and patient records, and examining the patient as needed. During the investigation phase, the DSO makes a recommendation to either:

- Remand – this occurs when the DSO determines a preponderance of evidence does not exist that a violation of NRS or NAC 631 has occurred. The complainant and licensee are notified of the decision. When the complaint is remanded, the licensee is not charged for the investigation, but the Board retains the right to reopen the case if another complaint against the licensee is received.
- Corrective Action – this occurs when the DSO determines a preponderance of evidence exists that a violation of NRS or NAC 631 has likely occurred and further investigation and possible Board action is warranted. If so, the DSO

communicates directly with the Board's outside counsel, who drafts an agreement based on the DSO's recommendations. An Informal Hearing is scheduled with the licensee.

Before the Informal Hearing begins, the DSO, Executive Director of the Board, and its outside counsel meet with the licensee and their counsel. The draft corrective action or disciplinary agreement is discussed and negotiated. Board actions usually include reimbursement to the patient, a period of monitoring by the Board of the licensee's work, training for the licensee, and an assessment to reimburse the Board for investigation and monitoring costs. Exhibit 4 shows the Board's investigation costs for calendar years 2014 and 2015 with related assessment totals.

Investigation Costs and Assessments Calendar Years 2014 to 2015

Exhibit 4

Description	2014	2015	Totals	Percentage of Total
Legal Fees	\$308,951	\$315,497	\$624,448	82%
Disciplinary Screening Officer Fees	41,656	42,192	83,848	11%
Transcription Services	9,872	9,419	19,291	2%
Investigation and Monitoring Travel	4,494	7,936	12,430	2%
Disciplinary Screening Officer Coordinator Fees	3,700	3,450	7,150	1%
Private Investigator Fees	1,390	15,296	16,686	2%
Total Investigation Costs	\$370,063	\$393,790	\$763,853	100%
Cost Recovery Assessments	\$229,947	\$187,229	\$417,176	

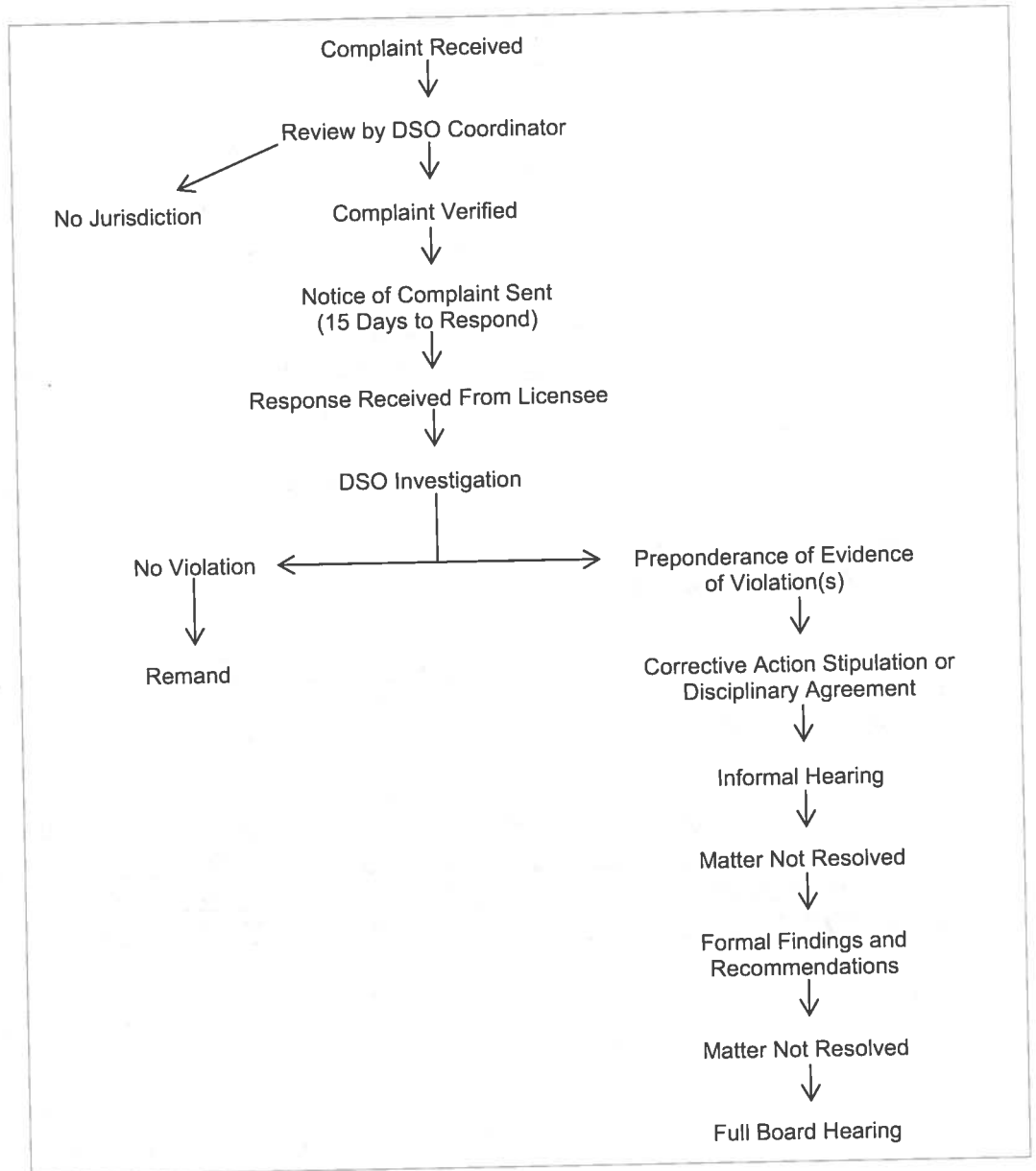
Source: Auditor compilation of Board accounting records.

Note: Totals noted here are not directly comparable to amounts noted in Appendix B since totals include all activities of the Board regardless of whether it could be recovered from a specific licensee. Further, Appendix B includes amounts from periods prior to that noted here since cases can span several years.

If an agreement cannot be reached, the Informal Hearing begins and is transcribed. Questions are asked of the licensee regarding the care provided to the patient, or other matters as described in the Informal Hearing notice. If an agreement still cannot be reached, a formal hearing is scheduled before the entire Board. Exhibit 5 shows a flowchart of the entire process.

Board's Flowchart of Disciplinary Process

Exhibit 5



Source: Board's DSO Manual

Classification of Non-Disciplinary and Disciplinary Stipulation Agreements

The Board enters into stipulation agreements with licensees that are classified as non-disciplinary or disciplinary. The classification generally depends on whether the licensee has a history of prior Board actions. In addition, any action involving revocation, suspension, probation, fine, and/or public reprimand is deemed to be disciplinary. Disciplinary actions must be reported to the National Practitioners Data Bank, a federal information repository established pursuant to federal law. For purposes of this report, we refer to the process as the “disciplinary” process or proceedings, regardless of whether the Board classified the action as disciplinary or non-disciplinary.

Scope and Objective

The scope of our audit focused on a review of the Board’s disciplinary process and costs assessed for investigations. This included an analysis of the Board’s legal and investigative expenditures and related cost recoveries resulting from approved Board actions during calendar years 2014 and 2015. Certain information included data from prior years to provide additional context or complete our analysis. Our audit objective was to:

- Determine whether the Board has assessed reasonable costs to licensees for investigating and resolving complaints and disciplinary matters.

This audit was conducted as a result of a special request from the Sunset Subcommittee of the Legislative Commission and was authorized by the Legislative Commission on February 19, 2016. Concerns of the Sunset Subcommittee included comments from some licensees that the Board’s investigative expenses are excessive in relation to the nature of the matter being investigated. We conducted our audit pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature’s oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Licensees Were Overcharged for Investigations

The Board did not always assess reasonable costs to licensees for investigating and resolving complaints and disciplinary matters. Due to the Board's inadequate tracking of costs, many licensees were overcharged for the cost of investigations. Although the amounts overcharged were not significant to the Board overall, some amounts that individual licensees were overcharged were substantial. In addition, four licensees made charitable contributions totaling over \$140,000 as required by stipulation agreements; however, charitable contributions are not allowed under NRS 631.350. Board management has started making changes to correct problems found during the audit.

NRS 622.400 allows the Board to recover fees from licensees for costs incurred by the regulatory body as part of its investigative, administrative, and disciplinary proceedings. This statute indicates the Board may recover costs when it enters into a final order or consent or settlement agreement. Investigative costs include fees paid for outside legal counsel and Disciplinary Screening Officers (DSOs) to investigate the complaints. Other investigation costs include travel for investigators and for court reporters to transcribe hearings. Agreements often indicated amounts recovered included fees related to monitoring. However, the Board could not provide specific amounts recovered related to monitoring and indicated cost recoveries are all inclusive at the time fees are negotiated.

Overcharges for Investigation Costs

The Board overcharged licensees for investigative costs in almost half of the investigations in the last 2 years, including several over \$1,000. Overcharges were likely due to the Board lacking an effective process for accurately determining the amount of investigative costs for individuals. At the same time the Board overcharged some licensees, other licensees were charged less

than actual investigation costs after negotiations between the parties. Variation in amounts assessed to each licensee exist because costs are largely determined through negotiations with licensees and their counsel, if applicable.

The Board does not have a process to track and compile the actual cost of investigating each licensee. Instead, the amount assessed to a licensee for investigative costs is based on asking legal counsel and DSOs how many hours they have worked on the case, and estimating the cost of court reporting services. Although the total amounts paid are recorded in the Board's accounting system, the amounts attributable to each licensee are not tracked by the Board.

To compile the actual costs of investigating licensees, we reviewed invoices from attorneys, DSOs, court reporters, private investigators, and other vendors as necessary. These costs were compiled until the date the agreements were signed, which is typically the date the cost assessment is determined.

Overcharges and Undercharges

Our analysis found the Board overcharged licensees for investigative costs in 46% (23 of 50) of investigations in the last 2 years. The total amount overcharged was about \$28,000, including nine licensees that paid at least 25% more than the costs actually incurred by the Board.

Conversely, 54% (27 of 50) of cases were not assessed the full amount of incurred costs. Undercharges for cases totaled over \$41,000 and ranged from \$12 to \$4,900. Eleven licensees received discounts on costs of more than 25% with one licensee receiving a discount of 73%.

In total, the Board assessed costs of over \$400,000 in the last 2 years, averaging about \$8,000 per case. Appendix B on page 23 provides more detail regarding costs assessed and costs incurred by the Board at the time the agreement was signed.

Assessments for Monitoring Were Unclear

Settlement agreements indicated the assessed amounts were to recover costs for the investigation and future monitoring, where

applicable. In initial discussions with the Board, staff indicated the Board included amounts for monitoring at roughly \$100 per month in recovery totals. Later, staff indicated monitoring fees could not be estimated at this amount and assessments were meant to be one recovery total where monitoring was not separately identifiable. Further, since the Board did not document each cost assessed to licensees, the amount attributable to monitoring activities, which occur in the future and are largely unknown at the time assessments occur, could not be isolated from investigation cost recovery totals. However, NRS 622.400 does not provide for the Board to recover future unknown costs, only incurred costs of the Board. NRS 622.400 is shown in Appendix D on page 30.

During our audit we did compile monitoring costs. For those cases in Appendix B, monitoring costs equaled about \$8,500.

Board management indicated they revised the process for assessing monitoring costs in early 2016. Monitoring costs assessed will be based on costs incurred, and licensees will be billed monthly.

Some Invoices from DSOs Lacked Detail

Some DSO invoices lacked the detail to determine how much time was spent investigating a particular licensee. For example, one invoice showed that 5 hours was spent investigating two licensees. In such cases, we allocated the time equally between the two licensees. The total amount of time allocated from invoices lacking detail was not significant enough to materially change any of the numbers in our report. Nevertheless, to assess licensees accurately, DSO invoices need to include details of work performed for each licensee. This problem was caused by the Board not having written policies or guidelines for DSOs on recording and billing time.

Lack of Policies on Costs That Can Be Assessed

The Board does not have written policies regarding investigation and related due process costs that can be assessed to licensees throughout the investigation process. In addition, the Board does not have policies regarding travel cost limits. We found some costs assessed licensees appeared unreasonable. For example, we noted hotel charges of as much as \$228 per night.

NRS 622.400 allows the Board to recover fees from licensees if it issues an order or the licensee enters into a consent or settlement agreement. However, the Board has not defined its interpretation of assessing costs on remanded cases. Board counsel and staff indicated remanded costs are not charged to licensees. Counsel initially indicated to us that costs for investigating complaints that were remanded, in cases with multiple complaints, would not be assessed to licensees if a stipulation agreement was reached. Later, staff indicated that investigative costs for all complaints specified on the Informal Hearing notice may be assessed, even if some complaints are remanded.

We also noted several hotel charges were in excess of State per diem rates. Government rates for travel to Las Vegas in 2014 and 2015 ranged from \$92 to \$108 a night, depending on the month of travel. However, we noted hotel charges of \$150, \$195, and \$228. In addition, one DSO was reimbursed for \$810 in dictation costs. The Board needs to determine reasonable and necessary travel limits, as well as other cost limits to ensure amounts assessed to licensees are reasonable.

Charitable Contributions Not Allowed Under Statute

As part of the provisions imposed in Board approved stipulation agreements, four licensees agreed to donate over \$140,000 to organizations that provide health-related services. However, charitable contributions are not allowable under NRS 631.350. Furthermore, these amounts were not recorded in accounting records since the checks were made payable to the charitable organizations.

Board management and outside counsel indicated donations were imposed in lieu of a community service requirement. In these four instances, management and counsel indicated dentists received an economic benefit from having non-licensed individuals perform services. Therefore, instead of requiring dentists to refund numerous patients, which would have been burdensome, the parties agreed the economic benefit could be returned in the form of charitable contributions.

We requested Legislative Counsel review whether charitable contributions were allowed under NRS 631.350. Legislative

Counsel concluded the Board is not authorized to provide for a charitable contribution by the licensee as a condition of a stipulation. The Legislative Counsel's response to our request can be found at Appendix C on page 25.

Recommendations

1. Develop and document a process for tracking actual costs by complainant and licensee for investigations and monitoring activities.
2. Ensure DSO invoices include sufficient detail to track and assess costs accurately. Invoices should detail the licensee, complainant, activity performed, and other fees or costs incurred.
3. Refund licensees amounts that were overcharged.
4. Develop policies regarding fees to be assessed to licensees throughout the disciplinary process, including whether costs for remanded complaints discussed at Informal Hearing proceedings should be included in total amounts assessed to licensees. Seek Board approval of policies regarding fees to be assessed.
5. Determine, document, and adhere to appropriate travel cost limits.
6. Discontinue the use of charitable contributions as a condition within stipulation agreements.

Better Reporting and Monitoring of Legal Expenses Is Needed

Legal Expenses Higher Than Reported

The Board's reporting and monitoring of legal expenses was not adequate. First, the manner in which legal expenses are reported reflects a lower amount than is actually spent. Second, the Board can reduce its legal expenses by hiring its own General Counsel. Since the Board is funded by fees, it is responsible for monitoring expenses to ensure resources are spent efficiently to minimize the burden on licensees.

The Board paid about \$200,000 more, on average, in legal expenses in fiscal years 2014 and 2015 than shown in its financial statements. Actual legal expenses were almost three times the reported amounts and exceeded the annual contract maximum for one firm. This occurred because the actual amount paid for legal expenses was reduced by the cost recoveries related to disciplinary matters. Recording expenses in this manner reduces transparency and, therefore, may impact decisions made by policymakers and others.

Exhibit 6 shows actual legal expenses compared to legal expenses reported on financial statements in fiscal years 2014 and 2015.

Legal Expenses Fiscal Years 2014 and 2015 Exhibit 6

Description	FY 2014	FY 2015	Totals
Actual Legal Expenses ⁽²⁾	\$310,181	\$323,963	\$634,144
Reported Legal Expenses Per Financial Statements	123,266	103,315	226,581
Difference Due to Cost Recoveries ⁽¹⁾	\$186,915	\$220,648	\$407,563

Source: Auditor analysis of Board's financial statements and accounting records.

⁽¹⁾ Cost recoveries are amounts assessed to licensees to reimburse the Board for investigating and monitoring.

⁽²⁾ The Board contracts with multiple firms for legal representation but one firm provides the vast majority of services.

The Board's reported legal expenses were also reduced by cost recoveries of non-legal expenses, which creates additional problems. These cost recoveries included amounts related to non-legal investigation costs such as DSO fees, travel, transcription, and private investigator costs. Therefore, the Board did not distinguish between legal and non-legal cost recoveries when it applied the reduction to legal expenses, which further reduced the transparency of the actual cost for legal services.

According to Board management, it is netting legal expenses because Board members were unclear as to the amount of legal expenses for general matters versus disciplinary matters. However, legal expenses for each of these categories can be reported separately to avoid confusion. Furthermore, generally accepted accounting principles require that reimbursements received for out-of-pocket expenses be recorded as revenue, not as a reduction of expenses.

Board Exceeded Contract Maximum

The practice of reducing actual legal expenses also affected the Board's contract with outside counsel. Specifically, the contract approved in October 2013 stated payments will not exceed \$175,000 per year. However, payments exceeded \$300,000 in both calendar years 2014 and 2015, the first two full years under the new contract terms. Additionally, the overall contract maximum of \$700,000 has almost been reached with over a year left in the 4-year contract.

Since contract maximums reflected the reduced amount of expenses, both the Board and the Board of Examiners did not have accurate information when approving the contract. Contract maximums should reflect total payments expected to be made under the contract, not amounts reported net of recoveries.

The Board may not recognize that they have exceeded contract maximums since they reduce legal expenses by recoveries from disciplinary actions. Additionally, Board management indicated they do not actively monitor contract maximums since accounting functions are performed by a contractor as well.

Hiring Staff Attorney Would Reduce Legal Expenses

The Board could save approximately \$100,000 per year by hiring a General Counsel while still utilizing the services of outside counsel when necessary. This estimate assumes the Board would still use outside counsel about 20% of the time. Boards have a fiduciary duty to be an effective steward of public resources, which in this case, is fees collected from licensees.

The Board spends over \$300,000 annually on legal counsel. Based on the blended rate² for the partner and associate, approximately 1,400 work hours are utilized on Board activities for outside counsel. This is approximately equal to the number of hours worked for a full-time position.

Other boards we contacted utilized internal or Attorney General staff to fulfill legal service needs. Specifically, six boards had internal legal staff and three used state Attorney General personnel for legal representation, or a combination thereof. However, none of the boards we contacted indicated outside counsel was a significant provider of legal representation.

The Board did not adequately monitor the legal expenses and workload related to outside counsel to determine whether it would be cost beneficial to hire a staff attorney since legal expenses were reported net of cost recoveries. Moreover, recovery of legal expenses could continue with in-house counsel, with the added benefit of reducing assessment amounts passed on to licensees.

Recommendations

7. Record recoveries collected from licensees for disciplinary actions and monitoring activities as revenue instead of a reduction to expenses.
8. Prepare contracts that accurately reflect the maximum amount expected to be paid to the contractor.
9. Review, at a public Board meeting, the merits of contracting with outside counsel versus hiring a General Counsel to meet the majority of the Board's legal needs.

² The hourly blended rate used in calculating our estimate was \$197.50. This is the average of the \$210 and \$185 rates under the current contract for the partner and associate, respectively. The rates under the previous contract were \$190 and \$150.

Greater Oversight of Investigators' Work Is Needed

The Board needs to provide greater oversight of complaint investigations performed by Disciplinary Screening Officers (DSOs). Investigation results are not reviewed and sufficient guidance has not been developed to provide additional assurance that DSO conclusions and recommendations are based on sufficient evidence. Without a review process, variations in DSO decisions are more likely to occur. In addition, we found the Board's investigation files were incomplete.

Disciplinary Screening Officers Determine Violations and Sanctions Without Review

Investigation results and conclusions of DSOs are not reviewed by supervisory personnel or an independent review committee. A review process would help verify conclusions and recommendations are based on clear and sufficient evidence. Without a review process, there is an increased risk that investigations could result in licensees being treated too harshly or lightly. Although disciplinary actions are approved at Board meetings, Board members are not reviewing documentation specifically related to investigations and negotiations. Other state's dental boards and Nevada medical boards we contacted have review processes in place for investigations, including review committees.

Independent Role of Disciplinary Screening Officers

Disciplinary Screening Officers, who are licensed dental professionals, perform investigations on behalf of the Board for complaints and authorized investigations. DSOs can be board members, previous board members, or other dental professionals active in the dental community. As part of the complaint process, the Board requests complainants (patients) and licensees release their records related to the specific treatment identified in the complaint. Based on our review of Board files, typical methods used by DSOs to investigate a case include a review of patient

records, patient discussions, and examinations. DSOs can recommend that a case be remanded, or proceed for further disciplinary action.

Under the Board's process, investigation results are not reviewed by an independent person or committee to verify the accuracy and adequacy of the conclusions and recommended corrective action or sanctions. Instead, each DSO is the sole authority for determining whether violations occurred and the associated sanctions necessary. Also, DSOs report their preliminary conclusions and recommendations directly to the Board's outside counsel as instructed in the assignment letter. As a result, the Board's staff rarely receives documentation of the results of the investigation, the conclusions reached by the DSO, or corrective actions recommended by the DSO.

Variations in DSO Decisions

Review of investigation conclusions and recommendations is important for ensuring complaints are resolved consistently. Our analysis of complaint resolutions found certain DSOs executed actions significantly more frequently than others. For instance, two DSOs accounted for 49% of all disciplinary actions from July 1, 2013, to December 31, 2015, but were assigned 31% of cases. Overall, we found a wide disparity among DSOs in the percentage of investigations resulting in disciplinary actions. Exhibit 7 shows the varying percentages in investigations resulting in disciplinary actions for the DSOs with the six most investigations completed. These six DSOs accounted for 70% of the total investigations completed.

**Variation in DSO’s Decisions
July 1, 2013, to December 31, 2015**

Exhibit 7

	Number of Completed Cases⁽¹⁾	Number of Disciplinary Actions	Percentage of Cases With Disciplinary Actions
DSO 1	53	4	8%
DSO 2	35	12	34%
DSO 3	21	5	24%
DSO 4	20	0	0%
DSO 5	17	9	53%
DSO 6	15	3	20%

Source: Auditor analysis of Board records.

⁽¹⁾ Cases may include multiple complainants, but are only counted as one case in this exhibit.

Board management indicated variances may exist as certain DSOs are assigned more difficult cases or specialize in cases where violations are more prevalent. While this may be true, allowing one person to determine the significance of a matter and the proper sanctions before a review by any other professional can lead to inconsistent resolutions of complaints.

Best practices in carrying out a regulatory program indicate investigations should be reviewed to ensure work is conducted in a way that is consistent with applicable laws, regulations, and agency policies. Furthermore, review ensures conclusions and recommendations are based on clear and sufficient evidence.

Other Boards and States Have a Review Process

Other boards we contacted also indicated a review of investigations is important. We contacted nine other boards, six dental boards in other states and three boards in Nevada dealing with medical licensing. Of the eight boards that assign a staff member or agent to conduct investigations, all indicated investigations are reviewed by at least one other independent party. Seven boards indicated investigations have multiple reviews or are evaluated by a committee.

The Board’s outside counsel indicated a review process would make it more difficult to achieve the Board’s goal of resolving complaints within 90 days. However, we found the average time to resolve disciplinary matters involving Board actions is already over 400 days. Furthermore, a review process could reduce the

amount of hours spent by outside counsel when working with DSOs. Based on the average rate per hour for legal services and the total legal fees in Appendix B, it takes over 30 hours of legal time, on average, to resolve a case.

Additional Guidance Is Needed for Investigators

Although the Board has developed a manual for DSOs, it is insufficient guidance for their investigations. The manual provides examples of various forms used to document and verify the complaint. The manual also describes the disciplinary process and includes examples of different disciplinary actions. However, the manual does not include checklists or other tools to ensure investigations are thorough and appropriately documented.

Board Files Were Incomplete and Disorganized

The Board's office does not have critical documentation related to the disciplinary process. In addition, when documentation was located it was often not in the disciplinary file as anticipated. The Board does not have certain documentation related to disciplinary proceedings because it is generated by, or submitted directly to, the Board's outside counsel. Furthermore, the Board does not have an organized filing method with checklists to ensure standard documentation related to disciplinary actions is onsite and retained. Without adequate documentation, the Board cannot fully support disciplinary actions or ensure compliance with statutes.

Critical documentation was not maintained at the Board's office. NRS 631.190(8) and NAC 631.023(2)(d) require documentation to be retained by the Board related to disciplinary proceedings at the Board's office. However, when we reviewed disciplinary files for Informal Hearing notices and transcripts related to those proceedings, we found only 1 of the 9 Informal Hearing notices and none of the transcripts in disciplinary files. The Board's Executive Director produced the remaining 8 Informal Hearing notices at our request, but transcripts had to be obtained from the Board's outside counsel.

Furthermore, DSO conclusions and recommendations were not often located in Board files since instructions from the Board

require DSOs to provide that information directly to the Board's outside counsel. Specifically, of 17 remand and disciplinary cases, we found only 2 where the DSO's preliminary conclusions and recommendations were included in Board files. While the Board's outside counsel provided this documentation in some instances, for two licensees with disciplinary action, the Board could not locate investigation results. Board management indicated the Board rarely receives investigation results because DSOs are instructed to provide results directly to Board counsel either by phone or email.

Other documentation pivotal to disciplinary proceedings was not always located in Board files. For instance, the verified complaint, authorization for release of records, and subpoenas for records were often not found in disciplinary files. Documentation could not be located because the Board does not have an organized filing method and documentation, when it was on-site, was waiting to be filed. Additionally, the Board's outside counsel generates or receives certain information on the Board's behalf that the Board may not eventually obtain.

Because the Board's disciplinary files are incomplete, it cannot ensure compliance with statutes regarding disciplinary proceedings. Moreover, the Board cannot provide an accurate and complete record of its activities.

Recommendations

10. Institute an independent review process regarding complaint investigation and resolution.
11. Develop and document guidance for investigations including procedure checklists and expected documentation.
12. Develop a standardized filing organization method.
13. Prepare a file checklist that details all routine documentation related to the disciplinary process needed to substantiate the Board's actions and compliance with statutes.
14. Ensure all records are obtained and retained by the Board to support disciplinary activities.

Appendix A

Board Disciplinary Actions for Calendar Years 2014 and 2015

Number	First Name	Last Name	License Type	Date Approved by Board	Board Action	Assessed Cost	Fine	Charitable Contribution
1	Meron	Anghesom	DDS	1/24/2014	Non-Disciplinary	\$7,300	\$ -	\$ -
2	Craig S.	Morris	DDS	2/5/2014	Disciplinary	24,550	-	-
3	Christine	Navales	DDS	4/25/2014	Non-Disciplinary	4,800	-	-
4	David T.	Ting	DMD	4/26/2014	Non-Disciplinary	6,250	-	50,000
5	David H.	Chung	DDS	4/26/2014	Non-Disciplinary	6,250	-	50,000
6	Ammar	Kerio	DMD	4/26/2014	Disciplinary	7,600	-	-
7	Caris L.	Crow	DDS	4/26/2014	Non-Disciplinary	8,250	-	-
8	Kaveh K.	Kohanof	DDS	4/26/2014	Non-Disciplinary	4,669	-	-
9	Michael	Husbands	DDS	4/26/2014	Non-Disciplinary	6,566	-	-
10	Kayla	Mai	DDS	6/27/2014	Non-Disciplinary	12,097	-	-
11	Young K.	Dill	DMD	6/27/2014	Non-Disciplinary	7,160	-	-
12	Adam	Lousig-Nont	DMD	6/27/2014	Additional Terms	1,800	-	-
13	Kenneth	Hill	DDS	6/27/2014	Non-Disciplinary	14,200	-	-
14	Gary	Toogood	DDS	6/27/2014	Non-Disciplinary	5,684	-	-
15	Harvey	Chin	DDS	8/1/2014	Disciplinary	5,672	-	-
16	Marianne	Cohan	DDS	10/3/2014	Reinstatement	3,600	-	-
17	Vahag	Kanian	DMD	10/3/2014	Non-Disciplinary	4,371	-	-
18	Silva	Battaglin	DMD	10/3/2014	Non-Disciplinary	14,300	-	-
19	Kevin	Deuk	DMD	10/3/2014	Non-Disciplinary	4,600	-	-
20	Georgene B.	Chase	DDS	10/3/2014	Disciplinary	27,250	1,000	-
21	James	Wright	DDS	12/12/2014	Non-Disciplinary	3,784	-	-
22	Don	Tiburcio	DDS	12/12/2014	Non-Disciplinary	3,850	-	-
23	Mark	Glyman, MD	DDS	12/12/2014	Non-Disciplinary	32,000	-	-
24	Howard	Chan	DDS	12/12/2014	Non-Disciplinary	4,950	-	2,450
25	Un Chong	Tam	DDS	1/30/2015	Non-Disciplinary	12,400	-	-
26	James	Mann	DDS	1/30/2015	Non-Disciplinary	8,301	-	-
27	Michael	Mierzejewski	DMD	1/30/2015	Non-Disciplinary	5,250	-	-
28	Ilya	Benjamin	DMD	1/30/2015	Non-Disciplinary	6,850	-	38,000
29	Hamada	Makarita	DDS	1/30/2015	Surrender	-	1,000	-
30	Walter	Robison	DDS	3/20/2015	Non-Disciplinary	3,805	-	-
31	Jesse	Cardenas	DDS	3/20/2015	Non-Disciplinary	4,416	-	-
32	Loveline	Reyes	DDS	3/20/2015	Non-Disciplinary	4,250	-	-
33	Thien	Tang	DDS	5/22/2015	Disciplinary	8,860	1,000	-
34	Cyrus D.	Kwong	DDS	5/22/2015	Non-Disciplinary	6,646	-	-
35	Hai	Xa	DMD	5/22/2015	Disciplinary	5,621	500	-
36	Peter P.	Doan	DDS	5/22/2015	Disciplinary	2,804	100	-
37	Travis	Sorensen	DDS	6/19/2015	Disciplinary	9,850	-	-
38	James	Brannan	DDS	6/19/2015	Order	-	-	-
39	Michael	Bell	DDS	6/19/2015	Non-Disciplinary	5,567	-	-
40	Lisa	Hoang	DDS	6/19/2015	Non-Disciplinary	3,746	-	-
41	Vincent G.	Colosimo	DMD	6/19/2015	Disciplinary	\$7,000	\$ -	\$ -

Appendix A

Board Disciplinary Actions for Calendar Years 2014 and 2015 (continued)

Number	First Name	Last Name	License Type	Date Approved by Board	Board Action	Assessed Cost	Fine	Charitable Contribution
42	Kayla	Mai	DDS	6/19/2015	Disciplinary	\$ 4,750	\$ -	\$ -
43	Christine T.	Navales	DDS	6/19/2015	Disciplinary	9,872	-	-
44	My G.	Tran	DDS	7/31/2015	Non-Disciplinary	4,338	-	-
45	Larry O.	Staples	DDS	7/31/2015	Non-Disciplinary	2,946	-	-
46	L. Scott	Brooksby	DDS	8/10/2015	Order	39,076	500	-
47	Erika J	Smith	DDS	9/18/2015	Non-Disciplinary	6,642	-	-
48	Min	Kim	DMD	9/18/2015	Non-Disciplinary	3,875	-	-
49	Albert G.	Ruezga	DDS	9/18/2015	Non-Disciplinary	5,705	-	-
50	Otabor	Okundaye	DDS	11/20/2015	Non-Disciplinary	1,975	-	-
51	Allyn	Goodrich	DDS	11/20/2015	Non-Disciplinary	3,150	-	-
52	Young K.	Dill	DMD	11/20/2015	Non-Disciplinary	2,850	-	-
53	Saeid	Mohtashami	DDS	11/20/2015	Non-Disciplinary	3,850	-	-
Totals						\$405,948	\$4,100	\$140,450

Source: Auditor prepared from public documents available on the Board's website and other documents obtained from the Board.

Appendix B

Incurring Costs Versus Assessed Costs for Calendar Years 2014 and 2015

Costs Incurred by the Board

Number	First Name	Last Name	Legal Fees	DSO Fees	DSO Travel	Court Reporter	Other ⁽⁴⁾	Total	Assessed Costs	Overcharged / (Undercharged)	Percent Over / (Under)
1	Meron	Anghesom	\$5,941	\$1,050	\$ 11	\$221	-	\$7,223	\$7,300	\$ 77	1.1%
2	Craig S.	Morris	16,822	5,405	620	320	-	23,167	24,550	1,383	6.0%
3	Christine	Navales	3,830	725	360	219	-	5,134	4,800	(334)	(6.5%)
4 ⁽³⁾ & 5 ⁽³⁾	David T. & David H.	Ting & Chung	11,116	600	-	214	-	11,930	12,500	570	4.8%
6	Ammar	Kerio	4,988	750	-	408	-	6,146	7,600	1,454	23.7%
7	Caris L.	Crow	8,299	629	-	224	-	9,152	8,250	(902)	(9.9%)
8	Kaveh K.	Kohanof	4,141	225	-	316	-	4,682	4,669	(13)	(0.3%)
9	Michael	Husbands	4,364	225	-	257	-	4,846	6,566	1,720	35.5%
10	Kayla	Mai	9,235	3,638	20	267	-	13,160	12,097	(1,063)	(8.1%)
11	Young K.	Dill	5,379	400	-	231	-	6,010	7,160	1,150	19.1%
12	Adam	Lousig-Nont	5,298	1,025	25	351	-	6,699	1,800	(4,899)	(73.1%)
13	Kenneth	Hill	14,854	1,175	17	388	-	16,434	14,200	(2,234)	(13.6%)
14	Gary	Toogood	6,624	1,400	-	321	147	8,492	5,684	(2,808)	(33.1%)
15	Harvey	Chin	5,223	900	17	346	-	6,486	5,672	(814)	(12.6%)
16 ⁽²⁾	Marianne	Cohan	798	-	-	-	-	798	3,600	2,802	351.1%
17	Vahag	Kanian	5,820	625	34	573	-	7,052	4,371	(2,681)	(38.0%)
18	Silva	Battaglin	14,567	750	-	390	-	15,707	14,300	(1,407)	(9.0%)
19	Kevin	Deuk	4,442	525	-	223	-	5,190	4,600	(590)	(11.4%)
20	Georgene B.	Chase	20,387	3,188	-	1,501	673	25,749	27,250	1,501	5.8%
21	James	Wright	4,414	600	-	418	-	5,432	3,784	(1,648)	(30.3%)
22 ⁽⁵⁾	Don	Tiburcio	3,381	-	-	221	-	3,602	3,850	248	6.9%
23	Mark	Glyman	26,565	7,095	388	236	810	35,094	32,000	(3,094)	(8.8%)
24	Howard	Chan	3,709	325	-	216	-	4,250	4,950	700	16.5%
25	Un Chong	Tam	9,654	1,500	-	655	477	12,286	12,400	114	0.9%
26	James	Mann	7,025	175	-	348	477	8,025	8,301	276	3.4%
27	Michael	Mierzejewski	6,231	825	-	215	-	7,271	5,250	(2,021)	(27.8%)
28	Ilya	Benjamin	5,404	375	-	260	-	6,039	6,850	811	13.4%
29 ⁽¹⁾	Hamada	Makarita	-	-	-	-	-	-	-	-	-
30	Walter	Robison	4,596	450	-	-	453	5,499	3,805	(1,694)	(30.8%)
31	Jesse	Cardenas	3,351	225	-	-	453	4,029	4,416	387	9.6%
32	Loveline	Reyes	4,768	450	-	223	-	5,441	4,250	(1,191)	(21.9%)
33	Thien	Tang	5,698	750	35	447	-	6,930	8,860	1,930	27.8%
34	Cyrus D.	Kwong	4,723	400	-	397	585	6,105	6,646	541	8.9%
35	Hai	Xa	3,259	425	120	223	-	4,027	5,621	1,594	39.6%
36	Peter P.	Doan	3,265	458	180	248	-	4,151	2,804	(1,347)	(32.5%)
37	Travis	Sorensen	6,512	1,250	97	-	-	7,859	9,850	1,991	25.3%
38 ⁽¹⁾	James	Brannan	-	-	-	-	-	-	-	-	-
39	Michael	Bell	\$3,041	\$ 450	\$204	\$219	-	\$3,914	\$5,567	\$1,653	42.2%

Appendix B

Incurred Costs Versus Assessed Costs for Calendar Years 2014 and 2015 (continued)

Costs Incurred by the Board											
Number	First Name	Last Name	Legal Fees	DSO Fees	DSO Travel	Court Reporter	Other ⁽⁴⁾	Total	Assessed Costs	Overcharged / (Undercharged)	Percent Over / Under
40	Lisa	Hoang	\$ 3,503	\$575	\$ 17	\$231	-	\$4,326	\$ 3,746	\$ (580)	(13.4%)
41 ⁽²⁾⁽⁵⁾	Vincent G.	Colosimo	2,390	-	-	-	-	2,390	7,000	4,610	192.9%
42	Kayla	Mai	5,367	413	13	341	-	6,134	4,750	(1,384)	(22.6%)
43	Christine T.	Navales	7,622	1,900	25	280	20	9,847	9,872	25	0.3%
44	My G.	Tran	3,501	800	16	175	-	4,492	4,338	(154)	(3.4%)
45	Larry O.	Staples	3,023	250	-	220	-	3,493	2,946	(547)	(15.7%)
46	L. Scott	Brooksby	34,914	1,000	-	1,602	2,989	40,505	39,076	(1,429)	(3.5%)
47	Erika J	Smith	7,529	1,025	-	222	-	8,776	6,642	(2,134)	(24.3%)
48 ⁽⁵⁾	Min	Kim	2,777	-	-	271	-	3,048	3,875	827	27.1%
49 ⁽⁵⁾	Albert G.	Ruezga	3,699	25	-	224	-	3,948	5,705	1,757	44.5%
50	Otabor	Okundaye	2,531	100	-	247	-	2,878	1,975	(903)	(31.4%)
51	Allyn	Goodrich	3,708	500	-	289	50	4,547	3,150	(1,397)	(30.7%)
52	Young K.	Dill	3,186	358	-	265	-	3,809	2,850	(959)	(25.2%)
53	Saeid	Mohtashami	6,187	325	-	235	-	6,747	3,850	(2,897)	(42.9%)
Totals			\$347,661	\$46,259	\$2,199	\$15,698	\$7,134	\$418,951	\$405,948	\$(13,004)	
Percentage of Total			83.0%	11.0%	0.5%	3.8%	1.7%	100.0%			

Source: Auditor prepared based on information available on the Board's website, records, invoices, and auditor compilation and analysis.

Note: Amounts reflected here will not compare directly to costs noted in Exhibit 4 since amounts noted here may be from years prior to calendar year 2014. Also, Exhibit 4 includes all costs for the Board including amounts not recoverable.

- ⁽¹⁾ No recovery of costs assessed due to this case being either a license revocation or a voluntary surrender of license, where costs would only be recovered if the licensee requested reinstatement.
- ⁽²⁾ Only legal fees were involved for this license reinstatement case.
- ⁽³⁾ The investigation costs were combined for both these doctors since the Board treated it as one case.
- ⁽⁴⁾ Other costs include outside counsel and Executive Director travel to Informal Hearings, postage and shipping, and small incidentals.
- ⁽⁵⁾ DSO fees were either not applicable since the case was related to license reinstatement, or we could not find an invoice submitted by the DSO and paid by the Board for activity related to this case. We also reviewed Board accounting detail to ensure there were no payments to the assigned DSOs for these cases.

Appendix C

Legal Opinion Regarding Charitable Contributions

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
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April 22, 2016

Mr. Rocky Cooper
Legislative Auditor
333 East 5th Street
Carson City, Nevada 89701

Dear Mr. Cooper:

In connection with a pending audit of the Board of Dental Examiners of Nevada (Board), you have asked whether the Board is authorized to enter into a "Corrective Action Non-Disciplinary Stipulation Agreement" with a licensee, under the terms of which the licensee is required to make a contribution to a charitable organization.

For the reasons we explain, it is our opinion that in the context of a complaint against a licensee, any "disciplinary" or "non-disciplinary" stipulation of the Board, regardless of its name, is inherently disciplinary, that the disciplinary authority of the Board is specifically set forth in NRS 631.350, and that NRS 631.350 does not authorize the Board, as a condition of a stipulation, to include a provision for such a contribution. Accordingly, while the Board is authorized to enter into a stipulation to resolve a complaint against a licensee, any provision of this sort is beyond the authority of the Board.

Background

An administrative agency is generally allowed to make an informal disposition of a contested case before the agency by "stipulation, agreed settlement, consent order or default." NRS 233B.121(5); *see also* NRS 622.330.

With reference to the Board, subsection 2 of NRS 631.190 authorizes the Board to "[a]ppoint such . . . examiners, officers, employees, [and] agents . . . and define their duties . . . as it may deem proper or necessary to carry out the provisions of this chapter." As a matter of practice, whenever a complaint is received by the Board, a Disciplinary Screening Officer (DSO) is assigned to investigate the complaint. *See* Board of Dental

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Examiners of Nevada, Disciplinary Screening Officer (DSO) Manual, Investigations and Processing of "Complaints" (Oct. 2013) (DSO Manual), at 2. If the DSO determines that the complaint has merit, the DSO is authorized by the Board to decide whether a "non-disciplinary" or "disciplinary" stipulation is offered to the licensee. Id. at 2. According to the DSO Manual, a "disciplinary" stipulation contains provisions for the revocation or suspension of a license, the placement of a person on probation, the imposition of an administrative fine, the issuance of a public reprimand or any combination of these sanctions; any other stipulation is "non-disciplinary." Id. at 2-3. In any case, if the licensee enters into a stipulation, the DSO submits the stipulation to the Board for approval. Id. Upon approval of the stipulation, the matter is effectively resolved. Id. at 3.

NRS 631.350 enumerates the disciplinary powers expressly given to the Board with respect to a licensee or other person: (1) engaging in the illegal practice of dentistry or dental hygiene; (2) engaging in unprofessional conduct; or (3) violating a provision of chapter 631 of NRS or the regulations of the Board. Subsection 1 of NRS 631.350 provides for the revocation or suspension of a license, the imposition of an administrative fine, the placement of a person on probation and the issuance of a public reprimand. As noted above, under the Board's practice the imposition of any of these sanctions is the distinguishing characteristic of a "disciplinary" stipulation.

Subsection 1 of NRS 631.350 also provides for the limitation of a person's professional practice, the mandatory supervision of a practice, the fulfillment of additional training or educational requirements and the reimbursement of a patient. Even so-called "non-disciplinary" stipulations of the Board commonly provide for one or more of these measures. *See, e.g., Nevada State Board of Dental Examiners v. Erika J. Smith*, DDS, Case No. 74127-02832, 5 (approved Sept. 18, 2015).

But neither NRS 631.350 nor any other statute refers to a charitable contribution by a licensee or other person. Paragraph (i) of subsection 1 of NRS 631.350 authorizes the Board to require a licensee to "perform community service without compensation" and, to our understanding, the Board believes that any charitable contribution agreed to as a condition of a stipulation is in lieu of a community service requirement.

Discussion

A. Even a "non-disciplinary" stipulation of the Board is inherently disciplinary in nature.

Initially, because NRS 631.350 enumerates and, in our view, effectively limits the disciplinary powers of the Board, we must determine whether the terms and conditions of a "non-disciplinary" stipulation are in fact disciplinary.

As a general rule of statutory construction, Nevada courts presume that the plain meaning of statutory language reflects the intention of the Legislature. Villanueva v.

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State, 117 Nev. 664, 669 (2001). Therefore, if statutory language is clear and unambiguous on its face, a court generally will apply that meaning and will not search for any meaning beyond the language of the statute itself. Erwin v. State, 111 Nev. 1535, 1538-39 (1995). Statutory terms that are not defined in statute are given their “usual and natural meaning.” State v. Stu’s Bail Bonds, 115 Nev. 436, 439 (1999).

The dictionary definition of “discipline” is “treatment that corrects or punishes,” and “disciplinary” is “that [which] enforces discipline by punishing or correcting.” Webster’s New World Dictionary of American English, at 391 (3d ed. 1988). Thus, by definition, “discipline” may be punitive, corrective or a combination of the two.

Accordingly, in the context of a professional or occupational license, “disciplinary action” has been understood to include any “restriction or other limitation placed on the license of a person.” Bhuket v. State ex rel. Missouri State Bd. of Registration for the Healing Arts, 787 S.W.2d 882, 885 (Mo. Ct. App. 1990). In the same context, the Supreme Court of Missouri has said that “discipline is primarily remedial in nature,” although it may also include punitive elements. TAP Pharmaceutical Products Inc. v. State Bd. of Pharmacy, 238 S.W.3d 140, 144 (Mo. 2007).

It must be clear, then, that even a corrective, “non-disciplinary” stipulation is in fact disciplinary in the usual sense of that term. Certainly, in the wake of a complaint against a licensee, a limitation of the licensee’s practice, a requirement that the licensee be supervised or a requirement that the licensee reimburse a patient for the cost of treatment are corrective in that they are intended to prevent a recurrence of substandard conduct or compensate the patient for any loss incurred because of that conduct. More broadly, a requirement that a licensee perform community service without compensation is corrective in that it provides a benefit to the community at the expense of the licensee. An agreement that a licensee will make a charitable contribution in lieu of community service is apparently intended to be corrective in the same way, but the difference between such an agreement and the other sanctions described here is that those sanctions are authorized by statute, whereas the contribution is not.

B. The Board has no express or implied authority to make a charitable contribution a condition of a stipulation.

The Board is an administrative agency created by the Legislature. *See* NRS 631.120. As such, the Board “has no general or common law powers, but only such powers as have been conferred by law expressly or by implication.” Andrews v. State Bd. of Cosmetology, 86 Nev. 207, 208 (1970). We agree that the Board is authorized to enter into a stipulation as a means of resolving a complaint against a licensee. *See* NRS 233B.121 and 622.330.

However, nothing in NRS 631.350 or in any other provision of statute expressly authorizes the Board to agree to a charitable contribution by a licensee as a condition of a

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stipulation. By enumerating certain forms of discipline, NRS 631.350 impliedly precludes all others. *See, e.g., State Bar v. Sexton*, 64 Nev. 459, 464 (1947) (where a statute defined the disciplinary authority of the State Bar's Board of Governors to include only disbarment, reproof and suspension, the Board had no authority to revoke an attorney's order of admission or his license to practice law).

In our view, these specific provisions distinguish Nevada's statutory scheme from that at issue in *Rich Vision Centers, Inc. v. Board of Medical Examiners*, 192 Cal. Rptr. 455 (Ct. App. 1983), where the relevant statutes were silent on the permissible terms of a settlement agreement. While it may be desirable or convenient for licensees to agree to a charitable contribution in lieu of community service, only the latter has been authorized by the Nevada Legislature as a condition of a stipulation. If the Board desires to have the additional option of a charitable contribution, it must seek a statutory amendment to so provide.

In the absence of express authority, we must address whether implied authority exists for the Board to require or agree to such a contribution. "[C]ertain powers [of an administrative agency] may be implied even though they were not expressly granted by statute, when those powers are necessary to the agency's performance of its enumerated duties." *City of Henderson v. Kilgore*, 122 Nev. 331, 334 (2006). The Board's duties are generally set forth in NRS 631.190. Having reviewed that section and the other provisions of chapter 631 of NRS, we do not believe that a provision for a charitable contribution as a condition of a stipulation is necessary for the Board to perform any of its statutory duties. *Compare Clark Co. School Dist. v. Teachers Ass'n*, 115 Nev. 98, 102 (1999) (express authority granted to a hearing officer to compel testimony and the production of evidence would be meaningless without the implied authority to issue a prehearing subpoena).

Finally, because the Board does not have the specific authority to provide for a charitable contribution from a licensee as part of a stipulation, but does have general authority to enter into such agreements, we must address which authority controls in the situation where the Board attempts to provide for such a contribution. To the extent that any conflict exists between a general statute and a specific statute, the specific statute takes precedence over one that applies only generally to a given situation. *Nevada Power Co. v. Haggerty*, 115 Nev. 353, 364 (1999).

Here, the statutory provisions authorizing administrative agencies and regulatory bodies to enter into consent or settlement agreements apply generally to any agency or regulatory body. *See* NRS 233B.121 and 622.330. NRS 631.350 applies specifically to the Board, expressly authorizing it to impose only those forms of discipline enumerated in the statute. Because NRS 631.350 applies specifically to the Board and NRS 233B.121 and 622.330 apply only generally, NRS 631.350 controls the terms of any stipulation of the Board. Therefore, as we have explained, the Board is limited in its imposition of

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discipline to those sanctions enumerated in NRS 631.350 and has no authority to provide for a charitable contribution from a licensee as part of a stipulation.

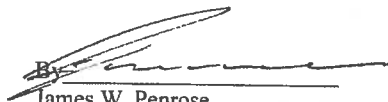
Conclusion

For the foregoing reasons, it is the opinion of this office that the Board of Dental Examiners of Nevada is authorized to enter into a stipulation with a licensee as a means of resolving a complaint against the licensee. However, the Board is not authorized to provide for a charitable contribution by the licensee as a condition of such a stipulation.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

Brenda J. Erdoes
Legislative Counsel


By _____
James W. Penrose
Senior Principal Deputy Legislative Counsel

Michael K. Morton
Deputy Legislative Counsel

MKM:dtm
Ref No. 160324051809
File No. OP_Cooper16032417302

Appendix D

Nevada Revised Statutes 622.400 and 631.350

ATTORNEY'S FEES AND COSTS

NRS 622.400 Recovery of attorney's fees and costs incurred by regulatory body in certain regulatory proceedings.

1. A regulatory body may recover from a person reasonable attorney's fees and costs that are incurred by the regulatory body as part of its investigative, administrative and disciplinary proceedings against the person if the regulatory body:

(a) Enters a final order in which it finds that the person has violated any provision of this title which the regulatory body has the authority to enforce, any regulation adopted pursuant thereto or any order of the regulatory body; or

(b) Enters into a consent or settlement agreement in which the regulatory body finds or the person admits or does not contest that the person has violated any provision of this title which the regulatory body has the authority to enforce, any regulation adopted pursuant thereto or any order of the regulatory body.

2. As used in this section, "costs" means:

(a) Costs of an investigation.

(b) Costs for photocopies, facsimiles, long distance telephone calls and postage and delivery.

(c) Fees for court reporters at any depositions or hearings.

(d) Fees for expert witnesses and other witnesses at any depositions or hearings.

(e) Fees for necessary interpreters at any depositions or hearings.

(f) Fees for service and delivery of process and subpoenas.

(g) Expenses for research, including, without limitation, reasonable and necessary expenses for computerized services for legal research.

(Added to NRS by 2003, 3417)

DISCIPLINARY ACTION

NRS 631.350 Disciplinary powers of Board; grounds; delegation of authority to take disciplinary action; deposit of fines; claim for attorney's fees and costs of investigation; private reprimands prohibited; orders imposing discipline deemed public records.

1. Except as otherwise provided in NRS 631.271, 631.2715 and 631.347, the Board may:

(a) Refuse to issue a license to any person;

(b) Revoke or suspend the license or renewal certificate issued by it to any person;

(c) Fine a person it has licensed;

(d) Place a person on probation for a specified period on any conditions the Board may order;

(e) Issue a public reprimand to a person;

(f) Limit a person's practice to certain branches of dentistry;

(g) Require a person to participate in a program to correct alcohol or drug abuse or any other impairment;

Appendix D

Nevada Revised Statutes 622.400 and 631.350
(continued)

- (h) Require that a person's practice be supervised;
 - (i) Require a person to perform community service without compensation;
 - (j) Require a person to take a physical or mental examination or an examination of his or her competence;
 - (k) Require a person to fulfill certain training or educational requirements;
 - (l) Require a person to reimburse a patient; or
 - (m) Any combination thereof,
- ↪ upon submission of substantial evidence to the Board that the person has engaged in any of the activities listed in subsection 2.
2. The following activities may be punished as provided in subsection 1:
 - (a) Engaging in the illegal practice of dentistry or dental hygiene;
 - (b) Engaging in unprofessional conduct; or
 - (c) Violating any regulations adopted by the Board or the provisions of this chapter.
 3. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.
 4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.
 5. The Board shall not administer a private reprimand.
 6. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.
- [10:152:1951]—(NRS A 1981, 1976; 1983, 1114, 1535, 1546, 1547; 1987, 860; 1999, 1531, 1658, 2849; 2001, 91; 2001 Special Session, 154; 2003, 3438; 2005, 287; 2009, 1529)

Appendix E

Audit Methodology

To gain an understanding of the Nevada State Board of Dental Examiners (Board), we interviewed staff and reviewed statutes, regulations, policies, procedures, and guidelines significant to the Board's disciplinary process. We also reviewed financial information, legislative committee and Board minutes, and other information describing the Board's activities. Finally, we reviewed and assessed controls related to our audit objective.

To determine if licensee cost recoveries for investigations was reasonable, we discussed with the Board how they determine and assess costs. We obtained, from the Board's website, all Board actions during our scope period. There were 53 Board actions during our scope period and 51 had some form of cost recovery. We also combined two cases together since the Board investigated the matter as one case. Therefore, the total number of cases with the cost assessments was 50. We obtained and verified the accuracy of the Board's complaint log by comparing the log to Board documentation. Since the Board did not track costs by licensee, we determined the costs applicable to each licensee. We reviewed each stipulation agreement and identified the complainant(s) identified in the agreement, if any. We compared this information to the complaint log to identify if there were other complaints and investigations during the period covered by the stipulation or disciplinary agreement. In addition, we identified the date in which the first complaint was received, when the stipulation agreement was signed and the total amounts to be paid including cost recovery assessments.

To determine legal fees applicable to each case, we reviewed and compiled the data from the legal summary invoices, for each month, for the period January 2013 to December 2015. For older cases, we requested the Board provide legal costs prior to January 2013. We determined total legal costs related to each

complainant noted in the applicable stipulation agreement. We specifically excluded legal fees related to complaints that were remanded, even if the complainant was noted on the Informal Hearing notice, since initial discussions with Board management and outside counsel indicated costs related to remands are not passed on to licensees.

To determine other costs related to an investigation, we reviewed Board invoices submitted by Disciplinary Screening Officers (DSOs) and identified if the DSO submitted, and was paid for, time applicable to each investigation. We also identified whether the DSO was reimbursed for ancillary costs or travel. Similar to legal fees, if time was shown related to a remanded complaint we did not include those amounts in total investigation costs for that licensee. We determined if DSO hours or travel were related to the investigation or monitoring of the licensee. Total DSO hours for each case and activity were multiplied by the \$50 an hour rate DSOs are paid. We specifically identified and separated DSO costs by investigation or monitoring activity and compiled these costs individually. We also reviewed the Board's invoices related to recording services, private investigators, and the Board's credit card to identify other related costs and travel.

We then compared costs assessed through the agreement or order, to the total costs incurred calculated based on Board invoices and payments. We totaled these costs and compared those totals to the amounts assessed.

In addition, we reviewed the contract executed for the Board's outside counsel. We compared rates as stated in the contract to rates charged for services. Furthermore, we calculated legal fees for calendar years 2014 and 2015, based on payments made by the Board, and compared that total to stated contract maximums. We inquired with Board management about accounting for recoveries and legal fee contract overages.

During our discussions with Board staff and outside counsel and review of Board records, we documented the disciplinary process used by the Board. We compared this process to that noted in the Board's policies and procedures. We reviewed existing policy

manuals. We held discussions with the Board's Executive Director and outside counsel as necessary.

Our samples related to determining whether certain documentation was included in Board files. For our sample design, we used nonstatistical audit sampling, which was the most appropriate method for concluding on our audit objective. Based on our professional judgment, review of sampling guidance, and consideration of underlying statistical concepts, we believe that nonstatistical sampling provided sufficient, appropriate audit evidence to support the conclusions in our report. Since we do not know the population of Board files, as determining that would have taken excessive time, we cannot project our error rates to the population.

Our audit work was conducted from February to March 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Executive Director of the Nevada State Board of Dental Examiners. On April 26, 2016, we met with the Board's Executive Director and outside counsel to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix F, which begins on page 35.

Contributors to this report included:

Jennifer M. Brito, MPA
Deputy Legislative Auditor

Shannon Ryan, CPA
Audit Supervisor

Drew Fodor, MBA
Deputy Legislative Auditor

Rick Neil, CPA
Audit Supervisor

Appendix F

Response From Nevada State Board of Dental Examiners

Nevada State Board of Dental Examiners



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May 11, 2016

Mr. Rocky Cooper, CPA
Legislative Auditor
Nevada Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701-4747

Re: Written response to revised audit report dated April 29, 2016

Dear Mr. Cooper:

Thank you for your correspondence dated April 29, 2016, requesting a written response to the revised audit report on the Nevada State Board of Dental Examiners (the "Board"). Included with your letter was a document captioned "Nevada State Board of Dental Examiners' Response to Audit Recommendations" ("Recommendation Form") which you ask that check marks be placed in the appropriate columns and the completed form be returned with the Board's written response. As requested, the completed Recommendation Form accompanies this written response.

As you can see from the completed Recommendation Form, eleven (11) of the fourteen (14) recommendations are "accepted." The accepted recommendations are as follows:

1. Develop and document a process for tracking actual costs by complainant and licensee for investigations and monitoring activities.
2. Ensure DSO invoices include sufficient detail to track and assess costs accurately. Invoices should detail the licensee, complainant, activity performed, and other fees or costs.

4. Develop policies regarding fees to be assessed to licensees throughout the disciplinary process, including whether costs for remanded complaints discussed at Informal Hearing proceedings should be included in total amounts assessed to licensees. Seek Board approval of policies regarding fees to be assessed.

Mr. Rocky Cooper, CPA
Legislative Auditor
Nevada Legislative Counsel Bureau
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Re: Written response to revised audit report dated April 29, 2016

5. Determine, document, and adhere to appropriate travel cost limits.

7. Record recoveries collected from licensees for disciplinary actions and monitoring activities as revenue instead of a reduction to expenses.

8. Prepare contracts that accurately reflect the maximum amount expected to be paid to the contractor.

9. Review, at a public board meeting, the merits of contracting with outside counsel versus hiring a General Counsel to meet the majority of the Board's legal needs.

11. Develop and document guidance for investigations including procedure checklists and expected documentation.

12. Develop a standardized filing organization method.

13. Prepare a file checklist that details all routine documentation related to the disciplinary process needed to substantiate the Board's actions and compliance with statutes.

14. Ensure all records are obtained and retained by the Board to support disciplinary activities.

Id., completed Recommendations Form. As discussed at our April 26, 2016, meeting, as referenced in your audit report, and/or as more fully addressed in the attached written response, a number of the recommendations have already been implemented or substantial progress has been accomplished in completing the recommendation(s).

The three (3) "rejected" recommendations, numbers 3, 6, and 10, are as follows:

3. Refund licensees amounts that were overcharged.

6. Discontinue the use of charitable contributions as a condition within stipulation agreements.

10. Institute an independent review process regarding complaint investigation and resolution.

Mr. Rocky Cooper, CPA
 Legislative Auditor
 Nevada Legislative Counsel Bureau
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 Re: Written response to revised audit report dated April 29, 2016

Id., completed Recommendations Form. These recommendations are addressed in more fully below.

Below are responses/comments regarding certain aspects of the audit report. Beginning at page 12, the written response then discusses the audit report's recommendations 3, 6, and 10.

**RESPONSES/COMMENTS REGARDING CERTAIN
ASPECTS OF THE AUDIT REPORT**

1. Introduction-Background (audit report, pgs. 1-7)

Upon review of the report submitted by the Legislative Auditors under "Introduction", the Board provides the following response/explanation.

The licensee information contained in the audit report may not accurately reflect the number of licensees and the licensure status. On April 1, 2016, the Board provided the exact number of dentists and dental hygienists that are registered with the Board and their licensure status to the auditors. The Board provides the chart below detailing the information.

	<u>Dentists</u>	<u>Dental Hygienists</u>
Active:	1809	1393
Inactive:	304	249
Retired/Disabled:	81 (76 retired/5 disabled)	30 (20 retired/10 disabled)
Suspended Non-Renewal:	189	0
Suspended Board Action:	4	0
Revoked Non-Renewal:	326	330
Total:	2,713	2,002

2. Staffing and Budget (audit report, pgs. 2-3)

The Board has five (5) full-time employees and one (1) part-time employee, which includes, the Executive Director. In addition, the Board has twenty seven (27) Disciplinary Screening Officers comprised of general dentists, dental specialists, and dental hygienists approved by the Board to conduct investigations pursuant to NRS 631.363.

The Board collects fees as set forth in NRS 631.345 and NAC 631.029. Most fees collected by the Board are application for licensure fees and license renewal fees. The Board has not increased the fees associated with application for licensure since 2001. The application fee for dental licensure is \$1,200.00. This application fee includes the application process,

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Legislative Auditor
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fingerprinting costs, background investigation, on-line jurisprudence examination, and review of the application. The process for dental hygienist licensure is the same. However, the application fee for dental hygiene is \$600.00. The Board does provide licensure by reciprocity for military personnel or military spouses and the fee is 50% of the applicable fee. The issuance of a new license is approximately 30-35 days from the time the application is received in the Board office. The Board has seen an increase in persons applying for licensure I think in part due to the change in AB89 which removed the five (5) year requirement for the Western Regional Examining Board certification.

Licenses renew their licenses biennially. The Board has not increased the biennial renewal fee since 1991. The fee associated to renew a dental license is \$600.00 (active), \$200.00 (inactive), and \$25.00 (retired/disabled) for the two (2) year period and for dental hygienists the renewal fee for the two (2) year period is \$300.00 (active), \$50.00 (inactive, retired or disabled). Per Exhibit 2 of the Legislative Auditors report, the Board since 2013 has strived to reduce various expenses, to include, but not limited to, travel, examination expenses, equipment, and legal (net reimbursements).

3. Complaints Resolutions and Disciplinary Process (audit report, pg. 3)

Pursuant to NRS 631.360, the Board may, upon its own motion (e.g. authorized investigative complaints) authorize an investigation of a licensee which must be approved by the Board at a properly noticed meeting identifying the possible violations. However, the licensee is not identified on the agenda; he/she is identified as Dr X or RDH Z. The Board shall upon the verified complaint in writing of any person setting forth facts, which, if proven, would constitute grounds for refusal, suspension or revocation of a license or certificate under this chapter, investigate the licensee. The Board investigates complaints to determine whether a licensee has violated Chapter 631 of NRS and NAC.

A. Remand Cases:

Verified complaints or authorized investigative complaints that are determined to warrant no action are remanded and are confidential pursuant to NRS 631.368(1). According to the audit report, 63.8 % of the complaints investigated by the Board are remanded to the practitioners file with no further action. The licensee who is investigated and the investigation results in a remand prior to the issuance of the Notice of Informal Hearing or otherwise known as "continue investigation" will not be responsible for any costs associated with the investigation. The remand investigation costs are paid by way of licensure fees.

B. Corrective Action Non Disciplinary Stipulations or Disciplinary Stipulations Agreements -

Pursuant to the Nevada Attorney General's *Nevada Board and Commission Manual* (August 2013), pages 31-39 outlines the Attorney General's guidelines for investigations, administrative hearings and the courts. In pertinent part, the manual provides:

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Disciplinary procedures for licensing boards typically include these steps:

- Consumer complaint received or complaint received from another source, or board or commission initiated administrative complaint
- Investigation
- Report of Investigation

Once a report of the investigation is drafted, it should be reviewed by the board or commission's executive director or executive secretary, in conjunction with legal counsel, if necessary, to determine whether there is sufficient evidence to proceed to a hearing before the board or commission in the case.

Options if there is insufficient evidence to go to hearing:

Dismiss case [**Remand**]

If, after the conclusion of the investigation there is insufficient evidence to go to hearing, the file should be closed with notice sent to the complainant and licensee. For many boards and commissions, a recommendation for dismissal must be brought by staff before the board or commission.

Continue investigation [**Notice of Informal Hearing**]

Options if sufficient evidence to go to hearing:

Settlement agreement [**Corrective Action Stipulation or Disciplinary Stipulation Agreement**]

Formal disciplinary hearing

The interest in safeguarding public health, safety, and welfare is the primary purpose of a board or commission and the basis of its existence. It is imperative that boards and commissions vigorously enforce statutes and regulations governing conduct of licensees or regulated individuals and entities under their jurisdiction. At the same time, however, boards and commissions must be conscientious in following due process standards established for conducting investigations and taking administrative actions.

These standards are embodied in statutes, regulations, and state and federal constitutions, and are designed to protect the interest of the licensed or regulated party. The licensed or regulated party must be afforded due process by the board or commission before administrative action can be taken or discipline can be imposed.

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In the area of investigations and regulatory actions, board and commission members should scrupulously follow statutes and regulations. Those who carry out investigations and administrative actions on behalf of boards and commissions should always work closely with legal counsel during all phases of the investigatory and administrative process.

Id., pgs. 31-32.

The process outline above in the Nevada Attorney General's *Nevada Board and Commission Manual* (August 2013) is the process of the Nevada State Board of Dental Examiners uses and in accordance with NRS 631 and NAC 631. See further discussion below regarding this matter at the Board's response to the audit report's recommendation #10.

4. Scope and Objective (audit report, pg. 7)

The Legislative Auditors conducted the audit at the special request of the Sunset Committee and upon authorized by the Legislative Commission to determine whether the Board has assessed reasonable costs to licensees of the Board for investigating and resolving complaints and disciplinary matters. The audit should include an analysis of the Board's legal and investigative expenditures and related cost recoveries during Calendar years 2014-2015. The Nevada State Board of Dental Examiners fiscal year starts July 1st of each year and ends June 30th. The Board does not run on a calendar year. The audit conducted has included the disciplinary process which appears to be outside the scope of the special request of the Sunset Committee and the approval by the Legislative Commission. On such a point, a February 11, 2016, letter from Senator James A. Settelmeyer, Chair, Sunset Subcommittee of the Legislative Commission to Senator Michael Roberson, Chair, Legislative Commission, provides as follows for the scope of the at-issue audit:

The objective of the audit is to determine whether the Board [i.e., Nevada State Board of Dental Examiners] has assessed reasonable costs to licensees of the board for investigating and resolving complaints and disciplinary matters. The audit should include an analysis of the Board's legal and investigative expenditures and related cost recoveries during Calendar Years 2014 and 2015."

Accordingly, the Subcommittee believes it is appropriate to audit these expenditures and related cost recoveries."

Id., first and second paragraphs, respectively. Similarly, Minutes of the February 19, 2016, meeting of the Legislative Commission, Nevada Legislative Counsel Bureau, provide as follows regarding the scope of the audit:

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Vice Chair Settlemeyer moved approval of a request for an audit of the legal fees of the Board of Dental Examiners of Nevada on behalf of the Sunset Subcommittee of the Legislative Commission”

Id., at pg. 47. Notwithstanding Senator James A. Settlemeyer’s February 11, 2016, letter and/or the Minutes of the February 19, 2016, meeting of the Legislative Commission, Nevada Legislative Counsel Bureau, references to the scope of the audit, the actual audit addressed additional issues and matters, including the Board’s investigative and disciplinary processes.

The Nevada Attorney General’s Office through the Board and Commission Manual (August 2013) distinctly states in the area of investigations and regulatory actions, board and commission members should scrupulously follow statutes and regulations. The Board’s investigative process which is contained in the Disciplinary Screening Officers Manual scrupulously follows the investigative and disciplinary processes outlined in statute and regulation.

5. **Classification of Non Disciplinary and Disciplinary Stipulations Agreements (audit report, pg. 7)**

The Nevada State Board of Dental Examiners, like other occupational licensing boards, is authorized to enter into consent and settlement agreements pursuant to NRS 622.330 and/or NRS 233B.121(5). The administrative action better known as a “Corrective Action Plan Stipulation Agreement” is remedial in nature, not discipline. The provisions contained in the corrective action plan do not place a license on probation, suspension, revocation or restrict the licensee from performing any branch of dentistry or dental hygiene. The action plan is a mechanism to assist licensees in areas where the licensee may be deficient in their education or training of a particular area of dentistry or dental hygiene and find appropriate remedial measures to protect the public and provide remedial measures to assist the licensee with the deficiencies.

Disciplinary Stipulations are agreements entered into with the licensee in where the licensee is admitting to violation(s) of the Nevada Dental Practice Act and is consenting to provisions set forth under NRS 631.350. The provisions contained in a Disciplinary Stipulation Agreement are required reportable adverse actions to the National Practitioners Data Bank. Whether corrective action plan or disciplinary, the proceedings should be refer to as “investigative proceedings” and not classified as disciplinary since that may lead one to believe the Board has already made a pre-determination.

6. **Licensees were Overcharged/Undercharged for Investigations (audit report, pgs. 8-9)**

The Nevada State Board of Dental Examiners denies any licensees who entered into a corrective action stipulation agreement, disciplinary stipulation agreement, or by Order of the

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Board (53 in 2014-2015) were overcharged and the costs agreed to by the licensees for investigating and resolving complaints and disciplinary matters are unreasonable. First, all the licensees who consented to the reimbursement of investigation costs (those not being monitored by the Board) or investigation and monitoring costs (those being monitored by the Board) are inclusive. The total amounts licensees agreed to reimburse the Board are the exact amounts the Board received from each licensee. Further, outline in **Exhibit A** (figures were obtained by the auditor's report) you will see the 53 licensees identified paid the reimbursed amount as stated in their stipulated agreements. It is the Board's understanding the auditors did not provide the Board credit for monitoring costs incurred and paid in the amount of \$6,500.00 due to lack of information on the Disciplinary Screening Officer's ("DSO") expense summary form. There is no question the licensees were monitored and the DSO visited the dental office due to the expense summary form, receipts and reports but since the DSO was not specific on which office they visited the \$6,500.00 incurred costs were not credited. The reason the DSO did not specifically identify which dental practice was visited is because the monitoring fees are inclusive to the investigation costs and the costs were already paid whether the licensee's office is visited 1 time or 100 times, it does not have a fiscal impact on the licensee. In addition, the auditors determined the end date when calculating investigation costs for the 53 licensees was the date the licensee executed the agreement. However, the agreement is not considered final until the Board approves the agreement pursuant to NRS 622 and upon the licensee receiving written notification of approval by the Board. During the period of execution and notification to the licensee by the Board, the Board incurred costs associated with the investigation. Therefore, based upon the 33 licensees identified in column "O" it is determined there is an additional \$4,543.34 incurred costs not noted in the auditor's report. Based upon the amounts contained in **Exhibit A** (figures obtained through the auditor's report), the "Difference Over" amount for 2014-2015 is \$3,164.56 and the "Difference Under" amount for 2014-2015 is \$47,971.00. Therefore, based upon the amounts identified in **Exhibit A**, the Board did not overcharge any of the licensees and did not assess unreasonable costs to licensees for investigating and resolving complaints and disciplinary matters. In the District Court Case A-, Judge Bare determined the Board's costs to be reasonable when accessing the investigation costs to Ms. Andrea Smith.

In addition, the legal and investigative expenses noted in the report did not include those investigations for the illegal practice of dentistry and dental hygiene the Board prosecutes in district court to seek injunctive relief. The costs associated with these types of investigations do not usually result in reimbursements for all costs associated with the investigative and attorney fees.

Lastly, if regulatory bodies could not assess reasonable costs to licensees pursuant to NRS 622 to recover costs associated with an investigation, regulatory bodies would be forced to raise licensure and renewal fees for all licensees to cover the costs of investigations and the licensees who do comply with the statutes and regulations would pay for those who do not.

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7. Assessment of Monitoring Were Unclear (audit report, pg. 9)

The Nevada State Board of Dental Examiners does not believe for those licensees who agree to investigation and monitoring costs the amount is unclear. The licensee and/or their legal counsel are fully advised of the amount of the investigation costs and monitoring costs prior to execution of the stipulation agreement. Investigation and monitoring costs are inclusive. The costs paid are one amount, not separate amounts. No licensee has paid the Board more than the amount agreed upon in stipulation agreements. Some instances, the Board does not recover the total investigation and monitoring costs incurred by the Board. Most licensees preferred to have the monitoring costs included in the investigation costs because it brought finality to the case. However, in light of the complaints by a hand full of licensees, the Board will now invoice the licensee in the event of a monitoring visit, not to exceed \$50.00 per hour and the licensee will have thirty (30) days to pay the invoice or their licensee may be suspended. The licensees preferred paying this amount inclusive with investigation costs to avoid invoicing and possibly forgetting to pay the invoice in the time allotted.

8. Some Invoices from DSO's lacked detail (audit report, pg. 10)

Upon review by the auditors the Board realized some of the DSO's expense summary forms lacked detail. The Board has taken appropriate measures and revised the DSO expense summary form to provide better detailed information of the service they are providing to the Board when issuing the expense summary form for payment. See Exhibit B. Further, the Board has incorporated checklists for both the complaint files (see Exhibit C) and the DSO's work product (see Exhibit D) to provide an up to date tracking of the complaint status.

9. Charitable Contributions (audit report, pg. 11)

It is of the opinion of the Nevada State Board of Dental Examiners that charitable contributions are permissible when entering into corrective action non disciplinary stipulation agreements and the licensee consent to the contribution that is not required by the Board under NRS 631.350. See also discussion herein regarding response to recommendation #6.

First, charitable contributions are a tool to provide real benefits to the community for services that might otherwise not be done and they allow the licensee to make reparation to the community for wrongs done.

Providing Charitable Contributions

- benefits the community;
- is aimed at not-for-profit, charitable organizations and bodies and community interests;
- and provides an opportunity for offenders to payback for their wrongdoing

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In the four (4) referenced charitable contributions, the licensee hired a person to practice dentistry and/or dental hygiene without possessing a valid license. The licensee billed patients and/or insurance carriers for the services performed by the unlicensed person and received an economic benefit. When determining the economic benefit received by the licensee, the Board requests a detail of all patients who received services from the unlicensed person. Based upon the time and money it would take the licensee to reimburse all patients and/or insurance companies, a contribution to a non-profit to provide dental treatments to the underserved population or the low income veteran population, the licensees would prefer to donate to the charitable organization.

One of the charitable organizations that received the donations was "Adopt a Vet" program in Northern Nevada. This program provides dental services to Veterans. The donations received by the "Adopt a Vet" program provided complete restorative treatment to eighty six (86) veterans that had been on a waiting list for 2-3 years. According to the program, the donations have made an enormous impact on our low income veterans and they are now without pain. See Exhibit E.

10. Legal Expenses Higher Than Reported (audit report, pg. 13)

The Nevada State Board of Dental Examiners adequately reported legal expenses. The Board has a contra account that indicates reimbursed legal fees Acct #73650-6. However, under Investigations/Complaints on the Statement of Revenues, Expenses and Fund Balance the Board accurately accounts for incurred legal fees under Account Number 73650-3 for John Hunt, Esq., Lee Drizin, Esq. and the Attorney General. Under Professional Fee Account Number 73600-2, these fees are for general board matters not associated with any investigations or complaints. These general matters are not fees charged to a licensee.

11. Better Reporting and Monitoring of Legal Expenses (audit report, pg. 13)

In reviewing the audit report regarding the offset of legal reimbursements to legal expenses and stating Board Management is offsetting the reimbursements to legal costs on the financial statements is not an accurate statement. The financial statements being referred by the Legislative Auditors is the FY 2014 and FY 2015 audit reports, not the bi-monthly financial statements reviewed by the Board at every public meeting. The audit is conducted by a CPA. The audit report is submitted to LCB by December 1st of each year. As Board Management, the undersigned does not generate the audit report. So, whether the offset of reimbursements of legal reimbursements to legal expenses is or is not permissible under GASB or for generally accepted auditing standards, the same is outside my expertise.

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12. Board Exceeded Contract Maximum (audit report, pg. 14)

The Nevada State Board of Dental Examiners has been informed that the maximum contract amount for John Hunt, Esquire as exceeded the maximum limits. As Board Management I was offsetting the fees paid by licensees for reimbursed legal fees to the amount paid to Morris, Polich & Purdy, LLP. Once the Board exceeded the \$175,000.00 per year the contract would need to be approved/rejected for amendment. Since I am now aware I cannot do that I will be placing before the Board to approve/reject the amended contract. This contract offsetting methodology was NOT noted on the financial statements issued to the Board bi-monthly which are prepared by the Board's bookkeeper. This contract methodology was internal for my tracking purposes only. This offset was in no way reflected on the financial statements that are issued and reviewed by the Board at properly noticed meeting with Hummel & Associates present.

13. Hiring Staff Attorney would reduce Legal Expenses (audit report, pg. 15)

Pursuant to NRS 631.190, the Nevada State Board of Dental Examiners shall appoint committees, examiners, officers, employees, agents, attorneys, investigators, and professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of the chapter. In addition, the Board has already has joint representation with the Nevada Attorney General. The Board will notice on an upcoming agenda to discuss and determine the benefits and alternatives to in-house counsel versus independent contractor.

14. Greater Oversight of Investigator's Work is Needed (audit report, pg. 16)

The Nevada State Board of Dental Examiners does not agree with the statements outlined by audit report. The Board's disciplinary process is outlined in Chapter 631 of the NRS and NAC. The process is there to protect the due process rights of the licensee. The Board Members utilize the Board and Commission Manual (August 2013) as a resource to Board Members offered by the Nevada Attorney General's office in conjunction with training through their office.

The oversight of the DSO's is through the Board and in conjunction with Board Counsel. The Board conducts the investigations in compliance with the statutes and regulations and through the guidance of the Nevada Attorney General's office. Specifically, as noted above, pages 31-39 of the Nevada Attorney General's *Nevada Board and Commission Manual* (August 2013) (see Exhibit F, pgs. 31-39 of the Manual) provides Board Members and Investigators with specific guidelines when conducting investigations, administrative hearings and the courts. In part, the manual states:

Once a report of the investigation is drafted, it should be reviewed by the board or commission's executive director or executive secretary, in conjunction with legal

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counsel, if necessary, to determine whether there is sufficient evidence to proceed to a hearing before the board or commission in the case.

Id., pg. 31.

Currently, all preliminary findings drafted by the DSO regarding the limited investigation are submitted to Board Counsel along with draft preliminary findings submitted to both the Executive Director and Board Counsel. When the investigation continues, an Informal Hearing is conducted to discuss and obtain information related to the complaints. In attendance at the Informal Hearing is the Disciplinary Screening Officer, Licensee, Legal Counsel for licensee, Executive Director and Board Counsel. A licensed court reporter is present. The Board's process is in accordance with the statutes and regulations and follows the procedures outlined in the Nevada Attorney General's office.

DISCUSSION OF RECOMMENDATIONS 3, 6, AND 10

Recommendation #3: "Refund licensees amounts that were overcharged."

Response: As noted and discussed above, this recommendation is "rejected." Fundamentally, the recommendation is rejected because the Board rejects and/or disagrees with the contention any licensees have been "overcharged." The at-issue stipulation agreements contain a negotiated and agreed upon amount for fees and costs. The amount was voluntarily agreed upon by the licensees with the advice of counsel. No licensee has paid more than the negotiated and agreed upon amount which is set forth in the stipulation agreements. Accordingly, there have been no overcharges.

Recommendation #6: "Discontinue the use of charitable contributions as a condition within stipulation agreements."

Response: Included with the audit report as Appendix C is the "Legal Opinion Regarding Charitable Contributions" which is an April 22, 2016, letter from James W. Penrose, Senior Principal Deputy Legislative Counsel. As addressed above, and as more fully noted below, we respectfully disagree with the Mr. Penrose's analysis and opinion.

Initially, it should be noted licensees have never been required to make voluntary charitable contributions as a condition to negotiated corrective action non-disciplinary stipulation agreements (see discussion above regarding such agreements). In general, stipulation agreements are by their very nature contractual and voluntary between the parties (see discussion and authority below). In each case involving a voluntary charitable contribution, it was the licensee who requested the option of making a charitable contribution in lieu community service. In addition, some charities will not accept service from licensee who has action(s) with the Board.

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The Board is authorized to enter into settlement agreements with licensees. NRS 233B.121(5) provides, in pertinent part: [u]nless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default." NRS 622.330 also provides the Board with specific authority to enter into stipulation agreements. It states, in pertinent part:

1. Except as otherwise provided in this section, a regulatory body may not enter into a consent or settlement agreement with a person who has allegedly committed a violation of any provision of this title which the regulatory body has the authority to enforce, any regulation adopted pursuant thereto or any order of the regulatory body, unless the regulatory body discusses and approves the terms of the agreement in a public meeting.

3. If a regulatory body enters into a consent or settlement agreement that is subject to the provisions of this section, the agreement is a public record.

NRS 233B.121 and NRS 622.330 each expressly provide the Board with specific authority to enter into stipulation agreements. Neither NRS 233B.121 nor NRS 622.330 set forth limitations or conditions that may or may not be included in a settlement agreement. It is well established that the court must interpret statutes consistent with the intent of the legislature. See Recanzone v. Nevada Tax Comm'n, 92 Nev. 302, 305, 550 P.2d 401, 403 (1976). In addition the court must ascribe an intent which will accomplish a reasonable result. Rose v. First Federal Savings & Loan, 105 Nev. 454, 457, 777 P.2d 1318, 1320 (1989). When interpreting a statute, any doubt as to legislative intent must be resolved in favor of what is reasonable, and against what is unreasonable, so as to avoid absurd results. Cragun v. Nevada Pub. Employees' Ret. Bd., 92 Nev. 202, 205, 547 P.2d 1356, 1358 (1976). Thus, as more fully addressed herein, it is respectfully submitted that charitable contributions can be included in a corrective action non-disciplinary stipulation agreement which has been negotiated and agreed with a licensee and which is later adopted and approved by the Board. Such an interpretation of NRS 233B.121 and/or NRS 622.330 is consistent with their intent, is reasonable, and avoids absurd results.

The April 22, 2016, letter from James W. Penrose, Senior Principal Deputy Legislative Counsel (Appendix C to the audit report) provides, in pertinent part:

Here, the statutory provisions authorizing administrative agencies and regulatory bodies to enter consent or settlement agreements apply general to any agency or regulatory body. See NRS 233B.121 and 622.330. NRS 631.350 applies specifically to the Board, expressly authorizing it to impose only those forms of discipline enumerated in the statute. Because NRS 631.350 applies specifically to the Board and NRS 233B.121 and 622.330 apply only generally, NRS 631.350 controls the terms of any stipulation of the Board.

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Id., pg. 4. We respectfully disagree with this analysis. It is an accepted rule of statutory construction that a provision which specifically applies to a given situation will take precedence over one that applies only generally. W. R. Co. v. City of Reno, 63 Nev. 330, 172 P.2d 158 (1946). Here, the “given situation” is a Board’s authority to enter into settlement agreements. The admitted statutory provisions that “specifically appl[y]” to such a “given situation” are NRS 233B.121 and/or NRS 622.330.

Mr. Penrose’s April 22, 2016, letter focuses on NRS 631.350. NRS 631.350, however, is inapplicable to the “given situation” because it does not address settlement agreements and, therefore, it cannot be seen as specifically applying to the given situation. It is respectfully submitted that NRS 631.350 is an incorrect starting point for analysis because the same pertains to disciplinary powers of the Board. Moreover, as addressed above, the scope, effect, and intention of corrective action non-disciplinary stipulation agreements (sometimes referred to as “corrective action plan”) is remedial in nature, not discipline. The provisions contained in corrective action plans do not place a license on probation, suspension, revocation, or restrict the licensee from performing any branch of dentistry or dental hygiene. The corrective action plan is a mechanism to assist licensees in areas where the licensee may be deficient in their education or training of a particular area of dentistry or dental hygiene and find appropriate remedial measures to protect the public and provide remedial measures to assist the licensee with the deficiencies.

Here, it is submitted the issue is not the breadth of the disciplinary powers of the Board, which NRS 631.350 addresses. Instead, the issue is a Board’s authority to enter into stipulation agreements which is specifically addressed at NRS 233B.121 and NRS 622.330. Hence, NRS 233B.121 and/or NRS 622.330, statutes which specifically address settlement agreements, control.

Again, neither NRS 233B.121 nor NRS 622.330 (the two (2) statutes expressly providing the Board with specific authority to enter into settlement agreements) set forth limitations or conditions that may or may not be included in a settlement agreement. Moreover, courts have found there are no limitations on conditions that may be included in a settlement agreement except that such conditions must not violate public policy. In Rich Vision Centers, Inc. v. Board of Medical Examiners 144 Cal.App.3d 110 (1993), the California Court of Appeal, Second District, Division 3, held the Board of Medical Examiners has implied power to settle licensing disputes, since settlement is administratively efficient and furthers the purpose for which the Board was created. The court also noted there are no limitations on conditions that may be included in a settlement agreement except that such conditions must not violate public policy. More particularly, the Rich Vision Centers, Inc. court stated:

[A]n agency’s powers are not limited to those expressly granted in the legislation; rather, “[i]t is well settled in this state that [administrative] officials may exercise such additional powers as are necessary for the due and efficient administration of powers expressly granted by statute or as may fairly be implied from the statute granting the powers.” (Dickey v. Raisin

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Proration Zone No. 1 (1944) 24 Cal.2d 796, 810, 151 P.2d 505; see also Stackler v. Department of Motor Vehicles (1980) 105 Cal.App.3d 240, 245, 164 Cal.Rptr. 203.)

No statute expressly authorizes the Board even to settle licensing disputes, let alone spells out conditions governing settlement. We must therefore first decide whether the ability to negotiate settlement of disputes may be implied from the overall statutory scheme. In so doing, we look to the purpose of the agency for guidance. (See Dickey v. Raisin Proration Zone No. 1, *supra*, at p. 802, 151 P.2d 505.)

The main purpose of the Board, like other agencies within the Department of Consumer Affairs is to insure that persons engaged in the profession possess and use "the requisite skills and qualifications necessary to provide safe and effective services to the public, ..." (Bus. & Prof.Code, § 101.6.) This broad purpose is effectuated mainly by the issuance, renewal or revocation of a license to practice. (See Bus. & Prof.Code, §§ 2553, 2555.)

Permitting the Board to settle disputes over present or continuing fitness for a license helps to achieve the Legislature's purpose. Settlement negotiations provide the Board greater flexibility. Importantly, settlements provide the means to condition the issuance or renewal of licenses in order best to protect the public. Licensing can be tailored to suit the particular situation. Because conditions are voluntarily accepted by the applicant, enforcement problems are unlikely.

Increased efficiency inures to the busy Board possessed of the authority to settle disputes.

Because settlement is administratively efficient and furthers the purpose for which the Board was created, we hold that the Board has the implied power to settle licensing disputes. (Cf. Hamilton v. Oakland School District (1933) 219 Cal. 322, 327, 26 P.2d 296 (ability to settle claims against district an implied power of school board).) This holding is consistent with the general policy of favoring compromises of contested rights. (See Id., at p. 329, 26 P.2d 296; Fisher v. Superior Court (1980) 103 Cal.App.3d 434, 441, 163 Cal.Rptr. 47.)

That at least part of a settlement must be incorporated into a formal Board decision to be effective does not change our determination that the Board has the ability to formulate the settlement in the first instance. In other areas of the law, parties may try privately to settle problems even though a court must adopt or ratify their agreement. (See e.g. Robinson v. Robinson (1949) 94 Cal.App.2d 802, 805, 211 P.2d 587 (marital property settlement incorporated in interlocutory

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decree of divorce); Fed.Rules Civ.Proc., Rule 23(e) (requiring court approval of class action settlement.)

Additionally, we see no limitations on the conditions that may be included in a settlement except that such conditions must not violate public policy. A party need not have a legally enforceable right to a concession granted in a compromise agreement. (Hall v. Coyle (1952) 38 Cal.2d 543, 546, 241 P.2d 236; Stub v. Belmont (1942) 20 Cal.2d 208, 217, 124 P.2d 826.) There is little danger that the agency will obtain concessions on extraneous matters, or will overreach the applicant. To be valid, all the terms of a settlement must be voluntarily agreed to by the parties. (See Enslow v. von Guenther (1961) 193 Cal.App.2d 318, 321, 14 Cal.Rptr. 231.) An applicant who believes that a Board is asking for unreasonable concessions or is making unlawful demands always retains the option to refuse a proffered settlement and to proceed to hearing.

The ability to negotiate favorable settlement terms has long been among attorneys most effective tools for promoting their clients best interests. To successfully use this tool however, an attorney must have flexibility in formulating the terms and conditions of any agreement to maximize benefit to the client. **Settlement negotiations involve give and take, and the final agreement is a compromise. Government attorneys no less than attorneys in the private sector are responsible for promoting their clients best interests.[footnote omitted.] (See People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 157, 172 Cal.Rptr. 478, 624 P.2d 1206.) There is no reason to handicap those members of the Attorney General staff who represent licensing agencies in performing their duty by limiting their ability to propose and include any settlement term beneficial to the public.**

Id., 114-16 (emphasis added). This analysis applies to the Board entering into stipulation agreements with licensees. Thus, in keeping with the authority just discussed, the Board is able to enter into stipulation agreements because there are no limitations on the conditions that may be included in a settlement agreement except that such conditions must not violate public policy. As noted above, should a licensee believe the Board is asking for unreasonable concessions or is making unlawful demands in a proposed stipulation agreement, the licensee always retains the option to refuse a proffered settlement and to proceed to hearing.

Boards have implied power to enter into settlements of licensing disputes and to incorporate such settlements into formal Board orders. See Frankel v. Board of Dental Examiners, 46 Cal.App.4th 534, 544, 54 Cal.Rptr.2d 128 (1996). In California Dept. of Insur. v.

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State Farm Gen. Insur. Co., 2004 WL 2404695 (2004), the California Court of Appeal, Second District, Division 3, stated as follows with citation to Rich Vision Centers, Inc.:

However, an agency's powers are not limited to those expressly granted in the legislation; rather, '[i]t is well settled in this state that [administrative] officials may exercise such additional powers as are necessary for the due and efficient administration of powers expressly granted by statute, or as may fairly be implied from the statute granting the powers.' [Citations.]" (Rich Vision Centers, Inc. v. Board of Medical Examiners (1983) 144 Cal.App.3d 110, 114; italics in original [Rich Vision].)[footnote omitted.]

In Rich Vision, two opticians entered into a settlement agreement with the Board of Medical Examiners to resolve a number of pending disputes and administrative matters. Under the settlement they agreed to pay the Board's attorney's fees, investigative costs and administrative hearing expenses. **The opticians, however, later challenged the settlement agreement, arguing that "the Board did not have the authority" to require them to make such payments. We rejected that contention and held that the authority to settle disputes was well within the authority of the Board.**

"Permitting the Board to settle disputes over present or continuing fitness for a license helps to achieve the Legislature's purpose. Settlement negotiations provide the Board greater flexibility. Importantly, settlements provide the means to condition the issuance of renewal of licenses in order best to protect the public. Licensing can be tailored to suit the particular situation. Because conditions are voluntarily accepted by the applicant, enforcement problems are unlikely.... [¶] Because settlement is administratively efficient and furthers the purpose for which the Board was created, we hold that the Board has the implied power to settle licensing disputes. [Citation.] This holding is consistent with the general policy of favoring compromises of contested rights. [Citations.] ... [¶] The ability to negotiate favorable settlement terms has long been among attorneys' most effective tools for promoting their clients' best interests. To successfully use this tool however, an attorney must have flexibility in formulating the terms and conditions of any agreement to maximize benefit to the client. Settlement negotiations involve give and take, and the final agreement is a compromise. Government attorneys no less than attorneys in the private sector are responsible for promoting their clients' best interests.' [Citation.] There is no reason to handicap those members of the Attorney General staff who represent licensing agencies in performing their duty by limiting their ability to propose and include any settlement term beneficial to the public." (Rich Vision, supra, 144 Cal.App.3d at pp. 115-116.) We also held that "we [saw] no limitations on the conditions that may be included in a settlement except that such conditions must not violate public policy." (Id. at pp. 115-116.)

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Id., at *7 (emphasis added).

Any challenge to a stipulation agreement on public policy grounds would face a high burden as in only the rarest of occasions are contracts invalidated on a base of a violation of public policy. The court in California Dept. of Insur. v. State Farm Gen. Insur. Co., supra went on to state as follows regarding the steep burden to have a stipulated agreement overturned on public policy grounds:

It has long been the law in California that only in the rarest of circumstances should a contract be invalidated on the basis of a violation of public policy. "It has been well said that public policy is an unruly horse, astride of which you are carried into unknown and uncertain paths.... While contracts opposed to morality or law should not be allowed to show themselves in courts of justice, yet public policy requires and encourages the making of contracts by competent parties upon all valid and lawful considerations, and courts so recognizing have allowed parties the widest latitude in this regard; and, unless it is entirely plain that a contract is violative of sound public policy, a court will never so declare. 'The power of the courts to declare a contract void for being in contravention of sound public policy is a very delicate and undefined power, and, like the power to declare a statute unconstitutional, should be exercised only in cases free from doubt.' [Citation.]

... 'No court ought to refuse its aid to enforce a contract on doubtful and uncertain grounds. The burden is on the defendant to show that its enforcement would be in violation of the settled public policy of this state, or injurious to the morals of its people.' [Citation.]" (Stephens v. Southern Pacific Co. (1895) 109 Cal. 86, 89-90.)

" 'Public policy' as a concept is notoriously resistant to precise definition, and ... courts should venture into this area, if at all, with great care and due deference to the judgment of the legislative branch, 'lest they mistake their own predilections for public policy which deserves recognition at law.' " (Gantt v. Sentry Insurance (1992) 1 Cal.4th 1083, 1095 [overruled on other grounds by Green v. Ralee Engineering Co. (1998) 19 Cal.4th 66]; (see also Moran v. Harris, supra, 131 Cal.App.3d at p. 919 ["courts have been cautious in blithely applying public policy reasons to nullify otherwise enforceable contracts" because the phrase "public policy" is so "subjective" and "amorphous"].)

The California Supreme Court thus held that a violation of public policy must be tethered to a constitutional or statutory provision or, at the very least, to a regulation carrying out statutory policy. (See Green v. Ralee Engineering Co., supra, 19 Cal.4th 66 at p. 90; see also Moran v. Harris, supra, 131 Cal.App.3d at p. 921 [a court may not encroach upon the lawmaking branch of the government in the guise of public policy unless the challenged transaction is contrary to a

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statute or some well-established rule of law] citing San Bernardino County v. Gate City Creamery Co. (1913) 103 Cal.App.367, 373.)

Id., at *8-9.

Stipulation agreements between the Board and a licensee are governed by principals of contract law. Courts rely on basic contract principles to interpret stipulation agreements. An agreement to settle a legal dispute is a contract and its enforceability is governed by familiar principles of contract law. Miller v. Fairchild Indus., 797 F.2d 727, 733 (9th Cir.1986); Village of Kaktovik v. Watt, 689 F.2d 222, 230 and n. 62 (D.C.Cir.1982). Each party agrees to "extinguish those legal rights it sought to enforce through litigation in exchange for those rights secured by the contract." Village of Kaktovik, 689 F.2d at 230; Protective Closures Co. v. Clover Inds., Inc., 394 F.2d 809, 812 (2d Cir.1968). Since consent decrees and orders have many of the attributes of ordinary contracts, they should be construed basically as contracts. Vertex Distributing, Inc., 689 F.2d at 892 (quoting United States v. ITT Continental Baking Co., 420 U.S. 223, 236-37, 95 S.Ct. 926, 934-35, 43 L.Ed.2d 148 (1975)). Furthermore, enforceability of these compromise agreements is favored in the law.

The authority of a trial court to enter a judgment enforcing a settlement agreement has as its foundation the policy favoring the amicable adjustment of disputes and the concomitant avoidance of costly and time consuming litigation.

In re Springpark Assoc., 623 F.2d 1377, 1380 (9th Cir.) (quoting Dacanay v. Mendoza, 573 F.2d 1075, 1078 (9th Cir.1978)), cert. denied, 449 U.S. 956, 101 S.Ct. 364, 66 L.Ed.2d 221 (1980).

As noted above, included with this written response, please find a May 2, 2016, letter (w/attachments) from the Adopt a Vet Dental Program ("AAVD") addressing the enormous impact the \$69,000 in financial contributions have had in allowing the Program to care for low-income veterans. The AAVD notes that based on an average dental lab cost of \$800 per case for complete restoration, 86 low income veterans received dental care who had been waiting up to 2-3 years in the program. See Exhibit E.

Recommendation #10: "Institute an independent review process regarding complaint investigation and resolution."

Response: This recommendation is addressed at page 18 of the audit report. It recommends investigations be reviewed by an independent party or committee. In addition to the matters addressed above regarding the Board's investigatory and disciplinary processes, NRS 631.363 sets forth the statutory requirements for an appointed member or agent to conduct the investigation and hearing. NRS 631.363 provides:

NRS 631.363 Appointment of member or agent to conduct investigation and hearing; notice of hearing; report; hearing by Board.

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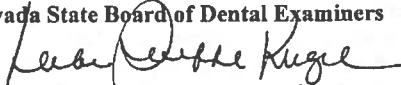
1. The Board may appoint one of its members and any of its employees, investigators or other agents to conduct an investigation and informal hearing concerning any practice by a person constituting a violation of the provisions of this chapter or the regulations of the Board.
2. The investigator designated by the Board to conduct a hearing shall notify the person being investigated at least 10 days before the date set for the hearing. The notice must describe the reasons for the investigation and must be served personally on the person being investigated or by mailing it by registered or certified mail to his or her last known address.
3. If, after the hearing, the investigator determines that the Board should take further action concerning the matter, the investigator shall prepare written findings of fact and conclusions and submit them to the Board. A copy of the report must be sent to the person being investigated.
4. If the Board, after receiving the report of its investigator pursuant to this section, holds its own hearing on the matter pursuant to NRS 631.360, it may consider the investigator's report but is not bound by his or her findings or conclusions. The investigator shall not participate in the hearing conducted by the Board.
5. If the person who was investigated agrees in writing to the findings and conclusions of the investigator, the Board may adopt that report as its final order and take such action as is necessary without conducting its own hearing on the matter. (Added to NRS by 1983, 1108)

In light of this specific statute dealing with investigations and hearings of the type at issue here, it is respectfully submitted that recommendation #10 could only be implemented following a change in the statute.

Please contact me at (702) 486-7044 if you have any questions regarding the above.

Sincerely,

Nevada State Board of Dental Examiners


Debra-Shaffer-Kugel, Executive Director

Accompanying documents: as stated above.

Nevada State Board of Dental Examiners' Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Develop and document a process for tracking actual costs by complainant and licensee for investigations and monitoring activities	<u>X</u>	<u> </u>
2. Ensure DSO invoices include sufficient detail to track and assess costs accurately. Invoices should detail the licensee, complainant, activity performed, and other fees or costs incurred	<u>X</u>	<u> </u>
3. Refund licensees amounts that were overcharged	<u> </u>	<u>X</u>
4. Develop policies regarding fees to be assessed to licensees throughout the disciplinary process, including whether costs for remanded complaints discussed at Informal Hearing proceedings should be included in total amounts assessed to licensees. Seek Board approval of policies regarding fees to be assessed	<u>X</u>	<u> </u>
5. Determine, document, and adhere to appropriate travel cost limits	<u>X</u>	<u> </u>
6. Discontinue the use of charitable contributions as a condition within stipulation agreements	<u> </u>	<u>X</u>
7. Record recoveries collected from licensees for disciplinary actions and monitoring activities as revenue instead of a reduction to expenses	<u>X</u>	<u> </u>
8. Prepare contracts that accurately reflect the maximum amount expected to be paid to the contractor	<u>X</u>	<u> </u>
9. Review, at a public Board meeting, the merits of contracting with outside counsel versus hiring a General Counsel to meet the majority of the Board's legal needs	<u>X</u>	<u> </u>
10. Institute an independent review process regarding complaint investigation and resolution	<u> </u>	<u>X</u>
11. Develop and document guidance for investigations including procedure checklists and expected documentation	<u>X</u>	<u> </u>
12. Develop a standardized filing organization method.....	<u>X</u>	<u> </u>
13. Prepare a file checklist that details all routine documentation related to the disciplinary process needed to substantiate the Board's actions and compliance with statutes	<u>X</u>	<u> </u>
14. Ensure all records are obtained and retained by the Board to support disciplinary activities	<u>X</u>	<u> </u>
TOTALS	<u>11</u>	<u>3</u>

Appendix G

Auditor's Comments on Agency Response

The Board, in its response, included certain statements we believe are misleading or inaccurate. In addition, the Board rejected three recommendations. Therefore, we have provided our comments on some of the issues mentioned in the Board's response to inform the reader of our position and demonstrate why we believe our findings, conclusions, and recommendations, as stated in the report, are accurate and appropriate.

Scope and Objective

1. The Board, in its response, indicates our audit included the disciplinary process, which appears to be outside the scope of the audit approved by the Legislative Commission. (see page 40)

Legislative Auditor's Comments

Because investigation costs and the disciplinary process are interrelated, our audit findings are well within the scope of our audit as stated on page 7 of our report. Our audit was conducted in accordance with Government Auditing Standards for performance audits and NRS 218G. Performance audit standards state that planning is a continuous process throughout the audit, and auditors may need to adjust the scope during the audit.

During our work related to identifying costs for investigating and resolving complaints and disciplinary matters, we identified numerous internal control weaknesses related to our work. For example, on page 19 in our report, we identified that critical documentation related to the disciplinary process was not maintained at the Board's office as required by NRS 631.190(8) and NAC 631.023(2)(d). Performance audit standards require auditors to include in the audit report internal control deficiencies significant to the audit objective. To exclude this information from our report and the Legislature would be inappropriate.

Overcharges for Investigation Costs

2. The Board, in its response, denies that licensees were overcharged because licensees consented to the reimbursement. In addition, the Board indicates that since amounts received from licensees do not exceed the amount assessed, licensees were not overcharged. Consequently, the Board rejected Recommendation 3 to refund licensees amounts that were overcharged. (see pages 41 and 46)

Legislative Auditor's Comments

From the Board's response, we assume the Board is indicating it may assess licensees any amount it deems appropriate, through its negotiating process, as long as the licensee agrees to such an amount. This is contrary to NRS 622.400 (see page 30). NRS 622.400 allows the Board to recover from licensees the costs incurred from its investigative, administrative, and disciplinary proceedings. As stated in page 10 of our report, NRS 622.400 does not authorize the Board to recover future unknown costs.

According to Kohler's Dictionary for Accountants, an incurred cost is one arising from cash paid out or an obligation to pay for an acquired asset or service. Therefore, it is clear any amount recovered in excess of an actual incurred cost of the Board is an overcharge, regardless of whether a licensee consented to pay the assessed amount.

3. The Board indicates in its response that \$6,500 in monitoring costs was not credited to the Board in our calculation of actual costs. The Board also indicates another \$4,543 in actual investigation costs that occurred after agreements were signed should have been included in our calculation of actual costs. (see page 42)

Legislative Auditor's Comments

We firmly stand by our calculations in Appendix B on page 23. First, as stated previously, NRS 622.400 allows the Board to recover from licensees costs incurred from its investigative proceedings. It does not provide for estimated amounts to be recovered from licensees for future monitoring of the licensee. Moreover, the Board did not document or specify what portion of the assessment, if any, was related to future monitoring activities as indicated on page 10. As a result, we cannot verify or confirm the amount of monitoring fees that were considered or included as part of the actual amount assessed. As such, future costs, whether related to monitoring or other investigation activities were appropriately excluded from our cost calculations.

Second, we disagree there is no ambiguity regarding the \$6,500 in uncredited monitoring costs. As stated on page 10 of our report, DSO invoices lacked detail to determine how much time was spent investigating a particular licensee. Furthermore, the Board can monitor licensees for several years. Because the DSO invoices related to the \$6,500 in costs did not indicate the licensee monitored, we could not reasonably determine to what extent, if any, these costs were attributable to any of the 53 licensees for which we calculated the costs.

4. The Board discusses in its response that the auditors determined the end date when calculating investigation costs for the 53 licensees was the date the licensee executed the agreement. The Board asserts the agreement is not considered final until the Board approves the agreement pursuant to NRS 622 and upon the licensee receiving written notification of approval by the Board and that costs totaling \$4,543 during this time period should be incorporated in our cost calculations. (see page 42)

Legislative Auditor's Comments

During the Informal Hearing, the Board negotiates with licensees regarding the terms of the stipulation agreement including the amount assessed for the investigation. The Board and the licensee agree on the terms, including the amount assessed, and the stipulation is signed by the parties. Even though the agreement is not final until approved at a Board meeting, the date the stipulation is signed is the date the assessment is determined. As noted above, we do not believe a future cost, regardless of its timing should be incorporated in cost totals since they are not known at the time of the assessment. Including such amounts would not represent what was known to the Board at the time the assessment was determined.

5. Based on the Board's addition of costs noted in Items 3 and 4 above, the Board recalculated total amounts overcharged as \$3,164 and the total amount undercharged as \$47,971. The Board further indicates that it did not overcharge any of the licensees and did not assess unreasonable costs to licensees for investigations and resolving complaints and disciplinary matters. (see page 42)

Legislative Auditor's Comments

We disagree with the Board's calculation of costs. We believe the Board is either attempting to mislead the reader, or lacks an understanding of the matter. First, the Board's calculations contained errors and omissions that affect the total overcharges and undercharges noted on page 57. Second, the Board included projected future costs in its totals. As we have previously discussed above, this is contrary to NRS 622.400. Third, the Board's calculations included a licensee from 2016 that is not included in Appendix B on page 23. Additional detail on some of the errors in the Board's calculation of costs are noted below:

- Three of five column totals are not correct, including two that are incorrect by several thousand dollars.
- The Board's cost analysis reduced the total overcharges by \$6,500 for monitoring costs incurred, as explained in Item 3 above. However, since the Board does not know whether the monitoring costs relate to licensees that were overcharged or undercharged, it does not have any basis for reducing the total overcharged amount by \$6,500.
- The Board's cost analysis also reduced the total overcharges by \$4,543 for investigation costs incurred as explained in Item 4 above. However, our review of the Board's analysis found that \$2,333 of that amount was for licensees that were undercharged and therefore should not have reduced the total overcharges.
- The Board omitted assessed costs of \$10,600 for two licensees and two other assessed cost amounts were incorrect by \$1,200 and \$871.

In summary, the Board did not track investigation costs by licensee. Our analysis and calculation of the Board's costs related to each licensee was based on documentation of actual costs obtained from Board files. We incorporated all costs that could be identified and attributed as being specific to one of the 53 licensees. We believe our calculation of the costs in Appendix B on page 23 are accurate, based on the Board's records, and reflect the activities and obligations of the Board at the time the assessment was determined. Therefore, any amount recovered in excess of actual costs incurred is an overcharge to the licensee.

Finally, we fundamentally disagree with the Board's assertion that the costs assessed are reasonable. As noted in our report on page 9, 46% of licensees were overcharged and 54% were undercharged. Any amount recovered in excess of an actual cost attributable to a specific licensee's investigation is not a reasonable cost. Furthermore, the Board determines assessments through a negotiation process that is not documented. As a result, the Board has no documented basis for why one licensee was overcharged and another was undercharged. The negotiation process results in significant variation among licensees. Without documentation to justify why one licensee received a steep discount while another paid more than the actual investigation cost and the facts explained above, we conclude the Board did not always assess reasonable costs to licensees.

Charitable Contributions Not Allowed Under Statute

6. The Executive Director's response indicates it is the opinion of the Board of Dental Examiners that charitable contributions are permissible when entering into stipulation agreements. (see page 43) The response also indicates it respectfully disagrees with the Legislative Counsel's analysis and opinion on this matter.

Legislative Auditor's Comments

Our statement in the audit report that charitable contributions by licensees, as required by stipulation agreements, are not allowed under NRS 631.350 is based on the Legislative Counsel's opinion. As indicated on page 12 of the report, the Legislative Counsel concluded the Board is not authorized to provide for a charitable contribution by the licensee as a condition of a stipulation. See Appendix C, beginning on page 25, for the Legislative Counsel's entire legal opinion.

The Board has rejected Recommendation 6 to discontinue the use of charitable contributions as a condition within stipulation agreements. As shown in Appendix A on page 21, two licensees paid charitable organizations \$50,000 each as part of the provisions imposed in Board approved stipulation agreements. Since the Board has approved agreements whereby licensees made significant contributions to charitable organizations and the Board feels strongly about continuing this practice, it can resolve this matter by requesting legislation to obtain specific statutory authority to do so.

Legal Expenses Higher Than Reported

7. The Board, in its response, indicates it adequately reported legal expenses relative to a series of internal general ledger numbers. The Board also indicates our audit report inaccurately states that Management is offsetting the reimbursements to legal costs on the financial statements. The Executive Director asserts that the financial statement audits are conducted by a CPA, she does not generate the financial statements, and has no such knowledge of accounting standards. (see page 45)

Legislative Auditor's Response

As stated on page 13 of our report, the Board paid about \$200,000 more, on average, in legal expenses than shown on its financial statements. Our report does not mention or address the manner in which the Board accounts for legal fees internally or in its accounting software. We are unsure how this portion of the Board's response is pertinent to the issues noted in our report regarding the reduction of legal fees on financial statements and contract documentation.

During the course of our audit, we discussed with the Board's Executive Director the presentation of legal fees and cost recovery assessments being applied as a reduction to those expenditures. Even though accounting functions are performed by a contractor, the Executive Director was aware and knowledgeable as to the circumstances and reasons regarding why cost recovery assessments were used to reduce legal fees. Moreover, as indicated in the Board's response on page 45, the Executive Director indicated she was responsible for the offsetting of fees.

Regardless of the work performed by the contractor or the CPA, management is responsible for the accurate and fair presentation of its accounting information and financial statements. As noted on the Independent Auditor's Report, paragraph two titled, Management's Responsibility for the Financial Statements:

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

As such, management cannot abdicate its responsibility for providing accurate financial statements.

We continue to maintain the Board's legal fees were not adequately reported. As noted in Exhibit 6 of our report on page 13, the Board reported on its financial statements only about one-third of its total legal fees. We do not believe that this represents adequate and transparent reporting.

Disciplinary Screening Officers Determine Violations and Sanctions Without Review

8. The Board, in its response, rejected Recommendation 10, which was to "Institute an independent review process regarding complaint investigation and resolution." The response indicates that the specific statute (NRS 631.363) dealing with investigations and hearings would have to be changed to implement this recommendation. (see page 53)

Legislative Auditor's Comments

As indicated on page 16 of the report, investigation results and conclusions of DSOs are not reviewed by supervisory personnel or an independent review committee. Our recommendation was based on several factors:

- DSOs' investigation results are not reviewed by an independent person or committee to verify the accuracy and adequacy of the conclusions and recommended corrective action or sanctions.
- We found a wide disparity among DSOs in the percentage of investigations resulting in disciplinary actions.
- We contacted six dental boards in other states and three boards in Nevada dealing with medical licensing. Of the eight boards that assign a staff member or agent to conduct investigations, all indicated investigations are reviewed by at least one other independent party.
- Best practices in carrying out a regulatory program indicate investigations should be reviewed to ensure work is conducted in a way consistent with applicable laws, regulations, and agency policies.

In addition, under NRS 631.190, the Board shall adopt rules and regulations and appoint such committees, examiners, officers, employees, agents, and investigators as it deems necessary to carry out the provisions of this chapter. We do not believe adding a level of independent review conflicts with the provisions of NRS 631, but rather helps ensure the provisions are carried out fairly and consistently.

The Board in its response on page 46 stated, DSO preliminary findings are submitted to Board Counsel and the Executive Director. During the audit, we discussed this matter at length with Board Counsel and the Executive Director. In those discussions, they indicated a review of DSO investigation results was not performed in part because they did not have the expertise. Regardless, our recommendation relates to instituting a review by another dental professional prior to the matter being submitted to counsel or management. Since the Board's investigations require expertise regarding accepted dental standards and practices, we believe a review by another dental professional with the appropriate knowledge and background is necessary to ensure investigation conclusions and recommendations are sound.

Exhibits From Agency Response Are Not Included in Audit Report

It has been the Audit Division's longstanding practice not to put every document received, in response to the audit, in the audit report. Accordingly, we included the Board's 20-page response

in our audit report; however, we did not include all 46 pages received. Although we did not include Exhibits A to F of the Board's response in the report, we provided the Audit Subcommittee of the Legislative Commission with a complete copy of the response under separate cover. In addition, a complete copy of the Board's response is available upon request.



AMERICAN BOARD OF DENTAL EXAMINERS, INC.

Stanwood Kanna, D.D.S., President
William Pappas, D.D.S., Vice-President
Jeffery Hartsog, D.M.D., Secretary
Conrad McVea, III, D.D.S., Treasurer
Bruce Barrette, D.D.S., Past President

June 5, 2016

Dear State Board of Dentistry,

In recent years there has been a strong move to create a uniform national dental and dental hygiene licensure examination driven by the American Board of Dental Examiners (ADEX), an exam development corporation and the Regional Testing Agencies that administer the ADEX developed dental licensure examination. Currently there are 41 States, 3 US Jurisdictions and the Country of Jamaica that accept the ADEX dental licensure examination for initial licensure. This is by far the most widely accepted initial dental licensure examination in the country.

The ADEX has committed itself to designing the most comprehensive, current and ethical clinical licensure examination in dentistry. As dentistry changes in its delivery and scope so must the licensure examination. Test design and guidelines of test development are uniform in order to be valid and reliable. The challenge with dental examinations in the past has been with its delivery or administration. Having a unique and critical component of the examination that necessitates clinical performance standards on patients has been in the past more focused on student (candidate) orientation than patient centered resulting in ethical challenges. The ADEX through its newly developed Patient Centered Curriculum Integrated Format has now addressed this concern by focusing the exam format to taking care of the needs of the patient. The result has been rewarding to both the patient and the candidate.

As you familiarize yourself with this new PC-CIF format be assured that ADEX in conjunction with educators, examiners and those testing agencies that deliver the ADEX exam are constantly working to provide your state with the most comprehensive, widely accepted, valid, reliable and ethical initial licensure exam in dentistry and dental hygiene. Please do not hesitate to contact ADEX or myself if you have any questions.

Sincerely,

Stanwood H. Kanna DDS, President
American Board of Dental Examiners, Inc. (ADEX)

Enclosures



The Patient Centered Curriculum Integrated Format (PC CIF)

This new format of the ADEX CIF examination was originally called the “Buffalo Format” because it was developed in conjunction with the University at Buffalo and the New York Board of Dentistry and was successfully piloted at the University at Buffalo in 2015. In 2016 the PC CIF is currently being offered to all dental schools that would like to host this format

The PC CIF is a modification of the Curriculum Integrated (CIF) Format that focuses on patient care needs, rather than the candidate’s examination. The examination itself is the identical ADEX Licensing Examination for initial licensure in dentistry. That is the content, criteria, scoring, and performance parameters are identical no matter which format is being administered.

The American Board of Dental Examiners, Inc. (ADEX) and it’s testing agencies have introduced an examination format for candidates at dental schools, which is designed to focus on patient needs to enhance the patient experience in the sections of the examination that evaluate the care provided by the candidate during the examination process.

As context for this approach, the American Dental Association (ADA) has adopted a policy that the only acceptable examination format that includes providing patient treatment is the Curriculum Integrated Format with the adoption of ADA resolution 20 H– 2005, and defined the Curriculum Integrated Format in ADA resolution 1H-2007 which is included as Appendix A.

The ADEX examination was in compliance with the 2005 resolution and substantially in compliance with the 2007 resolution. However, ADEX and it’s testing agencies wanted to comply with all provisions of the ADA definition, as well as adopting an examination format that would fulfill all of the ethical concerns identified in the ADA paper entitled, *Ethical Considerations When Using Patients in the Examination Process*, which had been recently revised in May, 2013. For readers interested in the full text of this document, please see the attached document.

As part of the validity argument for continuing to use the scores and decisions from this new approach, the ADEX examination content, criteria, scoring, and performance parameters remain identical to the previous examination. However, **the new examination administration format now allows the dental school to ensure that the care provided in the examination process is done on a patient of record, and provided within an appropriately sequenced treatment plan as defined by the dental school.** The examination assessments are given multiple times within the school year, to allow for candidate remediation and retake prior to graduation as well as patient scheduling and treatment plans concerns.

Equally important, is that follow-up patient care required as a result of candidate performance is completed under the supervision of the dental school faculty, utilizing the treatment protocols and philosophy of the host dental school. Finally, the patient care provided by the dental student, during the examination process, can also be independently evaluated by the dental school faculty to fulfill the CODA required competencies, if necessary. Patient informed consent is completed for both the dental school and the testing agency throughout the process.

Keeping in mind the technical and legal requirements for licensure examinations, **this format was developed in collaboration with educators, examiners, and representatives from organized dentistry.** The goal was to balance the responsibilities of maintaining the independence of the licensure process with a focus within the examination on the needs of the patient in a continuing effort to develop the most ethical examination process possible when patient care is a component.

The administrative format differences in the PC CIF Format are:

1. Calibrated school faculty may assist candidates in selection of patients of record at the school, for the ADEX Restorative and Periodontal examinations that meet the requirements set by ADEX for the examination process. The faculty's role is to validate that the patient's proposed care is appropriate to be provided under the school's treatment planning protocols.
2. The examiners have final determination about what lesions/cases are accepted for the examination and which are not. The patient's medical status and blood pressure are always evaluated at the time of care. Additionally, the proposed care is also evaluated to validate the treatment being provided meets examination requirements.
3. Faculty and the school's protocols have the final determination *if* care will be provided. The institutional treatment protocols of the dental school will determine the timing of care and the type of care provided. For example a dental school's proposed care based on the extent of caries is preserved; so that re-mineralization and the depth of caries prior to treatment is a school decision.
4. The faculty may also evaluate the treatment provided to the patients and this may or may not be incorporated as part of a school student competency program.
5. Faculty may also enter treatment provided into the school database as it occurs during the examination as dictated by school protocol.
6. The schools faculty will determine, schedule, and supervise any patient follow-up care that may be required.
7. Candidates who are unsuccessful will have their performance explained to them by their faculty and the faculty will supervise any required patient care.
8. The exam scheduling allows for multiple school visits and candidates challenging only those parts of the examination for which they have treatment-planned patients. In this respect the examination process is scheduled over multiple visits allowing the candidate to focus on the patient's needs rather than a single examination date.

Therefore, the school may wish to have several smaller PC CIF examinations at regular intervals rather than one large Perio/Restorative Examination as in the past. This is arranged between the school and the testing agency when scheduling the examination series. The school is usually allowed to schedule the candidates and their patients for each of these smaller exams. Candidates will challenge the procedures for which the school has approved the proposed patient treatment initially, but may take any one (or more) procedures not taken the first time at a later exam. Failing procedures can also be taken at a subsequent session.

The following information is intended to assist dental licensure candidates, as well as examiners and educators involved in the testing process, in recognizing ethical considerations when patients are part of the clinical licensure process.

Background: Dental licensure is intended to ensure that only qualified individuals are licensed to provide dental treatment to the public. Most licensing jurisdictions have three general requirements: an educational requirement-graduation from a dental education program accredited by the Commission on Dental Accreditation; a written (theoretical) examination-to determine whether the applicant has achieved the theoretical bases at a level of competence that protects the health, welfare and safety of the public; and a clinical examination in which a candidate demonstrates the clinical knowledge, skills and abilities necessary to safely practice dentistry.

Anecdotal information and experiences reported in the literature by licensees and educators have raised ethical considerations when human subjects/patients are used in the examination process.¹⁻⁶ While others disagree, it is recognized that the profession must ensure that the welfare of patients is safeguarded in every step of the clinical licensure examination process.⁷

The licensure examination process is evolving. Many clinical examination agencies continue to monitor developments for applicability and affordability of alternatives to human subjects/patients in providing valid and reliable assessment of clinical competence.

The ADA has voiced its position regarding the use of human subjects/patients in clinical examinations through a series of resolutions culminating with the adoption of the 2005 House of Delegates' Resolution 20H-2005.⁸⁻¹⁰ This resolution reaffirms ADA support for the elimination of human subjects/patients in the clinical licensure examination process while giving exception to a more recent methodology for testing known as the curriculum-integrated format (CIF). The 2006 ADA House of Delegates directed the ADA Council on Dental Education and Licensure to develop a definition of CIF and present it to the 2007 House of Delegates. The 2007 House adopted the following definition (1H:2007):

Curriculum Integrated Format: An initial clinical licensure process that provides candidates an opportunity to successfully complete an independent "third party" clinical assessment prior to graduation from a dental education program accredited by the ADA Commission on Dental Accreditation.

If such a process includes patient care as part of the assessment, it should be performed by candidates on patients of record, whenever possible, within an appropriately sequenced treatment plan. The competencies assessed by the clinical examining agency should be selected components of current dental education program curricula.

All portions of this assessment are available at multiple times within each institution during dental school to ensure that patient care is accomplished within an appropriate treatment plan and to allow candidates to remediate and retake any portions of the assessment which they have not successfully completed.

Given that currently there are no new technologies that completely eliminate the use of human subjects/patients in the clinical examination processes, the ADA Council on Ethics, Bylaws and Judicial Affairs (CEBJA)¹¹ called on major stakeholders, including the ADA's Council on Dental Education and Licensure (CDEL), to provide input for the development of a statement that would identify key ethical considerations and provide guidance to help ensure the welfare of the patient remains paramount.

Ethical Considerations When Using Human Subjects/Patients in the Examination Process

1. **Soliciting and Selecting Patients:** The ADA Principles of Ethics and Code of Professional Conduct¹² (ADA Code), Section 3, Principle: Beneficence states that the "dentist's primary obligation is service to the patient" and to provide "competent and timely delivery of dental care within the bounds of clinical circumstances presented by the patient, with due consideration given to the needs, desires and values of the patient." The current examination processes require candidates to perform restorative and periodontal treatments on patients. In light of the principle stated above, this may create an ethical dilemma for the candidate when seeking patients to sit for the exam. Candidates should refrain from the following:
 1. Reimbursements between candidates and patients in excess of that which would be considered reasonable (remuneration for travel, lodging and meals).
 2. Remuneration for acquiring patients between licensure applicants.
 3. Utilizing patient brokering companies.
 4. Delaying treatment beyond that which would be considered acceptable in a typical treatment plan (e.g. delaying treatment of a carious lesion for 24 months).

2. **Patient Involvement and Consent:** The ADA Code, Section 1, Principle: Patient Autonomy states that "the dentist's primary obligations include involving patients in treatment decisions in a meaningful way, with due consideration being given to the patient's needs, desires and abilities." Candidates and dental examiners support patient involvement in the clinical examination process by having a written consent form that minimally contains the following basic elements:
 1. A statement that the patient is a participant in a clinical licensure examination, that the candidate is not a licensed dentist, a description of the procedures to be followed and an explanation that the care received might not be complete.
 2. A description of any reasonably foreseeable risks or discomforts to the patient.
 3. A description of any benefits to the patient or to others which may reasonably be expected as a result of participation.
 4. A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the patient.
 5. An explanation of whom to contact for answers to pertinent questions about the care received.
 6. A statement that participation is voluntary and that the patient may discontinue participation at any time without penalty or loss of benefits to which the patient is otherwise entitled.

American Dental Association Council on Ethics, Bylaws and Judicial Affairs

3. Patient Care: The ADA Code, Section 3, Principle: Beneficence states that the dentist has a “duty to promote the patient’s welfare.” Candidates can do this by ensuring that the interests of their patient are of primary importance while taking the exam. Examiners contribute to this by ensuring that candidates are adequately monitored during the exam process such that the following treatment does not occur:
 1. Unnecessary treatment of incipient caries.
 2. Unnecessary patient discomfort.
 3. Unnecessarily delaying examination and treatment during the test.

4. Follow-Up Treatment: The ADA Code, Section 2, Principle: Nonmaleficence states that “professionals have a duty to protect the patient from harm.” To ensure that the patient’s oral health is not jeopardized in the event that he/she requires follow-up care, candidates and dental examiners should make certain that the patient receives the following:
 1. A clear explanation of what treatment was performed as well as what follow-up care may be necessary.
 2. Contact information for pain management.
 3. Complete referral information for patients in need of additional dental care.
 4. Complete follow-up care ensured by the mechanism established by the testing agency to address care given during the examination that may need additional attention.

Sources:

1. Dr. Lloyd A. George Nov. 3, 2005 Letter to Dr. James W. Antoon, chair CEBJA
2. CEBJA March 2, 2006 Strategic Issue Discussion – Use of Patients in Clinical Licensure Examinations
3. Richard R. Ranney, D.D.S., et al., “A Survey of Deans and ADEA Activities on Dental Licensure Issues” Journal of Dental Education, October 2003
4. Allan J. Formicola, D.D.S., et al., “Banning Live Patients as Test Subjects on Licensing Examinations,” Journal of Dental Education, May 2002
5. “The Agenda for Change,” Objectives Developed at the Invitational Conference for Dental Clinical Testing Agencies by representatives of the clinical testing agencies and other organizations with an interest in dental licensure sponsored by the American Dental Association. It is considered informational and does not represent policy of the ADA. March 4, 1997
6. ASDA Resolution 202RC-2005, Revision of Policy L-1 Initial Licensure Pathways
7. Position Statement of the American Association of Dental Examiners in Response to ADA Resolution 64H, Oct. 12, 2001
8. ADA HOD Resolution 34-2006, Definition of Curriculum Integrated Format
9. ADA HOD Resolution 20H-2005, Elimination of the Use of Human Subjects in Clinical Licensure/Board Examinations
10. ADA House of Delegates (HOD) Resolution 64H-2000, Elimination of the Use of Human Subjects in Clinical Licensing/Board Examinations
11. CEBJA is the ADA agency responsible for providing guidance and advice and for formulating and disseminating materials on ethical and professional conduct in the practice and promotion of dentistry.
12. The entire text of the ADA Principles of Ethics and Code of Professional Conduct can be found on the ADA website at www.ada.org.

May 4, 2016

Ms. Debra Shaffer-Kugel
Board Administrator/Executive Director
Nevada Board of Dental Examiners
6010 S. Rainbow Blvd., Suite A-1
Las Vegas, NV 89118

Received
MAY 17 2016
NSBDE

Dear Ms. Shaffer-Kugel:

The Joint Commission on National Dental Examinations ("Joint Commission") appreciates the opportunity to assist your dental board by providing information concerning the cognitive skills of dental and dental hygiene candidates seeking licensure in your jurisdiction. In our continuing efforts to improve the quality, accuracy, and clinical relevance of information we provide, the Joint Commission is pleased to provide additional details concerning our efforts to introduce the Integrated National Board Dental Examination (INBDE), and share details concerning how and when implementation will occur.

The INBDE is a next generation assessment that will integrate the biomedical, behavioral, and clinical sciences, to provide dental boards with a summative evaluation concerning whether dental licensure candidates possess the level of cognitive skills necessary to safely practice dentistry. **The Joint Commission anticipates the INBDE will be available for administration on August 1, 2020, with full replacement of the National Board Dental Examination (NBDE) scheduled to occur by August 1, 2022.** This letter serves as the official "four years' notice" the Joint Commission indicated it would provide to stakeholders and communities of interest, concerning these important events.

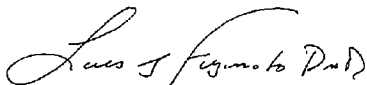
In anticipation of the release of the INBDE and the discontinuation of Parts I and II, the Joint Commission recommends your dental board undertake the following activities to learn about the INBDE and prepare to use it in licensure decision making:

- Review and monitor INBDE information on the Joint Commission's website (www.ada.org/JCNDE/INBDE).
- Attend the National Dental Examiners' Advisory Forum (NDEAF) annually.
- Review INBDE validity evidence and the results of field testing as these studies occur.
- Prepare to receive INBDE results on the first day of its availability.
- Consider whether any modifications to practice acts, rules, policies, or procedures will be required.
- Prepare to accept candidates who have successfully completed the National Boards. This could occur under either of the following sequences: 1) INBDE or 2) NBDE Parts I and II.
- Communicate information concerning the acceptability of the INBDE to future licensure candidates.

The Joint Commission recommends your dental board begin working with these considerations now, to ensure your board is prepared for the upcoming changes. Details concerning the INBDE implementation plan are enclosed. Dates appearing in the plan represent a best-case scenario and are subject to change. The Joint Commission's website contains additional background information concerning the INBDE, as well as information concerning communications and presentations on this topic to dental boards and communities of interest since 2010.

Thank you for your consideration and attention to this important matter. If you have any questions, please contact the Joint Commission (nbexams@ada.org) and we will be happy to assist.

Sincerely,



Dr. Luis J. Fujimoto
Chair, Joint Commission on National Dental Examinations

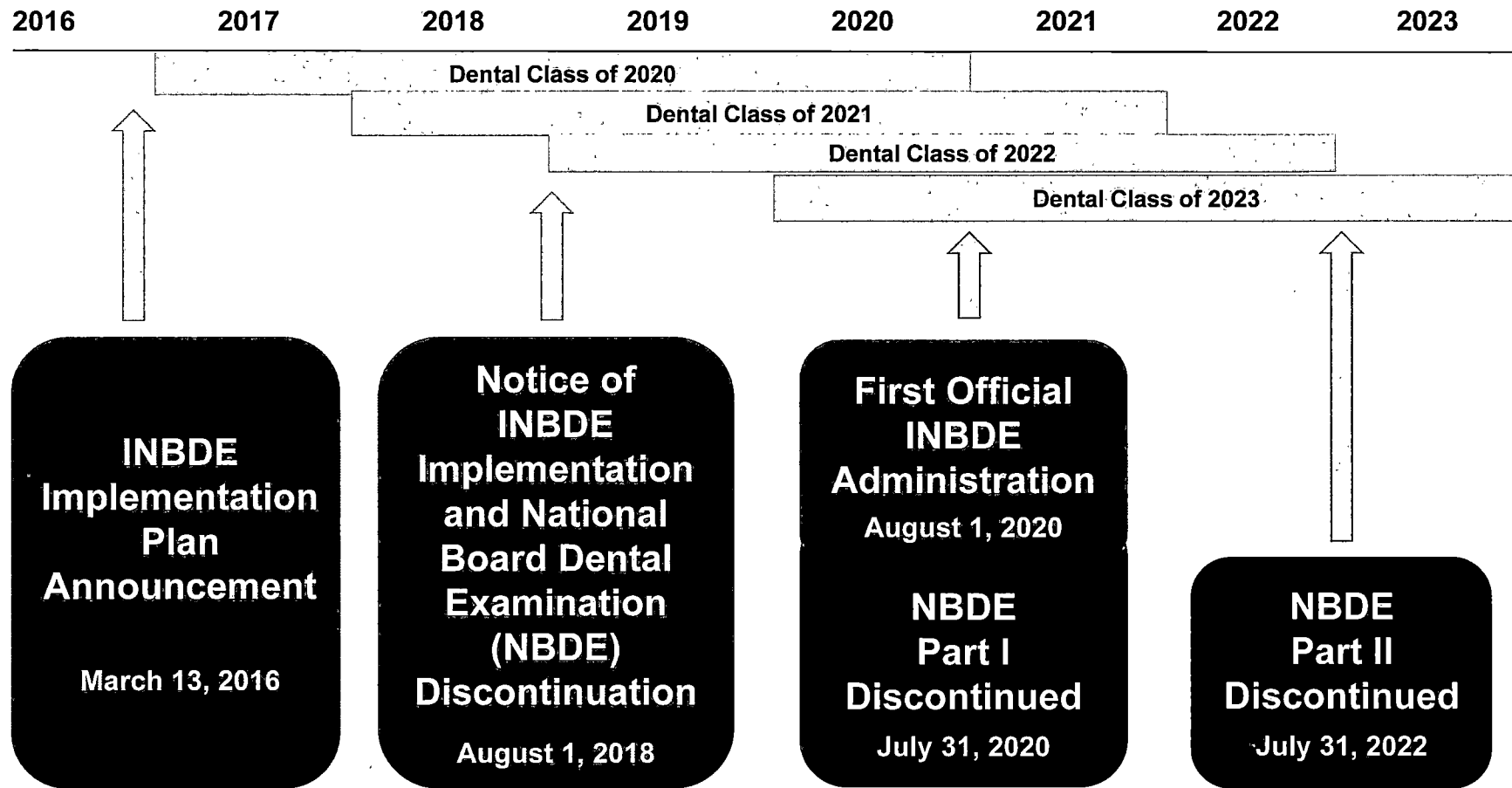
Enclosure

INBDE Implementation Plan and Recommended Actions

INBDE Implementation Plan

- The Integrated National Board Dental Examination (INBDE) is an examination that is currently in development by the Joint Commission on National Dental Examinations (JCNDE).
- The INBDE is intended to replace National Board Dental Examination (NBDE) Parts I and II. The INBDE is intended for use by state dental boards to help inform decision-making concerning the licensure of entry-level dentists.
- To address concerns from stakeholders and communities of interest regarding the timing of INBDE implementation, the JCNDE indicated it would provide four years' notice before the INBDE is implemented and the NBDE discontinued.
- The current presentation is designed to help address concerns regarding timing and provide this advance notification.
- This presentation provides stakeholders and communities of interest with information concerning how INBDE implementation will occur, the information that will be made available to help facilitate the transition, and recommended actions for stakeholders and communities of interest.
- The slide that follows shows key events associated with INBDE implementation, and the sequence of activity associated with the transition.

Integrated National Board Dental Examination (INBDE) Implementation Plan: "Best Case Scenario"



PRT: March 2016

Note: This implementation plan communicates the best case scenario. Dates presented should be interpreted as "no sooner than." Actual dates will be contingent upon field testing results. INBDE Practice Test Questions are anticipated for release in 2019.

INBDE Implementation Plan

- On August 1, 2018, the Joint Commission intends to provide stakeholders and communities of interest with notice of INBDE implementation and NBDE discontinuation. This notice will include the following:
 - The projected date when the INBDE will be first available for administration, the official name of the new examination, and how results will be reported.*
 - The dates when NBDE Part I and NBDE Part II will be discontinued.
 - Retesting policies, eligibility rules, and any additional rules needed to facilitate the transition.
- Two years after notification has been provided, NBDE Part I will be discontinued (approx. July 31, 2020). No Part I administrations will occur after this date.
- The first official administration of the INBDE is expected to take place on August 1, 2020.
- Two years after NBDE Part I is discontinued, NBDE Part II will be discontinued (approx. July 31, 2022). No Part II administrations will occur after this date.
- Notification of INBDE implementation and NBDE discontinuation is contingent upon successful completion of the INBDE Field Testing Program (not depicted in the preceding diagram).

* Similar to Part I and Part II, INBDE results will be reported as “Pass/Fail.”

INBDE Implementation Plan

- In considering the dates provided, please note the following:
 - The plan as presented communicates the “best case scenario.”
 - The dates provided may be delayed if difficulties are encountered. However, the dates will not be “moved up” (e.g., NBDE Part I will be discontinued no sooner than August 1, 2020).
 - The Joint Commission reserves the right to make changes to the plan at any time and as needed, in keeping with the Joint Commission’s mission and purpose.
 - Any significant changes to this plan will be published as soon as information becomes available.
 - The final slide in the current presentation will provide a log of changes made.

Additional Information from the JCNDE

- Information concerning the INBDE is available via the Joint Commission's website (www.ada.org/JCNDE/INBDE).
- The following information is currently available and is updated as changes occur:
 - INBDE background
 - INBDE FAQ's
 - Domain of Dentistry and general validity evidence
 - Preliminary test specifications
 - Preliminary sample questions.
- The following information will be posted as soon as it becomes available:
 - INBDE practice test questions (anticipated one year in advance of initial INBDE administration)
 - Technical report(s) providing detailed information concerning validity.

INBDE Information from other Sources (not the JCNDE)

- INBDE eligibility rules for students of U.S. dental schools accredited by the Commission on Dental Accreditation (CODA).
 - These rules are determined by each dental school.
- Additional school requirements concerning the INBDE (e.g., linking successful completion of the INBDE to graduation requirements).
 - These rules are determined by each dental school.
- Written examination requirements for each state.
 - These requirements are determined by each state dental board.

INBDE Implementation Plan Considerations

- The requirements of key stakeholders and communities of interest were carefully considered in developing the implementation plan.
 - State Dental Boards
 - Dental Schools
 - US Dental Licensure Candidates
- The following slides indicate specific considerations involving the aforementioned groups, as well as recommended actions.
- The considerations indicated should NOT be regarded as comprehensive of all of the INBDE-related interests of the aforementioned groups.

State Dental Boards

Implementation Plan Requirement	How Requirement is Addressed
<ul style="list-style-type: none"> • Provide sufficient time for state dental boards to assess and understand INBDE validity evidence. • Provide sufficient time for state dental boards to incorporate the INBDE into licensure decision-making and communicate its acceptability to future licensure candidates. • Provide sufficient time for state dental boards to prepare to receive INBDE results on day one of availability. • Consider whether any modifications to practice acts, rules, policies, or procedures will be required. • Provide sufficient time for state dental boards to accept both exam sequences: <ol style="list-style-type: none"> 1) INBDE and 2) NBDE Parts I and II. 	<ul style="list-style-type: none"> • Post and update validity information on JCNDE website as it becomes available. • Communicate validity information on annual basis at National Dental Examiners' Advisory Forum (NDEAF). • Release details of implementation plan in 2016, and provide the following notifications: <ul style="list-style-type: none"> • INBDE first administration possible as soon as 2020. • NBDE Part I final administration possible in 2020. • NBDE Part II final administration possible in 2022. • Provide notice in 2016 of JCNDE plans for indicating the official name of the INBDE and how results will be reported. Current discussions indicate the JCNDE is likely to associate the name "NBDE" with the INBDE, to ease the transition with regard to state rules and practice acts.

Recommended Actions for State Dental Boards

- Understand the INBDE and keep apprised of new developments.
 - Review information concerning the INBDE on the Joint Commission's website (www.ada.org/JCNDE/INBDE), and attend the National Dental Examiners' Advisory Forum (NDEAF) annually.
 - Review INBDE validity evidence and the results of field testing as these studies occur.
 - Monitor the website to understand and prepare for any changes as they occur.
- Prepare to use the INBDE in licensure decision-making.
 - Consider whether any modifications to practice acts, rules, policies, or procedures will be required.
 - Prepare to receive INBDE results on day one of availability.
 - Prepare to accept candidates who have successfully completed the National Boards. This could occur under either of the following sequences: 1) INBDE or 2) NBDE Parts I and II.
 - Communicate information concerning the acceptability of the INBDE to future licensure candidates.

Dental Schools

Implementation Plan Requirement	How Requirement is Addressed
<ul style="list-style-type: none"> • Provide sufficient time for U.S. dental schools to adjust curricula and prepare students for the INBDE (also consistent with current CODA requirements). • Provide sufficient time for U.S. dental schools to adjust academic policy for incoming students regarding eligibility to sit for National Board Examinations. • Provide sufficient time for U.S. dental schools to adjust academic policy for incoming students regarding school utilization of NBDE Part I and II results (e.g., as prerequisites for students to continue their studies or as a graduation requirement). 	<ul style="list-style-type: none"> • Release details of implementation plan in 2016, and provide the following notifications: <ul style="list-style-type: none"> • INBDE first administration possible as soon as 2020. • NBDE Part I final administration possible in 2020. • NBDE Part II final administration possible in 2022. • Post INBDE preliminary sample questions publicly in 2016. • Provide INBDE practice test questions one year before INBDE initial administration. • Provide updates on the INBDE annually at the ADEA conference and subsequently post the presentations online.

Note: For US candidates, dental schools now approve the eligibility of Part I and Part II examinees and will determine when their students will transition to the new exam, within the feasible available options. For international candidates, eligibility for Parts I and II involves providing proof of dental school graduation (through ECE). This practice is expected to continue for the INBDE.

Recommended Actions for Dental Schools

- Understand the INBDE and keep apprised of new developments.
 - Review information concerning the INBDE on the Joint Commission's website (www.ada.org/JCNDE/INBDE), and attend ADEA sessions on the INBDE.
 - Review INBDE validity evidence and field testing results as these studies occur.
 - Monitor the website to understand and prepare for any changes as they occur.
- Prepare your school and students for the INBDE.
 - Review and revise curricula to prepare students for the INBDE and the updated CODA standards.
 - Review academic policy for incoming students and revise as needed concerning:
 - student eligibility to sit for National Board Dental Examinations.
 - school utilization of NBDE Part I and II results.

U.S. Dental Licensure Candidates

Implementation Plan Requirement	How Requirement is Addressed
<ul style="list-style-type: none"> • Provide U.S. dental licensure candidates with a reasonable opportunity to demonstrate competence with respect to the knowledge and skills required for licensure and measured by a written examination. • Provide reasonable time and sufficient notice so candidates can plan ahead and take action to avoid being “caught between examination programs” (e.g., preparing for Parts I and II but then finding themselves forced to shift to the INBDE). • Provide sufficient time for candidates to understand retesting policies concerning the INBDE and Parts I and II during the transition period, so candidates can plan and make decisions accordingly. • Provide test specifications and practice materials so candidates can prepare for the INBDE and know what types of questions to expect. 	<ul style="list-style-type: none"> • Begin INBDE administrations before NBDE Part II is discontinued. • Release details of implementation plan in 2016, and provide the following notifications: <ul style="list-style-type: none"> • INBDE first administration possible as soon as 2020. • NBDE Part I final administration possible in 2020. • NBDE Part II final administration possible in 2022. • Provide practice test questions one year before initial INBDE administration, and post INBDE preliminary sample questions publicly in 2016. • Provide notice in 2018 concerning INBDE retest policy, and coordinate INBDE retest policy with NBDE retest policy.

Recommended Actions for U.S. Dental Licensure Candidates

- Understand the INBDE and keep apprised of new developments.
 - Review information concerning the INBDE on the Joint Commission's website (www.ada.org/JCNDE/INBDE).
 - Review INBDE test specifications and practice questions.
 - Monitor the website to understand and prepare for any changes as they occur.
- Prepare for the National Board Examinations.
 - Determine which examination track to pursue (NBDE Parts I and II or the INBDE) in consultation with the most recent INBDE implementation plan and:
 - your dental school, its requirements, and your progress in meeting those requirements.
 - the dental boards of states where you intend to apply for licensure.
 - Joint Commission policies (e.g., retesting policies under both examination tracks).
 - Study the areas indicated in the test specifications of your intended examination track.

Implementation Plan Version History

Version	Date	Changes
1.0	3/13/2016	First publication. Presented to ADEA.
1.1	3/17/2016	Slide 4 – Further clarified that no administrations for Part I or II would be conducted after the dates listed.
1.2	4/25/2016	Slide 10 – State Boards – consider modifications to practice acts, etc. (Mirror information in previous slide.)



Nevada State Board of Dental Examiners

6010 S. Rainbow Blvd., Bldg. A, Ste. 1
Las Vegas, NV 89118
(702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

1 of 2
Eval.
Reports
- DR. X -

CONSCIOUS SEDATION INSPECTION AND EVALUATION

<input checked="" type="checkbox"/> ON-SITE/ADMINISTRATOR		<input type="checkbox"/> SITE ONLY	
Name of Practitioner: <i>Dr. X</i>		Proposed Dates: <i>6/24/16</i>	
Location to be Inspected:		Telephone Number:	
Date of Evaluation: <i>6/24/16</i>		Time of Evaluation:	
		Start Time: <i>8:00</i>	Finish Time: <i>12:30</i>

Evaluators

1.	<i>V</i>
2.	
3.	

INSTRUCTIONS FOR COMPLETING CONSCIOUS SEDATION ON-SITE INSPECTION AND EVALUATION FORM:

1. Prior to evaluation, review criteria and guidelines for Conscious Sedation (CS) On-Site/Administrator and-Site Only Inspection and Evaluation in the Examiner Manual.
2. Each evaluator should complete a CS On-Site/Administrator or Site Only Inspection and Evaluation form independently by checking the appropriate answer box to the corresponding question or by filling in a blank space.
3. After answering all questions, each evaluator should make a separate overall "pass" or "fail" recommendation to the Board. "Fail" recommendations must be documented with a narrative explanation.
4. Sign the evaluation report and return to the Board office within ten (10) days after evaluation has been completed.

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JUN 26 2016
NSBDE

SITE INSPECTION

OFFICE FACILITIES AND EQUIPMENT	YES	NO
1. Operating Theater		
a. Is operating theater large enough to adequately accommodate the patient on a table or in an operating chair?	✓	
b. Does the operating theater permit an operating team consisting of at least three individuals to freely move about the patient?	✓	
2. Operating Chair or Table		
a. Does operating chair or table permit the patient to be positioned so the operating team can maintain the airway?	✓	
b. Does operating chair or table permit the team to quickly alter the patient's position in an emergency?	✓	
c. Does operating chair or table provide a firm platform for the management of cardiopulmonary resuscitation?		✓
3. Lighting System		
a. Does lighting system permit evaluation of the patient's skin and mucosal color?	✓	
b. Is there a battery powered backup lighting system?	✓	
c. Is backup lighting system of sufficient intensity to permit completion of any operation underway at the time of general power failure?	✓	
4. Suction Equipment		
a. Does suction equipment permit aspiration of the oral and pharyngeal cavities?		✓
b. Is there a backup suction device available which can operate at the time of General power failure?	✓	
5. Oxygen Delivery System		
a. Does oxygen delivery system have adequate full face masks and appropriate connectors and is capable of delivering oxygen to the patient under positive pressure?	✓	✗ need Peds Mask!
b. Is there an adequate backup oxygen delivery system which can operate at the Time of general power failure?	✓	
6. Recovery Area (Recovery area can be operating theater)		
a. Does recovery area have available oxygen?	✓	
b. Does recovery area have available adequate suction?	✓	
c. Does recovery area have adequate lighting?	✓	
d. Does recovery area have available adequate electrical outlets?	✓	
7. Ancillary Equipment in Good Operating Condition?		
a. Are there oral airways?	✓	
b. Is there a tonsillar or pharyngeal type suction tip adaptable to all office outlets?		✓
c. Is there a sphygmomanometer and stethoscope?	✓	
d. Is there adequate equipment for the establishment of an intravenous infusion?	✓	
e. Is there a pulse oximeter?	✓	

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SITE INSPECTION

DRUGS	DRUG NAME	EXPIRES	YES	NO
1. Vasopressor drug available?	epinephrine	8/17	✓	
2. Corticosteroid drug available?	Solu Corter	10/17	✓	
3. Bronchodilator drug available?	Albuterol	4/17	✓	
4. Appropriate drug antagonists available?	Flumazenil	10/18	✓	
5. Antihistaminic drug available?	Bonadaxl	8/17	✓	
6. Anticholinergic drug available?	Atropine	6/17	✓	
7. Coronary artery vasodilator drug available?	Nitroglycerin	6/18	✓	
8. Anticonvulsant drug available?	Midazolam	8/17	✓	
9. Oxygen available?	✓			

RECORDS - Are the following records maintained?	YES	NO
1. An adequate medical history of the patient?	X	
2. An adequate physical evaluation of the patient?		X
3. Sedation records show blood pressure reading?	X	X
4. Sedation records show pulse reading?		X
5. Sedation records listing the drugs administered, amounts administered, and time administered?	X	X
6. Sedation records reflecting the length of the procedure?	X	
7. Sedation records reflecting any complications of the procedure, if any?	X	
8. Written informed consent of the patient, or if the patient is a minor, his or her parent or guardian's consent for sedation?	X	

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Evaluator Overall Recommendation of Site Inspection		
<input type="checkbox"/> Pass	<input type="checkbox"/> Fail	<input checked="" type="checkbox"/> Pass Pending*

**If Pass Pending, please list all deficiencies*

Comments:

See Attached

6/24/16

Signature of Evaluator

Date

EVALUATION

DEMONSTRATION OF CONSCIOUS SEDATION	YES	NO
1. Who administered conscious sedation? Dentist's Name: _____		
2. Was sedation case demonstrated within the definition of conscious sedation?	X	
3. While sedated, was patient continuously monitored during the procedure with a pulse oximeter? If not, what type of monitoring was utilized? _____	X	
4. Was the patient monitored while recovering from sedation? Monitored by whom: _____	X	
5. Is this person a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation?	X	
6. Were personnel competent?		X
7. Are all personnel involved with the care of patients certified in basic cardiac life support?	X	X
8. Was dentist able to perform the procedure without any action or omission that could have resulted in a life threatening situation to the patient?		X
9. What was the length of the case demonstrated? <u>1 hr</u>		X

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EVALUATION

SIMULATED EMERGENCIES - Was dentist and staff able to demonstrate knowledge and ability in recognition and treatment of:	YES	NO
1. Airway obstruction laryngospasm?		
2. Bronchospasm?		
3. Emesis and aspiration of foreign material under anesthesia?		
4. Angina pectoris?		
5. Myocardial infarction?		
6. Hypotension?		
7. Hypertension?		
8. Cardiac arrest?		
9. Allergic reaction?		
10. Convulsions?		
11. Hypoglycemia?		
12. Asthma?		
13. Respiratory depression?		X
14. Allergy to or overdose from local anesthesia?		
15. Hyperventilation syndrome?		
16. Syncope?		

A BORTED

Evaluator Overall Recommendation of Evaluation

Pass Fail

Comments:

See Attached

Signature of Evaluator

6/24/16

Date

Received
 JUN 26 2016
 NSBDE

6/24/2016

Dr. X 1 5 year Site Inspection and 5 Year conscious sedation permit renewal

1. Dr. X did not take proper pre op vitals prior to sedating patient with Versed, only Blood Pressure. Dr. X stated that she takes pulse ox and heart rate 20-45 minutes after the medication is given orally when Dr. begins treatment. She also stated that patient was already sedated on Monday so did not have to check tonsils or airway today because patient was ok on Monday when she looked, today is Friday.

2. Dr. X did not have her positive pressure oxygen delivery system set up prior to sedating patient. Dr. and myself asked her to piece together two mobile oxygen tanks and positive pressure regulators so she could have one properly working unit. In addition she did not have the proper pediatric size mask for the patient she was sedating

3. Dr. X was missing proper pharyngeal type suction

4. Consent form that was signed by patient's parent stated patient will be sedated with Valium and Vistaril, patient was sedated with Midazolam. Dr. X stated that she was told that she did not have to have a sedation record for each patient. She was going to use one for today's examination but she didn't normally use a sedation record for each patient. Dr. X stated she writes info in the progress notes but her progress notes don't show pre op vitals, sats during procedure etc.

5. Dr. and myself asked her to furnish us a copy of a sedation record or form from any previous patients. Dr. X stated that in the last 5 years she only has done 2 to 3 sedation at this location but at another office she normally uses a sedation record but not at her own office because she was told she didn't need one. Dr. X was able to furnish progress notes from a sedation dated 2/17/2016. Her progress notes shows a four year old boy who was sedated at 5:00pm in the afternoon NPO status is unknown in progress notes. Recommend that the board audit to see if she can demonstrate that she has done a sedation record for previous patients at either the other dental office location or her own office. Also recommend to the board that she can demonstrate that she has done more than 2 or 3 sedations in the past five years.

6. She began her procedure at 10:45 am, spent nearly 10 minutes trying to get a pulse ox on patients toe. Had two pulse oximeters on patient's right foot and could not get a reading. Due to the long length of time it took to get a saturation reading and for safety reasons I recommended her to use the pulse ox on the patient's finger, Dr. X immediately was able to obtain a reading. On another note, Dr. X used a papsosse board which was not properly secured on the dental chair and the child was able to rock side to side in an unsafe manner, which could possibly cause the patient to roll off the chair.

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7. Began oral examination of Dr X. First scenario given by Dr [redacted] was respiratory depression. Dr X did not understand how to treat a child who had an airway obstruction including the use of positive pressure oxygen. Due to the importance of respiratory depression in children we asked her to demonstrate which mask she would use in the respiratory depression scenario, Dr X showed both Dr [redacted] and myself a simple face mask to deliver positive pressure oxygen to the patient. Due to the above items we decided to terminate the oral portion of the exam.

Recommendations:

Dr X ceases sedating children until she receives continuing education in oral sedation on children in a board approved course with the appropriate amount of training hours sedating live patients. After she receives this additional training she can be retested.

Site can be passed with the following two conditions:

1. a Pharyngeal type suction tip
2. Appropriate pediatric size mask

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2 of 2
Eval.
Reports
-Dr. Y-

CONSCIOUS SEDATION INSPECTION AND EVALUATION

<input checked="" type="checkbox"/> ON-SITE/ADMINISTRATOR		<input type="checkbox"/> SITE ONLY	
Name of Practitioner: Dr. X		Proposed Dates: 24 Jun 2016	
Location to be Inspected:		Telephone Number:	
Date of Evaluation: 24 Jun 2016		Time of Evaluation:	
		Start Time: 1000	Finish Time: 1230

Evaluators

1.	-
2.	
3.	

INSTRUCTIONS FOR COMPLETING CONSCIOUS SEDATION ON-SITE INSPECTION AND EVALUATION FORM:

1. Prior to evaluation, review criteria and guidelines for Conscious Sedation (CS) On-Site/Administrator and Site Only Inspection and Evaluation in the Examiner Manual.
2. Each evaluator should complete a CS On-Site/Administrator or Site Only Inspection and Evaluation form independently by checking the appropriate answer box to the corresponding question or by filling in a blank space.
3. After answering all questions, each evaluator should make a separate overall "pass" or "fail" recommendation to the Board. "Fail" recommendations must be documented with a narrative explanation.
4. Sign the evaluation report and return to the Board office within ten (10) days after evaluation has been completed.

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SITE INSPECTION

OFFICE FACILITIES AND EQUIPMENT	YES	NO
1. Operating Theater		
a. Is operating theater large enough to adequately accommodate the patient on a table or in an operating chair?	x	
b. Does the operating theater permit an operating team consisting of at least three individuals to freely move about the patient?	x	
2. Operating Chair or Table		
a. Does operating chair or table permit the patient to be positioned so the operating team can maintain the airway?	x	
b. Does operating chair or table permit the team to quickly alter the patient's position an emergency?	x	
c. Does operating chair or table provide a firm platform for the management of cardiopulmonary resuscitation?	x	
3. Lighting System	x	
a. Does lighting system permit evaluation of the patient's skin and mucosal color?	x	
b. Is there a battery powered backup lighting system?	x	
c. Is backup lighting system of sufficient intensity to permit completion of any operation underway at the time of general power failure?	x	
4. Suction Equipment		
a. Does suction equipment permit aspiration of the oral and pharyngeal cavities?		x
b. Is there a backup suction device available which can operate at the time of General power failure?	x	
5. Oxygen Delivery System		
a. Does oxygen delivery system have adequate full face masks and appropriate connectors and is capable of delivering oxygen to the patient under positive pressure?		x need pedo mask
b. Is there an adequate backup oxygen delivery system which can operate at the Time of general power failure?	x	
6. Recovery Area (Recovery area can be operating theater)		
a. Does recovery area have available oxygen?	x	
b. Does recovery area have available adequate suction?	x	
c. Does recovery area have adequate lighting?	x	
d. Does recovery area have available adequate electrical outlets?	x	
7. Ancillary Equipment in Good Operating Condition?		
a. Are there oral airways?	x	
b. Is there a tonsillar or pharyngeal type suction tip adaptable to all office outlets?		x
c. Is there a sphygmomanometer and stethoscope?	x	
d. Is there adequate equipment for the establishment of an intravenous infusion?	x	
e. Is there a pulse oximeter?	x	

RECEIVED

JUN 29 2016

SITE INSPECTION

DRUGS	DRUG NAME	EXPIRES	YES	NO
1. Vasopressor drug available?	epi	8/17		
2. Corticosteroid drug available?	solucortef	10/17		
3. Bronchodilator drug available?	albuterol	4/17		
4. Appropriate drug antagonists available?	flumazenil	10/18		
5. Antihistaminic drug available?	benadryl	8/17		
6. Anticholinergic drug available?	atropine	6/17		
7. Coronary artery vasodilator drug available?	nitro	6/18		
8. Anticonvulsant drug available?	midazolam	6/17		
9. Oxygen available?	yes			

RECORDS – Are the following records maintained?	YES	NO
1. An adequate medical history of the patient?	x	
2. An adequate physical evaluation of the patient?		x
3. Sedation records show blood pressure reading?	x	
4. Sedation records show pulse reading?	x	
5. Sedation records listing the drugs administered, amounts administered, and time administered?	x	
6. Sedation records reflecting the length of the procedure?	x	
7. Sedation records reflecting any complications of the procedure, if any?	x	
8. Written informed consent of the patient, or if the patient is a minor, his or her parent or guardian's consent for sedation?	x	

RECEIVED

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Evaluator Overall Recommendation of Site Inspection		
<input type="checkbox"/> Pass	<input type="checkbox"/> Fail	<input checked="" type="checkbox"/> Pass Pending*

**If Pass Pending, please list all deficiencies*

Comments: _____

Site can be passed with the following two conditions-office needs to acquire a pharyngeal type suction tip and an appropriate pediatric sized mask for the bag valve mask in the office.

Signature of Evaluator _____

26 Jun 2016
Date

EVALUATION

DEMONSTRATION OF CONSCIOUS SEDATION	YES	NO
1. Who administered conscious sedation? Dentist's Name: <u>Dr X</u>		
2. Was sedation case demonstrated within the definition of conscious sedation?	x	
3. While sedated, was patient continuously monitored during the procedure with a pulse oximeter? If not, what type of monitoring was utilized? _____	x	
4. Was the patient monitored while recovering from sedation? Monitored by whom: _____	x	
5. Is this person a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation?	?	
6. Were personnel competent?		x
7. Are all personnel involved with the care of patients certified in basic cardiac life support?	x	
8. Was dentist able to perform the procedure without any action or omission that could have resulted in a life threatening situation to the patient?		x
9. What was the length of the case demonstrated? <u>1 hr oral sedation</u>		

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JUN 29 2016

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EVALUATION

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JUN 29 2016

<i>SIMULATED EMERGENCIES</i> – Was dentist and staff able to demonstrate knowledge and ability in recognition and treatment of:	YES	NO
1. Airway obstruction laryngospasm?		
2. Bronchospasm?		
3. Emesis and aspiration of foreign material under anesthesia?		
4. Angina pectoris?		
5. Myocardial infarction?		
6. Hypotension?		
7. Hypertension?		
8. Cardiac arrest?		
9. Allergic reaction?		
10. Convulsions?		
11. Hypoglycemia?		
12. Asthma?		
13. Respiratory depression?		X
14. Allergy to or overdose from local anesthesia?		
15. Hyperventilation syndrome?		
16. Syncope?		

Evaluator Overall Recommendation of Evaluation <input type="checkbox"/> Pass <input checked="" type="checkbox"/> Fail
--

Comments: Dr X did not take proper pre op vitals prior to sedation, did not have proper functioning O2 delivery system prior to sedating pt. or proper sized pediatric mask for the pt she was sedating. Dr X was also missing proper pharyngeal suction.

~~Consent form was inaccurate in misstating correct sedation medications. Dr. X also did not have sedation records for any of her previous sedation pts and said she does not routinely use a sedation record at all only annotates the meds used in her progress note which is in direct violation of the NV board CS requirements. Dr X overall pt documentation appears less than adequate overall as to her sedation records.~~

~~During her sedation procedure we observed she had difficulty obtaining accurate pulse oximetry readings and we assisted her in this. The papoose board she used was not properly secured or positioned on the chair and was unsafe.~~

After the sedation, we began the oral exam discussing management of respiratory depression. Dr X failed to demonstrate or verbalize an understanding of how to treat a child in that scenario including use of positive pressure ventilation with oxygen delivery or medication reversal. She could also not demonstrate how to properly deliver positive pressure oxygen via bag valve mask. Due to above, we decided terminate oral exam.

Recommendations: Dr X cease any conscious sedation procedures pending additional CE in conscious sedation/airway management in a board approved course and can be retested.

26 Jun 2016

Signature of Evaluator _____ Date _____



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CONSCIOUS SEDATION INSPECTION AND EVALUATION

<input checked="" type="checkbox"/> ON-SITE/ADMINISTRATOR		<input type="checkbox"/> SITE ONLY	
Name of Practitioner: <i>D. Y</i>		Proposed Dates: <i>6/27-27-16</i>	
Location to be inspected:		Telephone Number:	
Date of evaluation: <i>6/27-16</i>		Time of Evaluation:	
		Start Time: <i>4:30</i>	Finish Time: <i>6:20</i>

Evaluators

1.	
2.	
3.	

INSTRUCTIONS FOR COMPLETING CONSCIOUS SEDATION ON-SITE INSPECTION AND EVALUATION FORM:

1. Prior to evaluation, review criteria and guidelines for Conscious Sedation (CS) On-Site/Administrator and Site Only Inspection and Evaluation in the Examiner Manual.
2. Each evaluator should complete a CS On-Site/Administrator or Site Only Inspection and Evaluation form independently by checking the appropriate answer box to the corresponding question or by filling in a blank space.
3. After answering all questions, each evaluator should make a separate overall "pass" or "fail" recommendation to the Board. "Fail" recommendations must be documented with a narrative explanation.
4. Sign the evaluation report and return to the Board office within ten (10) days after evaluation has been completed.

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SITE INSPECTION

OFFICE FACILITIES AND EQUIPMENT	YES	NO
1. Operating Theater		
a. Is operating theater large enough to adequately accommodate the patient on a table or in an operating chair?	X	
b. Does the operating theater permit an operating team consisting of at least three individuals to freely move about the patient?	X	
2. Operating Chair or Table		
a. Does operating chair or table permit the patient to be positioned so the operating team can maintain the airway?	X	
b. Does operating chair or table permit the team to quickly alter the patient's position in an emergency?	X	
c. Does operating chair or table provide a firm platform for the management of cardiopulmonary resuscitation?	X	
3. Lighting System		
a. Does lighting system permit evaluation of the patient's skin and mucosal color?	X	
b. Is there a battery powered backup lighting system?	X	
c. Is backup lighting system of sufficient intensity to permit completion of any operation underway at the time of general power failure?	X	
4. Suction Equipment		
a. Does suction equipment permit aspiration of the oral and pharyngeal cavities?	X	
b. Is there a backup suction device available which can operate at the time of General power failure?	X	
5. Oxygen Delivery System		
a. Does oxygen delivery system have adequate full face masks and appropriate connectors and is capable of delivering oxygen to the patient under positive pressure?	X	
b. Is there an adequate backup oxygen delivery system which can operate at the Time of general power failure?	X	
6. Recovery Area (Recovery area can be operating theater)		
a. Does recovery area have available oxygen?	X	
b. Does recovery area have available adequate suction?	X	
c. Does recovery area have adequate lighting?	X	
d. Does recovery area have available adequate electrical outlets?	X	
7. Ancillary Equipment in Good Operating Condition?		
a. Are there oral airways?	X	
b. Is there a tonsillar or pharyngeal type suction tip adaptable to all office outlets?	X	
c. Is there a sphygmomanometer and stethoscope?	X	
d. Is there adequate equipment for the establishment of an intravenous infusion?	X	
e. Is there a pulse oximeter?	X	

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SITE INSPECTION

DRUGS	DRUG NAME	EXPIRES	YES	NO
1. Vasopressor drug available?	Epi	10/16	X	
2. Corticosteroid drug available?	Solu-medrol	1-18	K	
3. Bronchodilator drug available?	Albuterol	4/17	K	
4. Appropriate drug antagonists available?	All Flumazenil NARCAN	6/18/9/17	X	
5. Antihistaminic drug available?	Diphenhydramine	8/16	X	
6. Anticholinergic drug available?	Atropine	9/17	K	
7. Coronary artery vasodilator drug available?	Nitroglycerin	6/18	X	
8. Anticonvulsant drug available?	Midazolam	9/16	K	
9. Oxygen available?	O ₂ Multiple Cyl.		X	

RECORDS – Are the following records maintained?	YES	NO
1. An adequate medical history of the patient?	f	
2. An adequate physical evaluation of the patient?	X	
3. Sedation records show blood pressure reading?	f	
4. Sedation records show pulse reading?	f	
5. Sedation records listing the drugs administered, amounts administered, and time administered?	X	
6. Sedation records reflecting the length of the procedure?	f	
7. Sedation records reflecting any complications of the procedure, if any?	f	
8. Written informed consent of the patient, or if the patient is a minor, his or her parent or guardian's consent for sedation?	K	

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Evaluator Overall Recommendation of Site Inspection

Pass
 Fail
 Pass Pending*

*If Pass Pending, please list all deficiencies

Comments: Facility is Excellent!

Signature: _____

Date: 6-27-16

EVALUATION

DEMONSTRATION OF CONSCIOUS SEDATION	YES	NO
1. Who administered conscious sedation? Dentist's Name: _____		
2. Was sedation case demonstrated within the definition of conscious sedation?	K	
3. While sedated, was patient continuously monitored during the procedure with a pulse oximeter? If not, what type of monitoring was utilized? _____	K	
4. Was the patient monitored while recovering from sedation? Monitored by whom: _____	K	
5. Is this person a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation?	K	
6. Were personnel competent?	K	
7. Are all personnel involved with the care of patients certified in basic cardiac life support?	K	
8. Was dentist able to perform the procedure without any action or omission that could have resulted in a life threatening situation to the patient?	K	
9. What was the length of the case demonstrated? <u>25 min</u>	K	

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EVALUATION

SIMULATED EMERGENCIES - Was dentist and staff able to demonstrate knowledge and ability in recognition and treatment of:	YES	NO
✓ 1. Airway obstruction laryngospasm?		X
✓ 2. Bronchospasm?		X
✓ 3. Emesis and aspiration of foreign material under anesthesia?	X	
✓ 4. Angina pectoris?	X	
✓ 5. Myocardial infarction?		X
✓ 6. Hypotension?		X
✓ 7. Hypertension?	X	
✓ 8. Cardiac arrest?	X	
✓ 9. Allergic reaction?	X	
✓ 10. Convulsions?		X
✓ 11. Hypoglycemia?	X	
12. Asthma?		X
✓ 13. Respiratory depression?		X
✓ 14. Allergy to or overdose from local anesthesia?	X	
✓ 15. Hyperventilation syndrome?	X	
✓ 16. Syncope?	X	

Evaluator Overall Recommendation of Evaluation

Pass Fail

Comments: DR WAS NOT ABLE TO ANSWER ORAL EXAM WITH OUT BEING HEAVILY COACHED. THOSE ARE MARKED "NO". THE ONLY MARKED "YES" DID NOT REQUIRE MUCH COACHING. MY RECOMMENDATION IS TO FAIL THIS SECTION BUT RE TEST ASAP - HE JUST NEEDS TO STUDY THE ALGOPYTHIN MORE. EVERYTHING ELSE AT THE FACILITY WAS GOOD OR EXCELLENT! HE DID NOT KNOW WHICH OF HIS SEDATIVE DRUGS MAY CAUSE RESPIRATORY DEPRESSION! THAT'S NOT ACCEPTABLE.

S: _____ OF _____

Date 6-27-16

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CONSCIOUS SEDATION INSPECTION AND EVALUATION

ON-SITE/ADMINISTRATOR SITE ONLY

Name of Practitioner: <i>Dr. Y</i>	Proposed Dates: <i>6-27-16</i>
Location to be Inspected:	Telephone Number:
Date of Evaluation: <i>6-27-16</i>	Time of Evaluation:

Evaluators

1.
2.
3.

INSTRUCTIONS FOR COMPLETING CONSCIOUS SEDATION ON-SITE INSPECTION AND EVALUATION FORM:

1. Prior to evaluation, review criteria and guidelines for Conscious Sedation (CS) On-Site/Administrator and Site Only Inspection and Evaluation in the Examiner Manual.
2. Each evaluator should complete a CS On-Site/Administrator or Site Only Inspection and Evaluation form independently by checking the appropriate answer box to the corresponding question or by filling in a blank space.
3. Answer each question. (For Site Only Inspections complete sections A, B, and C)
4. After answering all questions, each evaluator should make a separate overall "pass" or "fail" recommendation to the Board. "Fail" recommendations must be documented with a narrative explanation.
5. Sign the evaluation report and return to the Board office within ten (10) days after evaluation has been completed.

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A. OFFICE FACILITIES AND EQUIPMENT

1. Operating Theater	YES	NO
a. Is operating theater large enough to adequately accommodate the patient on a table or in an operating chair?	✓	
b. Does the operating theater permit an operating team consisting of at least three individuals to freely move about the patient?	✓	
2. Operating Chair or Table		
a. Does operating chair or table permit the patient to be positioned so the operating team can maintain the airway?	✓	
b. Does operating chair or table permit the team to quickly alter the patient's position in an emergency?	✓	
c. Does operating chair or table provide a firm platform for the management of cardiopulmonary resuscitation?	✓	
3. Lighting System		
a. Does lighting system permit evaluation of the patient's skin and mucosal color?	✓	
b. Is there a battery powered backup lighting system?	✓	
c. Is backup lighting system of sufficient intensity to permit completion of any operation underway at the time of general power failure?	✓	
4. Suction Equipment		
a. Does suction equipment permit aspiration of the oral and pharyngeal Cavities?	✓	
b. Is there a backup suction device available which can operate at the time of General power failure?	✓	
5. Oxygen Delivery System		
a. Does oxygen delivery system have adequate full face masks and appropriate connectors and is capable of delivering oxygen to the patient under positive pressure?	✓	
b. Is there an adequate backup oxygen delivery system which can operate at the Time of general power failure?	✓	
6. Recovery Area (Recovery area can be operating theater)		
a. Does recovery area have available oxygen?	✓	
b. Does recovery area have available adequate suction?	✓	
c. Does recovery area have adequate lighting?	✓	
d. Does recovery area have available adequate electrical outlets?	✓	

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7. Ancillary Equipment in Good Operating Condition?		YES	NO
a. Are there oral airways?		✓	
b. Is there a tonsillar or pharyngeal type suction tip adaptable to all office outlets?		✓	
c. Is there a sphygmomanometer and stethoscope?		✓	
d. Is there adequate equipment for the establishment of an intravenous infusion?		✓	
e. Is there a pulse oximeter?		✓	

B. RECORDS – Are the following records maintained?

1. An adequate medical history of the patient?	✓	
2. An adequate physical evaluation of the patient?	✓	
3. Sedation records show blood pressure reading?	✓	
4. Sedation records show pulse reading?	✓	
5. Sedation records listing the drugs administered, amounts administered, and time administered?	✓	
6. Sedation records reflecting the length of the procedure?	✓	
7. Sedation records reflecting any complications of the procedure, if any?	✓	
8. Written informed consent of the patient, or if the patient is a minor, his or her parent or guardian's consent for sedation?	✓	

C. DRUGS

	DRUG NAME	EXPIRES	YES	NO
1. Vasopressor drug available?	Epinephrine	10/16		
2. Corticosteroid drug available?	Solu-medrol	4/18		
3. Bronchodilator drug available?	Albuterol	4/17		
4. Appropriate drug antagonists available?	Flumazenil Narcan	10/18 9/17		

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JUL 17
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	DRUG NAME	EXPIRES	YES	NO
5. Antihistaminic drug available?	Benadryl	8/16		
6. Anticholinergic drug available?	Atropine	9/17		
7. Coronary artery vasodilator drug available?	Nitro	6/18		
8. Anticonvulsant drug available?	Midazolam	9/16		
9. Oxygen available?	Yes			

D. DEMONSTRATION OF CONSCIOUS SEDATION

1. Who administered conscious sedation? Dentist's Name: <i>Dr. Y</i>		
2. Was sedation case demonstrated within the definition of conscious sedation?	Yes	
3. While sedated, was patient continuously monitored during the procedure with a pulse oximeter? If not, what type of monitoring was utilized?	Yes	
4. Was the patient monitored while recovering from sedation? Monitored by whom:	Yes	
5. Is this person a licensed health professional experienced in the care and resuscitation of patients recovering from conscious sedation?	Yes	
6. Were personnel competent?	Yes	
7. Are all personnel involved with the care of patients certified in basic cardiac life support?	Yes	
8. Was dentist able to perform the procedure without any action or omission that could have resulted in a life threatening situation to the patient?	Yes	
9. What was the length of the case demonstrated?	Yes	

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E. SIMULATED EMERGENCIES – Was dentist and staff able to demonstrate knowledge and ability in recognition and treatment of:

	YES	NO
1. Airway obstruction laryngospasm?		✓
2. Bronchospasm?		✓
3. Emesis and aspiration of foreign material under anesthesia?	✓	
4. Angina pectoris?	✓	
5. Myocardial infarction?		✓
6. Hypotension?		✓
7. Hypertension?	✓	
8. Cardiac arrest?	✓	
9. Allergic reaction?	✓	
10. Convulsions?	✓	
11. Hypoglycemia?	✓	
12. Asthma?		✓
13. Respiratory depression?		✓
14. Allergy to or overdose from local anesthesia?	✓	
15. Hyperventilation syndrome?	✓	
16. Syncope?	✓	

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Evaluator Overall Recommendation	
<input type="checkbox"/> Pass	<input checked="" type="checkbox"/> Fail

Comments:

He didn't identify important steps during the scenarios of the exam. I had to "spoon feed" him a lot of the answers to keep the exam moving along because we were taking too much time. He was unprepared and tried to stall a lot of the exam and turn it into a conversation.

Signature of Evaluator _____

Date 6-28-16

Received
JUL 07 2016
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June 17, 2016

Adrian R Ruiz, DDS
2633 W Horizon Ridge Pkwy, Suite 130
Henderson, NV 89012

Re: Investigation Costs and Review of Investigation Process

Dear Dr. Ruiz:

On or about March 21, 2016, the Nevada State Board of Dental Examiners sent you correspondence advising you that your request for a review of the investigation process and investigation costs was forwarded to James G Kinard, DDS, Chair of the Legal and Disciplinary Resource Group. Further, the letter advised you of the Legislative Audit that was being conducted.

Please be advised, your written petition for a request to review the investigation process and the investigation costs is scheduled to be considered by the Board on Friday July 15, 2016. The meeting will be held at the Board office. Upon posting of the meeting, you will receive a copy of the Board's Agenda.

The Board would like you to attend this meeting to address your concerns. Should you have additional questions, please do not hesitate to contact the Board office.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra", is written over a horizontal line.

Debra Shaffer-Kugel, Executive Director
Nevada State Board of Dental Examiners

Cc: John Hunt, Esq. Board Legal Counsel
James G Kinard, DDS, Chair
File

Nevada State Board of Dental Examiners



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March 21, 2016

Adrian R Ruiz, DDS
2633 W Horizon Ridge Pkwy, Suite 130
Henderson, NV 89012

Re. Investigation Costs and Review of Investigation Process

Dear Dr. Ruiz:

On or about January 26, 2016, the Nevada State Board of Dental Examiners forwarded your letter dated January 18, 2016 to James G Kinard, DDS, Chair of the Legal and Disciplinary Resource Group for review and consideration.

Please be advised, Dr Kinard has requested additional information to include, but not limited to the response to your letter from the law office of Morris Polich & Purdy, LLP dated June 18, 2015, correspondence from you dated November 16, 2015, and the written response from the law office of Morris Polich & Purdy, LLP dated December 11, 2015.

Upon review of the requested information, James G Kinard, DDS, Chair of the Legal and Disciplinary Resource Group may contact you to discuss. In addition, an audit is being conducted by the Legislative Auditors with regards to investigative costs and the investigative process requested by the Sunset Committee. Once the audit is complete, there may be recommendations from the Legislative Committee to be considered by the Board.

As a courtesy, I am providing you copies of the correspondence identified above for your records. Should you have additional questions, please do not hesitate to contact the Board office.

Sincerely,

A handwritten signature in black ink, appearing to read "DK", is written over a faint, larger signature.

Debra Shaffer-Kugel, Executive Director
Nevada State Board of Dental Examiners

Cc: John Hunt, Esq. Board Legal Counsel
James G Kinard, DDS, Chair
File

Nevada State Board of Dental Examiners



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January 26, 2016

Adrian R Ruiz, DDS
2633 W Horizon Ridge Pkwy, Suite 130
Henderson, NV 89012

Dear Dr. Ruiz:

On January 22, 2016, a representative with the Las Vegas Dental Association read into the record the attached document executed with your signature under agenda item 2 Public Comment. Pursuant to state law, the document has been added to the Public Book.

Pursuant to NRS 631.368, investigations conducted in where the Board does not impose action are deemed confidential and are not public record. Your correspondence dated January 18, 2016 disclosed at least nine complaints investigated that you state resulted in remands. If the board does not imposed action against a licensee, the complaint/investigation is deemed confidential. The document you submitted during Public Comment is part of the public record. Please be advised, this information may be accessed by patients, insurance companies and other licensing jurisdictions.

As for the meeting held on December 15, 2015 by the Sunset Committee, for clarification Board Counsel was not referring to you when discussing a particular licensee receiving a breakdown of costs. The Board has responded to all of your written requests.

As for your request for the Board to review the disciplinary process, resolve complaints in a timely manner and for the Board to provide breakdown of attorney fees and investigative costs upon request, these items have been forwarded to the Legal and Disciplinary Resource Group for their review and consideration. James G Kinard, DDS, is the Chairman for this Committee and may contact you should he have questions.

If you need further assistance, please do not hesitate to contact the Board office at (702) 486-7044.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra", written over a horizontal line.

Debra Shaffer-Kugel, Executive Director
Nevada State Board of Dental Examiners

Cc: James G Kinard, DDS, Chair of Legal and Disciplinary Committee

January 18, 2016

Nevada Dental Board Member:

I have some issues I'd like to bring to your attention. My concern is that board members are unaware of how dental licensees are being treated under the current disciplinary process for the Nevada State Board of Dental Examiners ("NVBDE"). These issues include, but are not limited, to the following:

1. Firstly, I was recently "investigated" by your Dental Screening Officer ("DSO"), Bradley Strong, DDS regarding a matter of mistaken Identity (see Letter from Nevada State Board of Pharmacy dated December 4, 2015). I objected to having Dr. Strong as my DSO not only because of his proximity to my business but because he had previously been assigned as the DSO in a similar case of mistaken identity in 2008. However, John Hunt, Esq. refused to grant my request essentially stating that you can do whatever you want even regardless whether there is the appearance of conflict of interest.
2. Secondly, in a recent appearance before the Sunset Subcommittee for the Legislative Commission on December 15, 2015, John Hunt, Esq. testified, "We try to have every case resolved within 90 days." However, my recent complaint took 16 months before the DSO finally recommended that it be remanded. Please keep in mind that the original complaint filed against me on September 15, 2014 involved a patient who contested having to pay a \$42 copay for her insurance and was unhappy that additional dental work needed to be done on her teeth in spite of signing an informed consent where such patient was informed of the risks of dental work prior to any procedure(s) being performed (see Affidavit dated December 30, 2015).
3. Thirdly, I have made several requests to the NVBDE's attorney, John Hunt, Esq., for a "detailed breakdown" of all monies I have paid to the NVBDE. On December 15, 2015, John Hunt, Esq. told the Sunset Subcommittee, "Every one of those costs have to be identified and given to the individual." I have yet to receive "those costs" from Mr. Hunt (incl., legal fees, DSO fees, investigative fees, etc.) in violation of Nevada law (see NRS 239.010(3)).
4. Finally, since 2008 I've had to defend myself in nine complaints filed against me, most all of which were remanded. These complaints have cost me over \$160,000 in defense costs, and over \$58,000 in "fees and costs" for NVBDE's attorney, for a total of over \$218,000.

Therefore, I am respectfully requesting the NVBDE do the following:

- (1) Review NVBDE's disciplinary process—Many if not all of my complaints could have been resolved simply, quickly, and much less expensively through mediation and/or arbitration without a DSO or attorney, whom NVBDE paid over \$103,000.00 during fiscal year ending June 2015;
- (2) Resolve NVBDE complaints in a timely manner; and
- (3) Provide NVBDE licenses with detailed breakdown of "fees and costs" upon request.

Should you have any questions, please feel free to contact me directly at (592) 394-3832.

Very Truly Yours,

Adrian Ruiz

Adrian Ruiz, DDS

cc: Nevada State Board of Dental Examiners

encl.

Rec'd
1/22/16 (dsk)

O O
AFFIDAVIT OF ADRIAN RUIZ, DDS

STATE OF NEVADA)

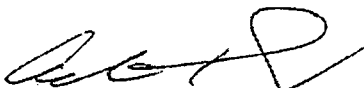
ss.

COUNTY OF CLARK)

I, ADRIAN RUIZ, DDS, depose and testify the following is true to the best of my recollection:

1. I have personal knowledge of all matters set forth in this Affidavit.
2. On or about June 16, 2010, I appeared before the Nevada State Board of Dental Examiners ("BDE") for the first part of a formal hearing.
3. I attended the hearing in order to have an opportunity to provide an explanation for a complaint filed by a patient wherein I was falsely accused of unprofessional conduct and malpractice.
4. Prior to the part of the hearing where I was to testify, John Hunt, Esq. said to me that "if you continue to defend yourself the board will suspend your license to practice dentistry."
5. In addition, John Hunt, Esq. went on to also tell me that "if you continue with the hearing your expenses will double."
6. Mr. Hunt told me that if I wanted to avoid losing my license and increasing the costs of defending myself that I should sign the Stipulation Agreement he had drafted.
7. Mr. Hunt's Stipulation Agreement required that I pay in excess of \$44,000.00 (FORTY FOUR THOUSAND DOLLARS AND NO CENTS), which primarily including the legal fees and costs he had incurred as the BDE's private attorney and with whom he is employed as the BDE's "general counsel."
8. I told Mr. Hunt that I specifically objected to his hiring a licensed dentist, Bradley Strong, DDS, to "investigate" me as a conflict of interest since such dentist practices only one mile from my own dental practice and is in direct competition with me for patients.
9. Mr. Hunt responded by telling me that "Doctor Strong will no longer be your investigator."
10. However, in 2015, Mr. Hunt again assigned Strong to investigate me for prescriptions attributed to me that were written by a pain management medical physician who has the same last name as mine.
11. These pain medications were erroneously included on the report for the Prescription Monitoring Program under my name as an obvious mistake.
12. In spite of this being a simple matter of mistaken identity, Mr. Hunt again initiated an "investigation" and again hired my competitor, Bradley Strong, DDS, to "investigate" me.
13. Again I complained about Mr. Hunt hiring Dr. Strong as a conflict of interest but this time Mr. Hunt sent me a lengthy letter justifying his decision to do so over my objections (see letter from John Hunt, Esq. dated June 18, 2015) and to which a rebuttal was sent in reply (see letter from Adrian Ruiz, DDS dated November 16, 2015).

FURTHER AFFIANT SAYETH NAUGHT.

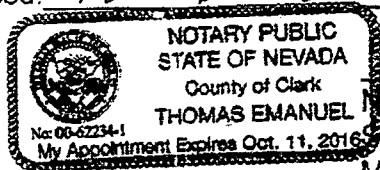


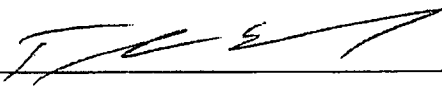
ADRIAN RUIZ, DDS

The foregoing instrument was acknowledged by me this 30th day of NOVEMBER, 2015,

by: ADRIAN RUIZ who is/are personally known by me or who has/have

produced: NEVADA DRIVER LICENSE as identification and who did take an oath.





(SEAL)
Notary Public
State of Nevada, COUNTY OF CLARK
My Commission Expires: OCTOBER 11, 2016



Nevada State Board of Pharmacy

431 W. PLUMB LANE • RENO, NEVADA 89509
(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444
E-mail: pharmacy@pharmacy.nv.gov • Website: bop.nv.gov

December 4, 2015

Adrian Ruiz, DDS

Re: Nevada State Board of Pharmacy Case No. 15-044-PH-S
Data entry errors by multiple pharmacies

Dear Dr. Ruiz,

The Nevada State Board of Pharmacy has completed its investigation of the above referenced case involving pharmacy technicians entering the wrong Dr. Ruiz as the prescriber on several prescriptions in multiple pharmacies. In our imperfect electronic world today, it is obvious that these technicians, who fill hundreds of prescriptions daily under rather frantic circumstances, are working from "drop down" screens and simply chose Adrian Ruiz rather than Adriana Ruiz in all of these instances. No excuse, but that is what occurred.

Each pharmacy involved (CVS, Nellis Care, Sav-On, Walgreen's and Wal-Mart) have all been contacted and mandated to correct their errors, which has been accomplished. These corrections were then transmitted to our PMP, so your profile should now be in order.

This matter is a prime example of why each practitioner should check their own PMP profile on a regular basis. The PMP really is nothing but a data base, the data for which is transmitted to it from the pharmacies. "Garbage in and garbage out" with any such system as they say.

We have written several articles in our Board of Pharmacy Newsletter highlighting the importance of identifying the correct prescriber when filling a prescription. We will write another.

Thank you for reporting to us; it is only through such reporting that we can remedy similar issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Dinson", with a long horizontal stroke extending to the right.

Larry L. Dinson, Pharm. D.
Executive Secretary



April 14, 2016

Martin Lipsky MS, MD
Chancellor-South Jordan Campus
Roseman University of Health Sciences
10920 S River Front Pkwy South Jordan, UT
[REDACTED]

Frank W. Licari, DDS, MPH,
MBA Dean, College of Dental Medicine
Roseman University of Health Sciences
10920 S River Front Pkwy South Jordan, UT
[REDACTED]

Re: Memorandum of Agreement (Volunteers in Medicine of Southern Nevada)

The following is a Memorandum of Agreement for the Volunteers of Medicine of Southern Nevada. Please sign the final page and return at your convenience. The details of the Memorandum are stated below:

MOA Purpose: To establish a community-based clinical rotation with Volunteers in Medicine of Southern Nevada in conjunction with the Colleges of Pharmacy, Nursing, and Medicine.

Partner Description: Volunteers in Medicine of Southern Nevada is a non-profit organization with the mission to "Provide quality health care and support for people without access to health care in Southern Nevada within a culture of caring." At VMSN Clinics, volunteers provide free medical care, basic diagnostic testing and medications for uninsured, low-income individuals and their families who qualify for our services. Their new clinic, donated by Phil Ruffin owner of Treasure Island Hotel and Casino, has expanded its services to oral health care in a new 4 chair dental clinic. Our hope is to join the Roseman University Colleges of Nursing, Pharmacy, and Medicine in their effort to educate Roseman's students while serving in the VMSN clinics.

Approved Changes in MOA: All changes to our standard affiliation agreement have been approved and authorized with Dr. Nandi and Terrell Sparks.

Thank you,

Aaron Ferguson, DMD, CPH
Director of Public Health Sciences Education
College of Dental Medicine
Roseman University of Health Sciences
[REDACTED]

Received
JUN 07 2016
NSBDE

AFFILIATION AGREEMENT BETWEEN

Roseman University of Health Sciences South Jordan Campus
College of Dental Medicine
and
Volunteers in Medicine of Southern Nevada

THIS AGREEMENT is entered into by and between the Roseman University of Health Sciences South Jordan Campus - College of Dental Medicine, located at 10894 S. Riverfront Parkway, South Jordan, UT 84095, hereinafter referred to as the "CODM" and the Volunteers in Medicine of Southern Nevada (1240 North Martin Luther King Blvd. Las Vegas, NV 89106) hereinafter referred to as the "Practice Site".

WHEREAS, the CODM has a curriculum to educate dentists; and,

WHEREAS, clinical dental practice experience is a required and integral component of the dental school curriculum and professional preparation; and,

WHEREAS, the CODM desires the cooperation of the Practice Site and its staff in the development and implementation of the community-based clinical rotations for its students; and,

WHEREAS, the Practice Site recognizes its professional responsibility to contribute to the education and professional preparation of dental students;

NOW THEREFORE, in consideration of the mutual agreements set forth herein, the CODM and the Practice Site enter into this agreement on the terms and conditions set forth below to establish the Practice Site as a community-based clinical rotation site.

The CODM agrees to:

1. Appoint a faculty member to administer the CODM's responsibilities related to the community-based clinical rotation.
2. Assume responsibility for assuring compliance with the educational standards established by the Commission on Dental Accreditation.
3. Refer to the Practice Site only those students who have satisfactorily completed the prerequisite portion of the curriculum.
4. Inform the students of the Practice Site's requirements for acceptance and direct the student to comply with the existing rules and regulations of the Practice Site.
5. Communicate to the Practice Site each student's educational preparation and qualifications.
6. Establish and maintain ongoing communication with the Practice Site on items pertinent to Doctor of Dental Medicine education. On-site visits will be arranged when feasible and/or upon request by the Practice Site.
7. Prohibits the publication by the students, faculty or staff members of any material relative to their community-based clinical rotation that has not been reviewed by the

Practice Site and the appropriate faculty member at the CODM, in order to assure that infringement of patients' rights to privacy is avoided. Any article written by a student must clearly reflect that the CODM or Practice Site does not endorse the article, even where a review has been made prior to publication. This is accomplished by requiring the following disclaimer to appear with each such article written: "The opinion and conclusions presented herein are those of the author and do not necessarily represent the views of the Roseman University CODM or Practice Site.

The Practice Site agrees to:

1. Designate a Coordinator acceptable to the CODM, who will be responsible for the supervision of the student(s) and the planning and implementation of the community-based clinical rotation.
2. Provide the Coordinator with sufficient time and commitment to become calibrated to the CODM assessment standards.
3. Provide the Coordinator with sufficient time to supervise, plan, and implement the clinical rotation including, when feasible, time to attend relevant meetings and conferences.
4. Allow Students to perform services for patients under the direct supervision and control of a designated licensed dentist.
5. Maintain, at all times, responsibility for and control and supervision of patient care.
6. Require a student to render only those services within the student's educational preparation and qualifications, and related to the objectives of the community-based clinical rotation.
7. In the event of illness or injury, make emergency first aid available, activation of EMS when appropriate, and referral to an appropriate medical provider without the practice site being responsible for the costs.
8. In the event Students sustain a blood-borne pathogen exposure to bodily fluids or a needle stick with a contaminated needle, Practice Site agrees to provide or give the student immediate access to the following services through referral to an appropriate medical provider:
 - Providing Employee Health Services as soon as possible after the injury to the Student.
 - Providing emergency medical care and employee health service as soon as possible following the injury.
 - HIV Counseling and appropriate testing.
 - Initiation of Hepatitis B (HBV), Hepatitis C (HCV), and HIV protocols as needed.
 - The source patient's HBV, HCV and HIV status will be determined by Clinic in the usual manner to the extent possible.
 - CODM will provide the necessary insurance billing information with the Practice Site not being responsible for any costs involved.
9. Advise the CODM of any changes in its personnel, operation, or policies which may affect the community-based clinical rotation.
10. Permit, upon reasonable request, the inspection of the community-based clinical rotation facilities, the services available for the community-based clinical rotation, student records, and other such items pertaining to the community-based clinical

rotation by the CODM and/or agencies charged with the responsibility for accreditation of the College of Dental Medicine program.

11. Make available to CODM and the student with a copy of the Practice Site's existing rules, regulations, policies, and procedures with which the student is expected to comply.
12. Make available the physical facilities and equipment necessary to conduct the community-based clinical rotation and, whenever possible, the use of library facilities, reference materials, reasonable study and storage space, and any other specialized learning experiences.
13. Evaluate the performance of the student on a regular basis using the evaluation form supplied by the CODM. It will then be the mutual responsibilities of the student, faculty member, and coordinator to devise a plan by which the student may be assisted to achieve the stated objectives.
14. Ensure that services provided by Clinic shall be provided in accordance with professional standards and all applicable federal, state or local governmental laws and regulations.
15. Comply with all federal, state, and local laws and ordinances concerning the confidentiality of student records and concerning human subject research, if students participate in such a research program.
16. Indemnify and hold CODM and its students, employees and authorized agents harmless against any and all liability and expenses against CODM and its students, employees and authorized agents as a result of negligent, wrongful act or omission of the Practice Site related to this community-based clinical rotation.
17. In the event of a clinical incident involving the student that may reasonably be expected to involve a potential claim to one of the University's or student's insurance policies, Practice Site shall provide and allow the University to review any and all Incident Reports prior to asking the student to sign the incident report(s).

Rights/Responsibilities of the Student

The CODM will notify each student that he or she is responsible to:

1. Provide prior to the commencement of the community-based clinical rotation such information as may be required by the CODM or deemed necessary for the education and guidance of the student, together with the student's authorization for release of such information as permitted by law.
2. Abide by existing rules, regulations, policies, and procedures of the Practice Site.
3. Observe and respect all patients' rights, confidences, and dignity.
4. Notify the CODM and the Practice Site immediately whenever absence from the Practice Site becomes necessary.
5. Dress in appropriate attire for the community-based clinical rotation as established by the CODM, and secure transportation and living accommodations as necessary, to participate in the community-based clinical rotation.

The CODM and the Practice Site mutually agree to:

1. Pursue the educational objectives for the community-based clinical practice experience, devise methods for their implementation, and continually evaluate the effectiveness of the community-based clinical practice experience in meeting the objectives.
2. Make no distinction among students covered by the Agreement on the basis of race, religion, sex, creed, age, handicap, or national origin. For the purpose of this agreement, distinctions on the grounds of race, religion, sex, creed, age, handicap, or national origin include, but are not limited to the following: denying a student any service or benefit or availability of a facility; providing any service or benefit to a student which is different or is provided in a different manner or at a different time from that provided to other students under this Agreement; subjecting a student to segregation or separate treatment in any matter related to receipt of any advantage or privilege employed by others receiving any service or benefits; treating a student or potential student differently from others in determining whether they satisfy any admission, enrollment, quota, eligibility, membership or any other requirement or condition which individuals must meet in order to be provided any service or benefit.
3. Acknowledge that the students of the CODM are fulfilling specific requirements for community-based clinical rotation as part of a degree and therefore, the students of the CODM are not to be considered employees of either the CODM or the Practice Site, regardless of the nature or extent of the acts performed by them, for the purposes of Worker's Compensation, employee benefit programs, or any other purpose.
4. Withdraw from the community-based clinical rotation any student whose performance is unsatisfactory, whose personal characteristics prevent desirable relationships within the Practice Site, or whose health status is a detriment to the student's successful completion of the community-based clinical rotation. The Practice Site will have the right to recommend the CODM make a withdrawal, with such a request to be in writing and to include a statement of the reason why the Practice Site recommends the student to be withdrawn. The CODM may withdraw a student from the community-based clinical rotation at any time, upon written notice to the Practice Site.
5. Determine the number of students able to participate in the Practice Site's community-based clinical rotation, and the period of time for each student's clinical rotation. The planned schedule of student assignment will be made at least one month prior to the commencement of the student's community-based clinical rotation, and may be altered by mutual agreement with due consideration given to both parties.

Insurance and Indemnification:

- a. For Students on rotation at the Practice Site pursuant to this Agreement, the CODM shall obtain and maintain in full force and effect for each Student assigned to the Practice Site, professional liability insurance in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.
- b. Practice Site shall maintain in full force and effect throughout the term of this Agreement: (1) professional liability insurance in an amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate (2) general liability insurance in an

amount not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate; and, (3) worker's compensation insurance as required by law.

- c. It is understood that the insurance coverage's required by this Section shall be a continuing obligation and condition of this Agreement. CODM and Practice Site shall, respectively, be responsible for satisfying any of its own deductible of self-insured retention.
- d. Each Party to this Agreement shall indemnify and hold harmless the other Party and its affiliated corporations and entities, and its directors, trustees officers, agents and employees against any and all damages, losses, costs and expenses (including reasonable attorneys' fees) incurred in connection with claims or demands for injury or damage arising from or caused by the indemnifying Party's negligent or willful acts or failure to act or the negligent or willful acts or failure to act of its directors, trustees, officers, agents and employees in connection with the subject matter of this Agreement.

Terms of Agreement

- 1. This agreement shall commence on the signature date by the Practice Site and shall remain effective for a term of three years upon execution by both parties. This agreement will be automatically renewed at the term end after appropriate review by both parties, unless otherwise indicated in writing by one of the parties at least thirty (30) days prior to the end of the term.
- 2. It is understood and agreed that the parties to this agreement may revise or modify this agreement by written amendment when both parties agree to such amendment.
- 3. If either party wishes to terminate this agreement prior to the end of its normal term, ninety (90) days written notice shall be given to the other party. However, any such termination by the Practice Site shall not be effective as to any student who was participating in said program until such student has completed the program.
- 4. Other consideration or additional considerations:

Received
JUN 07 2016
NSBDE

FOR THE CODM:

Sign: Frank W. Licari
Name: Frank W. Licari, DDS, MPH, MBA
Title: Dean, College of Dental Medicine
Roseman University of Health Sciences
Date: 4-15-16

FOR THE PRACTICE SITE:

Sign: Christini A. Peterson
Name: Christini A. Peterson
Title: Chief Operating Officer
Facility: CAUSH INC
Date: 2/1/16

Sign: Martin Lipsky
Name: Martin Lipsky, BS, MS, MD
Title: Chancellor, South Jordan Campus
Roseman University of Health Sciences
Date: 4-19-2016

Sign: _____
Name: _____
Title: _____
Facility: _____
Date: _____

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Engelstad School of Health Sciences
Charleston Campus
Sort Code W3K
6375 West Charleston Boulevard
Las Vegas, NV 89146-1164

702.651.5684
fax: 702.651.5877

July 15, 2015

Dr. Rebecca Edgeworth
Volunteers in Medicine of Southern Nevada
4770 Harrison Dr., Ste. 200
Las Vegas, NV 89121

Dear Dr. Edgeworth;

On behalf of the College of Southern Nevada, I want to thank you for offering your facility. We are grateful for the support offered by your facility to provide educational experiences for our students.

Enclosed is a signed affiliation agreement for your records.

Thank you again for offering this opportunity for our students.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hamilton", written in a cursive style.

Josh Hamilton, DNP, RN-BC, NP-C, CNE
Dean, Engelstad School of Health Sciences

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STUDENT TRAINING AGREEMENT

This STUDENT TRAINING AGREEMENT ("Agreement"), is effective as of June 1, 2015, by and between VMSN, Inc. dba Volunteers in Medicine of Southern Nevada, a Nevada non-profit corporation ("Clinic"), and the Board of Regents of the Nevada System of Higher Education on behalf of the College of Southern Nevada ("School").

This Agreement is made with reference to the following facts:

A. WHEREAS, School conducts the health education programs for students ("Program") listed in Exhibit A, which require clinical experience in (see attached Exhibit "A") in order to acquire technical skill (the "Training Experience").

B. WHEREAS, Clinic operates together with their related ancillary facilities which provide health care to patients (collectively, "Clinic" or "Clinics").

C. WHEREAS, Clinic is willing to allow School's Students (referred to individually as "Student" or collectively as "Students") to receive Training Experience at its facilities located at 4770 Harrison Dr. #200, Las Vegas, NV 89121 and other Las Vegas facilities in order that Student may receive the required clinical experience, all upon the terms and conditions and subject to the limitations set forth in this Agreement.

THEREFORE, it is agreed between the parties as follows:

1. RESPONSIBILITIES OF SCHOOL.

1.1 **Program Under Jurisdiction of School.** The Program conducted pursuant to this Agreement is an education program of School and not Clinic. Students participating in the Program shall be under the exclusive jurisdiction of the School at all times. Notwithstanding the foregoing, the time, place and subject matter of all educational activities at the Clinic, including plans therefore, shall be subject to the approval of Clinic, and School assumes responsibility for assuring that Students observe the rules and regulations of Clinic and that nothing is done which might prove detrimental to Clinic or its patients. Further, School shall:

(a) Designate a faculty member ("Faculty Coordinator") who shall be responsible for the development, coordination, implementation and supervision of the Student's experience at Clinic in consultation with the Designated Representative of Clinic.

(b) Maintain records and reports of the Student's Training Experience for a period of not less than four (4) years;

(c) Notify the Clinic in advance of the planned Training Experience, to include area, date of arrival and name of the Student. This schedule shall be subject to the Clinic's approval, which approval shall not be unreasonably withheld;

(d) Use all reasonable efforts to assure Student's compliance with Clinic's policies and procedures, rules and regulations, including maintaining confidentiality with respect to all confidential information acquired in the course of the Training Experience;

(e) Provide a copy of the performance objectives for the Training Experience and the assurance that the Student is academically prepared to meet such objectives;

(f) Consult with Clinic's Designated Representative with respect to a Student

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evaluation process pertaining to the Training Experience;

(g) Assure that Student assigned to Clinic, prior to any observation period or participation in any clinical experience, has received training in blood and body fluid standard precautions consistent with the U.S. Centers for Disease Control and Prevention Guidelines. Documentation of such training will be provided to Clinic upon request;

(h) Assure that Student has obtained the physical examination, maintains medical insurance, and has complied with such other requirements upon request of Clinic, and submit documentation of that compliance;

(i) Inform Student, prior to the Student's participation in the clinical portion of the Program at Clinic, of the Student's responsibilities as set forth in Paragraph 3 and in Exhibit B "Confidentiality Statement", and Exhibit C "Student's Responsibilities Prior to and During Student's Training Experience at Clinic." of this Agreement.

(j) Maintain and evidence the insurance and/or self-insurance program participation required by the provisions of Paragraph 6 throughout the term of this Agreement and, unless said insurance provides coverage on an occurrence basis, for at least three (3) years following termination of this Agreement; and

(k) Assure that Student has signed Exhibit "B", Confidentiality Statement, and Exhibit "C", Student's Responsibilities Prior to and During Student's Training Experience at Clinic.

(l) Conduct an OIG List of Excluded Providers,

(i) School represents and warrants that it has checked the OIG List of Excluded Providers ("List") and that School and no Students provided under this Agreement appear on said List. Further, School represents and warrants that School and no Student provided by School under this Agreement is subject to sanction or exclusion from participation under any federal or state health care program. In the event that School becomes so sanctioned or excluded, Clinic may immediately terminate this Agreement. In addition, any Student or School personnel who become so sanctioned or excluded during the term of this Agreement shall be immediately removed from the Clinic by School, if applicable, and shall be thereafter as pertains to this Agreement excluded from the Clinic. Removal of any excluded personnel pursuant to this Section shall not preclude Clinic's right to immediately terminate this Agreement.

(ii) School shall provide proof of compliance of School's obligations pursuant to this Section 1.1(l) promptly upon request by Clinic. Failure to comply with the obligations of this Section shall be deemed a material breach of this Agreement.

1.2 **Cooperation and Coordination with Clinic.** In order to assure the effectiveness of the Program, School and Clinic will work together in planning and implementing the Program, and in this connection, shall advise one another of the philosophy, objectives, policies and regulations of their respective institutions.

1.3 **No Compensation.** The Program conducted hereunder shall be conducted without the payment of any monetary consideration by School or Clinic to the other or by or to any Student participating in the Training Experience.

1.4 **Evaluation and Grading of students.** School and its faculty are solely responsible

for the evaluation and grading of its students and will assign the final course grade, and may receive any input as to the student performance from the clinic representatives as the faculty deem appropriate or necessary.

2. CLINIC'S RESPONSIBILITIES

2.1 Clinic shall:

(a) Appoint a Designated Representative who shall consult with the School Faculty Coordinator for the purpose of implementing and coordinating the Training Experience at Clinic. The Clinic's Designated Representative is authorized to provide any approval, which is required by the terms of this Agreement but is not authorized to approve any amendment to or waiver of the terms of this Agreement;

(b) Provide appropriate general patient care facilities for the Training Experience conducted under this Agreement, including classroom and conference room space when available, provided that the presence of the Students shall not be allowed to interfere with the regular activities of the Clinic;

(c) Provide opportunities to Student to enable Student to acquire clinical experience as required by Program but only to the extent that the existing facilities and varying patient census of Clinic permit;

(d) Permit designated Clinic personnel to participate with the faculty of School in the instruction of Student at Clinic; however, this shall not interfere with the service commitments of Clinic personnel;

(e) Provide a reasonably safe area for storage of Student's personal belongings, although Clinic does not assume responsibility for any personal belongings of Students;

(f) Provide the same cafeteria privileges to Student as are available to Clinic staff;

(g) Permit the inspection of clinical and related facilities by agencies charged with the responsibility for accreditation of School;

(h) Maintain and evidence the insurance and/or self-insurance program participation required by the provisions of Paragraph 6 throughout the term of this Agreement;

(i) Maintain ongoing communication with School; and

(j) Provide instruction in safety and require that Students adhere to all safety regulations established by the Clinic. Clinic will provide safety education and orientation to safety equipment, policies, and procedures at the time of student orientation. The Clinic will provide all necessary personal protective equipment, appropriate safety equipment and related information for students during assigned clinical experiences.

(k) The Clinic will provide emergency medical treatment in the event of an accident or injury. All expenses for the emergency treatment are the responsibility of the Student. Student is responsible for all follow-up treatment after emergency treatment has been given.

Received

JUN 07 2016

NSBDE

3. STUDENT'S RESPONSIBILITIES.

3.1 **Education Primary Responsibility.** It is understood and agreed that Student assigned to Clinic pursuant to this Agreement is assigned primarily for purposes of education and training, and at no time shall replace Clinic personnel in the provision of patient services. Prior to participating in the Training Experience, shall:

(a) Provide Clinic with certification of training in standard precautions for handling blood and body fluids consistent with U.S. Centers for Disease Control and Prevention guidelines;

(b) Provide evidence of medical insurance coverage,

(c) Provide evidence of a current physical examination or certification from a licensed physician that the Student is in a state of good health and is free from any casually transmitted communicable disease in a contagious stage, and including proof of current status of the following:

(i) Negative result to an 8-panel drug screen consistent with testing done on Clinic employees but no less than an 8-panel drug screen.

(ii) Tuberculosis: proof of non-infectivity with pulmonary tuberculosis by completing either (1), (2), (3) or (4):

(1) Two-step TB skin test (TST) for students with no history or a positive TST who have not been tested in the last 12 months;

(2) One step TST test for students with proof of a negative TST in the last 12 months;

(3) Negative chest radiograph for students with proof of past positive TST;

(4) Negative blood test results.

(iii) Rubella: documented receipt of one vaccination after 1st birthday, history of disease, born before 1957, serological evidence of immunity or statement of refusal;

(iv) Rubeola: documented receipt of two vaccinations on or after first birthday, history of disease, born before 1957, serological evidence of immunity or statement of refusal.

(v) Chicken pox: documented receipt of vaccination, history of the disease, serological evidence of immunity or statement of refusal.

(vi) Hepatitis B: documented vaccine series of three doses, serological evidence of immunity or statement of refusal.

(vii) Tetanus and diphtheria: documented inoculation within ten (10) years

(d) Execute and transmit to Clinic a Confidentiality Statement in the form

attached hereto, marked **Exhibit B**; and Declaration of Responsibilities marked **Exhibit C**.

(e) Conform to all applicable Clinic policies, procedures, and regulations, and such other requirements and restrictions as may be mutually specified and agreed upon by the Designated Representatives of Clinic and School;

(f) Be responsible for his or her own support, maintenance and living quarters while participating in the Training Experience and for transportation to and from Clinic.

3.2 **Student Access to Clinic Facilities.** Access to the facilities of Clinic by Student shall be allowed only to the extent that access is necessary for the implementation of the Training Experience.

4. **RELATIONSHIP.** Student and faculty, while participating in the Training Experience conducted pursuant to this Agreement, shall not be considered employees of Clinic. Clinic does not assume any liability under any law relating to workers' compensation on account of any act of any Student or faculty performing any duty, receiving or participating in any clinical experience and training, or traveling pursuant to this Agreement. Student and faculty participating in the Training Experience shall not be entitled to any monetary remuneration from Clinic for services performed by them, in the course of receiving clinical experience pursuant to this Agreement.

5. **TERMINATION OF STUDENT.** Notwithstanding anything in this Agreement to the contrary, Clinic may suspend the right of any Student participating under the terms of this Agreement to participate in the Training Experience at Clinic if, in the sole judgment and discretion of Clinic, the conduct, health or attitude of the Student threatens the health, safety, or welfare of any patient at Clinic or the confidentiality of any information relating to a patient. This action shall be taken by Clinic only on a temporary basis until Clinic has consulted with representatives of School. The consultation shall include an attempt to resolve the suspension, but the final decision regarding the Student's continued participation in the Training Experience at Clinic is vested in Clinic. The procedures referred to in this Paragraph are separate from any procedures of School relating to the Student's continued participation in Program at School.

6. **INSURANCE.**

6.1 **Insurance.** School and Clinic shall purchase and maintain in full force and effect during the term of this agreement the following insurance or equivalent program of self-insurance:

(a) Commercial or comprehensive general liability insurance with a combined single limit each occurrence for bodily injury and property damage not less than \$1,000,000. Such insurance shall include personal and advertising injury with an annual aggregate limit not less than \$2,000,000.

School shall secure and maintain for each Student participating in the Training Experience professional liability/errors and omissions insurance in amounts of not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate. School warrants and represents that Students are not employees of the Nevada System of Higher Education, its institutions, or of the State of Nevada. Nevada Revised Statute 41.035, which

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limits awards for damages against present or former officers or employees of the State or of any political subdivision to \$100,000 does not, therefore, apply to students.

(b) Clinic and School shall each at their own expense maintain Workers' Compensation insurance for their own employees, as required under Nevada State law or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required; such insurance shall include Employer's liability with a limit not less than \$1,000,000 per occurrence.

6.2 Continuous Coverage. Such insurance shall be on an occurrence basis. In order for the acts and omissions of School or Clinic to be continually covered there must be insurance coverage for the entire period commencing with the effective date of this agreement and ending on the date that is at a minimum one (1) month after the final termination date of this agreement including any extensions or renewals thereof.

6.3 Insurance Company. All required insurance shall be placed with an insurance company or companies licensed to do business in the State of Nevada, and currently rated A.M. Best as A - IX or better. Notwithstanding this requirement, School acknowledges that Clinic's medical professional liability coverage is obtained through the Federal Tort Claims Act Free Clinic program in association with HRSA.

6.4 Primary Insurance. Clinic and School agree that other than the self-insurance general liability insurance, such policies are primary insurance and shall not contribute to or be excess of any other insurance or self-insurance available to the insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit may be brought.

6.5 Certificates of Insurance/Evidence of Protection. If requested, the parties will furnish to one another certificates of insurance or evidence of self-insurance evidencing the required insurance coverage. Such insurance shall contain a provision that the coverage cannot be cancelled, terminated or materially changed without 30 days written notice to the other party except that 10 days written notice shall be given for non-payment of premium.

6.6 Waiver of Subrogation. The parties agree to waive subrogation against each other. Each liability insurance policy shall provide for waiver of subrogation against the School.

6.7 Mandatory Insurance. The insurance requirements under this section are mandatory. Failure of either party to request certificates of insurance shall not constitute a waiver of either party's obligations and requirements to maintain the coverage specified in this section.

6.8 Clinic Insurance. Clinic shall keep and maintain, at its sole cost and expense, professional liability/errors and omissions coverage for acts and omissions of Clinic, its officers, employees and agents. All such insurance shall be issued upon such forms and in such amounts that are customary in the Clinic industry or through programs of self-insurance.

6.9 Indemnity. To the extent limited in accordance with Nev. Rev. Stat. ("NRS") 41.035 to 41.039, School shall indemnify, defend and hold harmless Clinic, its officers, employees and agents from and against any and all liabilities, claims, losses, costs or expenses to the person or property of another, lawsuits, judgments, and/or expenses, arising either directly or indirectly from any act or failure to act by School, any of its officers or employees or any Student which may occur during or which may arise out of

the performance of this Agreement.

E. Clinic hereby agrees to indemnify, defend, save and hold harmless School, its officers, employees and agents from and against any and all liabilities, claims, losses, costs or expenses to the person or property of another, lawsuits, judgments, and/or expenses, arising either directly or indirectly from any act or failure to act by Clinic or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement. In no event shall Clinic's obligation to indemnify, defend, save and hold harmless pursuant to this Section exceed the sum of \$100,000.00 nor shall Clinic be responsible for any amount as exemplary or punitive damages.

7. **APPROVAL AND QUALIFICATION.** Only Students who have satisfactorily completed the pre-clinical didactic portion of the Program, which is prerequisite to clinical experience, shall participate in the Training Experience at Clinic. The number of Students to participate at any one time shall be approved by Clinic.

8. **PROHIBITION AGAINST DISCRIMINATION.** Clinic, School or Student participating in the Program shall not discriminate against any person because of race, color, creed, age, sexual orientation, national origin, sex, marital status, or veteran's status as provided by law. In addition, Clinic, School, or Student shall not discriminate against any person because of handicap under Section 504 of the federal Rehabilitation Act of 1973 or disability under the Americans with Disabilities Act of 1990.

9. **DESTRUCTION OF FACILITIES.** In the event that Clinic facilities shall be partially damaged or destroyed by fire, earthquake, or other catastrophe, and such damage is sufficient to render the facilities untenable but not entirely or substantially destroyed, this Agreement shall be suspended until such time as Clinic determines that the premises or the facilities shall again be tenable.

10. **TERM AND TERMINATION.**

10.1 **Term.** This Agreement, except as otherwise expressly provided, is effective as of the date stated in the first paragraph of the Agreement and shall terminate five (5) years later unless terminated earlier under any of the following provisions. This agreement can be renewed at any time during the 5-year term by mutual written agreement of both parties.

10.2 **Termination.**

(a) This Agreement may be terminated, without penalty or cause, at any time by either party by giving to the other party a Ninety Day (90) written notice by registered mail to the people at the addresses set forth below the signatures at the end of this Agreement, with the effective date of termination specified in said notice. Such termination shall not take effect with regard to Students already in the Training Experience until such time as those Students have completed their Training Experience.

(b) The provisions of Paragraphs 1.1(k), 2.1(h), 6 and 7 shall survive any termination of this Agreement.

11. **GENERAL PROVISIONS.**

11.1 **Amendment.** This Agreement may not be amended except in writing signed by the authorized representatives of both parties.

11.2 **Governing Law.** The laws of the State of Nevada shall govern this Agreement.

11.3 **Notice.** Any notice, demand, request, consent, approval or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by pre-paid, first-class mail or overnight delivery to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated upon receipt or in four (4) days from the date-stamped time of mailing if mailed as provided in this Section, whichever first occurs. Alternatively, either party may fax notices, provided that fax notices shall be deemed communicated upon confirmation of successful transmission of the fax notice.

To Clinic:

VMSN, INC.
ATTN: Rebecca Edgeworth, MD
Medical Director
4770 Harrison Dr.
Las Vegas, NV 89121

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JUN 07 2016
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To School:

College of Southern Nevada
Office of the Dean, School of Health Sciences
6375 W. Charleston Boulevard
Sort Code WCK321
Las Vegas, NV 89146
Phone: (702) 651-7488
Fax: (702) 651-7464

11.4 **Counterparts.** This Agreement may be executed in several counterparts, each of which so executed shall constitute one and the same instrument.

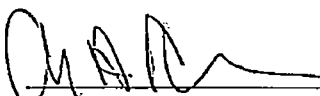
11.5 **Modification and Amendments.** The terms and provisions of this Agreement may be modified or amended by mutual consent of the parties to this Agreement. In the event of a conflict, the terms and conditions of this Agreement will take precedence over those of any similar agreement.

11.6 **Severability of Terms.** If any provision of this Agreement shall be deemed invalid or unenforceable by a court of appropriate jurisdiction, then such unenforceable or invalid provision shall be deemed to be deleted from this Agreement. All remaining provisions of the Agreement shall be deemed to be in full force and effect.

THIS AREA INTENTIONALLY LEFT BLANK

11.7 **Entire Agreement.** This Agreement and Exhibits attached hereto constitute the entire Agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements and no other representations or understandings of the parties shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. This Agreement may not be modified except by an instrument in writing executed by the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the date first written above.

By: 
Christine A. Petersen MEd
Chief Operating Officer

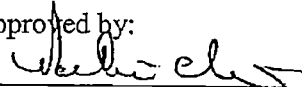
Date: 6/25/15

Board of Regents of the Nevada
System of Higher Education on
behalf of the College of Southern
Nevada

Recommended by:
By: Patricia R. Castro

Patricia R. Castro, Dean
CSN Engelstad School of Health
Sciences

Date: 6/29/2015

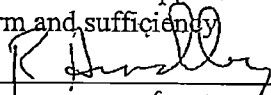
Approved by:
By: 

Patricia Charlton, Sr. Vice President
Strategic Initiatives and
Administrative Services

Date: 7/13/15

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Reviewed and approved as to legal
form and sufficiency

By: 

Date: 6/6/15

EXHIBIT A

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Cardiorespiratory Sciences, AAS & BAS
Clinical Laboratory Sciences-Phlebotomy
Dental Assisting
Dental Hygiene, AAS & BAS
Health Information Technology
Medical Office Assisting
Medic to Practical Nursing
Ophthalmic Lab Technician
Pharmacy Technician
Practical Nursing

Additional programs may be added by written agreement of the parties.

EXHIBIT B

STUDENT CONFIDENTIALITY STATEMENT

The undersigned understands that all medical information acquired as a result of their participating in work and/or health care activities at VMSN, Inc. ("Clinic") is confidential and that the undersigned is prohibited from disclosing that information to any person or persons not involved in the care or treatment of the patients, in the instruction of Students, or in the performance of administrative responsibilities at Clinic. The undersigned agrees to protect the confidentiality of patient information as required by law at all times both during and following his or her relationship with Clinic. Conversations between physicians, nurses and other health care professionals in connection with or in the presence of a patient receiving care or between the undersigned and a patient are also protected and may not be discussed. The undersigned recognizes that other sources of medical information include medical records, emergency room department and ambulance records, child abuse reporting forms, elderly abuse reporting forms, laboratory requests and results, and x-ray requests and results. The undersigned understands that a breach of this confidentiality by him or her may result in an action for damages against him or her as well as against Clinic. Clinic may terminate the undersigned's relationship with Clinic based upon a single breach of confidentiality by him or her.

Date: _____

Student

Date: _____

Witnessing Faculty Advisor

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JUN 07 2016
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JUN 17 2016
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EXHIBIT C
STUDENT DECLARATION OF RESPONSIBILITIES

I, _____, hereby state, represent and agree that:
(Student Name)

1. I am over eighteen (18) years old.
2. I am a student enrolled in _____ (hereinafter referred to as "Program"), and as such I am participating in the School's clinical experience program (hereinafter referred to as the "Training Experience") at _____ (hereinafter referred to as "Clinic").
3. For and in consideration of the Training Experience provided me at the Clinic, under the Student Training Agreement (the "Agreement") between the Board of Regents of the Nevada System of Higher Education, on behalf of the College of Southern Nevada ("School") and Clinic, I, _____, a student at the College of Southern Nevada, Las Vegas on my own behalf and on behalf of my heirs, assigns and personal representative (if deceased), do hereby covenant and agree to assume all risks and be solely responsible for any injury or loss (including death) sustained by me while participating in the Program or Training Experience, unless such injury or loss (including death) arises solely out of the willful misconduct of School or Clinic or their respective directors, officers, employees, or agents. Further, in the event of willful misconduct, any such liability of School or Clinic shall be several, not joint, and shall only be applicable to School in the event of willful misconduct of School or its directors, officers, employees, or agents, or to Clinic in the event of willful misconduct of Clinic or its directors, officers, employees, or agents, as the case may be.
4. I agree to obtain a physical examination within one year prior to entering into the Training Experience at Clinic and to provide proof of the following:
 - a. Negative results to an 8-panel drug screen;
 - b. Tuberculosis; Proof of non-infectivity with pulmonary tuberculosis by completing either (1), (2), (3), or (4):
 - (1) Two-step TB skin test (TST) for students with no history or positive TST who have not been tested in the last 12 month;
 - (2) One step TST test for students with proof of a negative TST in the last 12 months;
 - (3) Negative blood test results
 - (4) Negative chest x-ray for students with proof of past positive TST.
 - c. Rubella: documented receipt of one vaccination on or after first birthday, history of the disease, born before 1957, serological evidence of immunity, or statement of religious or medical refusal.
 - d. Rubeola: documented receipt of two vaccinations on or after first birthday, history of the disease, born before 1957, serological evidence of immunity, or statement of religious or medical refusal.
 - e. Chicken pox: documented receipt of vaccination, history of the disease, born before 1957, serological evidence of immunity, or statement of religious or medical refusal.
 - f. Hepatitis B: documented vaccine series of three doses, serological evidence of immunity, or statement of religious or medical refusal.

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- g. Tetanus and diphtheria: documented inoculation within ten (10) years.
- h. Certification from a licensed physician that I am free of any casually transmitted communicable disease in a contagious stage.
5. i. Upon request, I further agree to provide documentation to Clinic evidencing my health insurance in effect throughout the period of the Program. I also agree that I may be required to undergo drug testing prior to, as well as during, my participation in the Program. I hereby authorize School and Clinic access the results of all such drug testing. I agree to obtain, at my own cost, a criminal background check to include as a minimum an outstanding warrants search, statewide criminal search, fingerprinting (required by law in Nevada and Arizona), a Department of Motor Vehicle Records search, and civil and criminal public filings for the State of Nevada (hereinafter collectively referred to as the "Background Information"). I agree to provide the Clinic with the Background Information for Clinic's review prior to my acceptance by Clinic.
6. I agree to conform to all applicable Clinic policies, procedures, and regulations, and such other requirements and restrictions as may be mutually specified and agreed upon by the Clinic Designated Representative and School.
7. I understand and agree that I am responsible for my own support, maintenance and living quarters while participating in the Training Experience and that I am responsible for my own transportation to and from the Clinic.
8. I understand and agree that I am responsible for my own medical care needs. I understand that Clinic will provide access to emergency medical services should the need arise while I am participating in the Training Experience. However, I understand and agree that I am fully responsible for all costs related to general medical or emergency care, and that Clinic shall assume no cost or financial liability for providing such care.
9. I acknowledge that I have received training in blood and body fluid standard precautions consistent with the guidelines published by the U.S. Centers for Disease Control and Prevention. Documentation of such training shall be provided prior to beginning my Internship Program.
10. I acknowledge and agree that my status with the Clinic is that of a student, that I will receive academic credit for the Training Experience provided at Clinic and that I will not be considered an employee of Clinic or School, nor shall I receive compensation from either the Clinic or the School. I further acknowledge that I am neither eligible for nor entitled to workers' compensation benefits under Clinic's or School's coverage based upon my participation in Program. I further acknowledge that I will not be provided any benefit plans, health insurance coverage, or medical care based upon my participation in this Program.
11. I understand that Clinic may suspend my right to participate in the Training Experience if, in its sole judgment and discretion, my conduct or attitude threatens the health, safety or welfare of any patients, invitees, or employees at Clinic or the confidentiality of any information relating to such persons, either as individuals or collectively. I further understand that this action shall be taken by Clinic only on a temporary basis until after consultation with School. The consultation shall include an attempt to resolve the suspension, but the final decision regarding my continued participation in the Program at Clinic is vested in Clinic.
12. I agree to comply with discrimination regulations and shall not discriminate against any person because of race, color, religion, sex, marital status, sexual orientation, national origin, age, physical handicap, or medical condition as provided by law.
13. I further understand that Clinic has the right to suspend use of their facilities in connection with this Training Experience should their facilities be partially damaged or destroyed and such damage is sufficient to render the facilities untenable or unusable for their purpose while not entirely or substantially destroyed.
14. I recognize that medical records, patient care information, personnel information, reports to regulatory agencies, conversations between or among any healthcare professionals are considered privileged and should be treated with utmost confidentiality. I further understand that if it is determined that a breach in confidentiality has occurred as a result of my actions, I can be held liable for damages that result from such a breach.
15. I hereby acknowledge and agree that I have been offered the opportunity (if desired) to consult with my own

attorney concerning the contents of this Student Statement of Responsibility before signing it.

16. I warrant that I have read and understand the contents of this statement; and that I sign it freely and without reliance upon any representations or promises by the State of Nevada, including its Board of Regents of the Nevada System of Higher Education, Faculty or their respective directors, officers, employees or agents.

. I recognize that as consideration for agreeing to said terms Clinic will permit me to participate in the Training Experience at Clinic.

Student Signature

Date

Printed Name of Student

Received
JUN 07 2016
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EXHIBIT D

NSHE STATEMENT OF NON-DISCRIMINATION
FOR CSN STAFF & STUDENTS

The College of Southern Nevada is committed to providing a place of work and learning free of discrimination on the basis of race, color, national origin, disability (whether actual or perceived by others), religion, age, sex/gender (including pregnancy-related conditions), sexual orientation, gender identity or expression, genetic information, veteran status (military status or military obligations) in the programs or activities which it operates. Where discrimination is found to have occurred, CSN will act to stop the discrimination, to prevent its recurrence, to remedy its effects, and to discipline those responsible. The following person has been designated to handle inquiries regarding non-discrimination policies at CSN and is responsible for coordinating compliance efforts concerning Executive Order 11246, Title VI and Title VII of the Civil Rights Act of 1964, Title IX Educational Amendments of 1972 (sexual harassment/sexual violence), Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1990: Debbie Tanner, Compliance Investigator II, CSN Charleston Campus, 6375 W. Charleston Blvd., Bldg. "E", Office E-128, Las Vegas, NV 89146, phone: 702-651-5783, Email: debbie.tanner@csn.edu. For further information on notice of non-discrimination, persons may contact the U.S. Department of Education, Office for Civil Rights at 1-800-421-3481, or visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the address and phone number of the office that serves your area.

Date: _____

Student.

Date: _____

Witnessing Faculty Advisor

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JUN 07 2016
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Nevada State Board of Dental Examiners

6010 S. Rainbow Blvd., Bldg. A, Ste. 1
Las Vegas, NV 89118
(702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

VOLUNTARY SURRENDER OF LICENSE

STATE OF Nevada

COUNTY OF Washoe

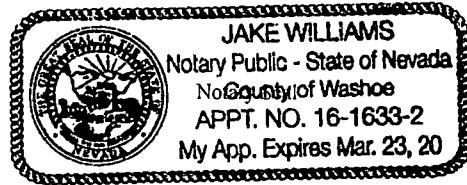
I, Cynthia Christensen, hereby surrender my Nevada Dental
Dental Hygiene (circle one) license number 623 on 28th day of
May, 202016

By signing this document, I understand, pursuant to Nevada Administrative Code (NAC) 631.160, the surrender of this license is absolute and irrevocable. Additionally, I understand that the voluntary surrender of this license does not preclude the Board from hearing a complaint for disciplinary action filed against this licensee.

Cynthia Christensen
Licensee Signature

5-28-16
Date

[Signature]
Notary Signature



Licensee Current Mailing Address: [Redacted]

Home Phone: [Redacted] Cell Phone: [Redacted]

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Nevada State Board of Dental Examiners

6010 S. Rainbow Blvd., Bldg. A, Ste. 1
Las Vegas, NV 89118
(702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

VOLUNTARY SURRENDER OF LICENSE

STATE OF Nevada

COUNTY OF Clark

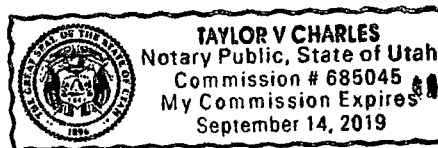
I, Gabrielle Burtenshaw, hereby surrender my Nevada
Dental (Dental Hygiene) (circle one) license number 102077 on 14 day of
June, 20 16.

By signing this document, I understand, pursuant to Nevada Administrative Code (NAC) 631.160, the surrender of this license is absolute and irrevocable. Additionally, I understand that the voluntary surrender of this license does not preclude the Board from hearing a complaint for disciplinary action filed against this licensee.

Gabrielle Burtenshaw
Licensee Signature

6/14/16
Date

Taylor Charles
Notary Signature



Notary Seal

Licensee Current Mailing Address: [Redacted]

Home Phone [Redacted] Cell Phone: [Redacted]

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JUN 17 2016
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Nevada State Board of Dental Examiners

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Las Vegas, NV 89118
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VOLUNTARY SURRENDER OF LICENSE

STATE OF Nevada

COUNTY OF Nye

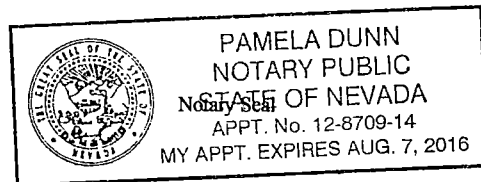
I, James K. Olpin D.M.D., hereby surrender my Nevada
Dental/Dental Hygiene (circle one) license number 2361 on 23rd day of
June, 2016.

By signing this document, I understand, pursuant to Nevada Administrative Code (NAC) 631.160, the surrender of this license is absolute and irrevocable. Additionally, I understand that the voluntary surrender of this license does not preclude the Board from hearing a complaint for disciplinary action filed against this licensee.

James K. Olpin
Licensee Signature

6/23/2016
Date

Pamela Dunn
Notary Signature



Licensee Current Mailing Address: [Redacted]

Home Phone: [Redacted]

Cell Phone: [Redacted]

Received
JUN 24 2016
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Nevada State Board of Dental Examiners

6010 S. Rainbow Blvd., Bldg. A, Ste. 1
Las Vegas, NV 89118
(702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

VOLUNTARY SURRENDER OF LICENSE

STATE OF Nevada

COUNTY OF Clark

I, Vickie Connell, hereby surrender my Nevada
Dental (Dental Hygiene) (circle one) license number 2517 on 27 day of
June, 2016.

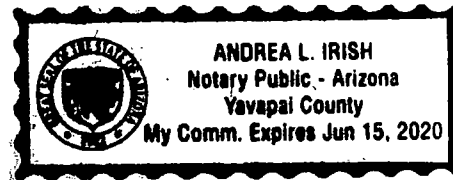
By signing this document, I understand, pursuant to Nevada Administrative Code (NAC) 631.160, the surrender of this license is absolute and irrevocable. Additionally, I understand that the voluntary surrender of this license does not preclude the Board from hearing a complaint for disciplinary action filed against this licensee.

[Signature]
Licensee Signature

6-27-16
Date

[Signature]
Notary Signature

Notary Seal



Received
JUN 28 2016
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Licensee Current Mailing Address: [Redacted]

Home Phone _____ Cell Phone: [Redacted]