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**Form For Filing
Administrative Regulations**

Agency:
Nevada State Board of Dental
Examiners
LCB No: R044-17

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: **PROPOSED** **XX** **ADOPTED BY AGENCY** **EMERGENCY**

Brief description of action:

The Nevada State Board of Dental Examiners conducted a review of Nevada Administrative Codes Chapter 631. Upon this review, discussion and public comment of the proposed/amended regulations which were noticed at a Public Workshop which was held on July 21, 2017 to draft proposed language. On January 19, 2018, a hearing for Notice to Intent to Act was held. On January 19, 2018, the Board approved the proposed regulations identified as R044-17 with no changes. I have provided a list below.

Adopted Proposed Regulations Without Changes

NEW Section-Injecting Neuromodulator that is derived from Clostridium botulinum and dermal fillers
NAC 631.175-Continung Education

Authority citation other than 233B:

Notice date: 06/09/2017, 07/14/2017 (Workshop)

12/04/2017 & 01/12/2018 (Hearing)

Date of Adoption by Agency: 01/19/2018

Hearing dates: 01/19/2018

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

LCB File No. R044-17

Effective May 16, 2018

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

AUTHORITY: §§1 and 3, NRS 631.190; §2, NRS 631.190 and 631.330 and section 3.3 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1255 (NRS 631.391); §4, NRS 631.190, 631.342 and 631.344, as amended by section 24 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4414.

A REGULATION relating to dentistry; prescribing the training that a dentist is required to complete before injecting a neuromodulator derived from *Clostridium botulinum*, a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator or a dermal or soft tissue filler; requiring a dentist who injects such a neuromodulator or filler to submit proof of completion of such training with his or her application for the renewal of a license; prohibiting the administration of such an injection except under certain circumstances; requiring a dentist who is registered to dispense controlled substances to complete 2 hours of continuing education relating to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a dentist from injecting a neuromodulator that is derived from *Clostridium botulinum*, a neuromodulator that is biosimilar to or the bioequivalent of such a neuromodulator or a dermal or soft tissue filler unless the dentist has first received training prescribed by the Board of Dental Examiners of Nevada. (Section 1 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1249 (NRS 454.217); section 1.8 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1253 (NRS 629.086)) Existing law also requires the Board to adopt regulations that prescribe such training. (Section 3.3 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1255 (NRS 631.391)) **Section 2** of this regulation requires a dentist who wishes to inject such a neuromodulator or filler to successfully complete a didactic and hands-on course of study in the injection of such neuromodulators and fillers that: (1) is at least 24 hours in length; (2) includes at least 4 hours of didactic instruction and at least 4 hours of hands-on instruction in each of three specified subjects; and (3) is approved by the Board. **Section 2** also requires such a dentist to include with his or her application for the renewal of his or her license to practice dentistry: (1) proof of his or her completion of such a course; and (2) a statement certifying that each such neuromodulator or filler that has been or will be injected by the dentist is approved by the United States Food and Drug Administration. **Section 3** of this regulation prohibits a dentist who has completed the

required training from: (1) administering an injection of such a neuromodulator or filler to a person other than a patient of record; or (2) injecting such a neuromodulator or filler at an injection site that is outside the oral cavity, maxillofacial area or the adjacent and associated structures of the patient.

Existing law authorizes the Board to adopt regulations that require a dentist who is registered to dispense controlled substances to complete at least 1 hour of training relating to the misuse and abuse of controlled substances during each period of his or her licensure. During the 2017 Legislative Session, the Legislature enacted Assembly Bill No. 474, which requires the Board to adopt such regulations, increases the minimum hours of training from 1 hour of training to 2 hours of training, and expands the training to include training relating to the prescribing of opioids and addiction. (NRS 631.344, as amended by section 24 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4414) **Section 4** of this regulation adopts the provisions necessary to comply with existing law.

Section 1. Chapter 631 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *A holder of a license to practice dentistry who, pursuant to section 1 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1249 (NRS 454.217), injects a neuromodulator that is derived from Clostridium botulinum or that is biosimilar to or the bioequivalent of such a neuromodulator or who, pursuant to section 1.8 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1253 (NRS 629.086), injects a dermal or soft tissue filler, must:*

1. Successfully complete a didactic and hands-on course of study in the injection of such neuromodulators and fillers that:

(a) Is at least 24 total hours in length;

(b) Includes at least 4 hours of didactic instruction and at least 4 hours of hands-on instruction in each of the following subjects:

(1) The use of neuromodulators that are derived from Clostridium botulinum or that are biosimilar to or the bioequivalent of such neuromodulators in the treatment of temporomandibular joint disorder and myofascial pain syndrome;

(2) The use of neuromodulators that are derived from Clostridium botulinum or that are biosimilar to or the bioequivalent of such neuromodulators for dental and facial esthetics; and

(3) The use of dermal and soft tissue fillers for dental and facial esthetics; and

(c) Is approved by the Board.

2. Include with the application for the renewal of his or her license:

(a) Proof acceptable to the Board that he or she has successfully completed the course of study required by subsection 1; and

(b) A statement certifying that each neuromodulator that has been or will be injected by the holder pursuant to section 1 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1249 (NRS 454.217), and each dermal or soft tissue filler that has been or will be injected by the holder pursuant to section 1.8 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1253 (NRS 629.086), is approved for use in dentistry by the United States Food and Drug Administration.

Sec. 3. 1. *A dentist who is authorized, pursuant to section 1 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1249 (NRS 454.217), to inject a neuromodulator that is derived from Clostridium botulinum or that is biosimilar to or the bioequivalent of such a neuromodulator or who is authorized, pursuant to section 1.8 of Senate Bill No. 101, chapter 238, Statutes of Nevada 2017, at page 1253 (NRS 629.086), to inject a dermal or soft tissue filler, and who has satisfied the requirements of section 2 of this regulation shall not:*

(a) Administer such an injection to a person other than a patient of record; or

(b) Inject such a neuromodulator or filler at an injection site that is outside the oral cavity, maxillofacial area or the adjacent and associated structures of the person.

2. As used in this section, “patient of record” means a person for whom the dentist has, not more than 18 months before the injection of a neuromodulator or filler described in subsection 1:

(a) Performed a clinical examination;

(b) Completed or evaluated a medical and dental history;

(c) Diagnosed an oral condition; and

(d) Developed a written plan of treatment.

Sec. 4. NAC 631.175 is hereby amended to read as follows:

631.175 1. Approved subjects for continuing education in dentistry and dental hygiene are:

(a) Clinical subjects, including, without limitation:

(1) Dental and medical health;

(2) Preventive services;

(3) Dental diagnosis and treatment planning; and

(4) Dental clinical procedures, including corrective and restorative oral health procedures

and basic dental sciences, dental research and new concepts in dentistry; and

(b) Nonclinical subjects, including, without limitation:

(1) Dental practice organization and management;

(2) Patient management skills;

(3) Methods of health care delivery; and

(4) Teaching methodology.

2. In completing the hours of continuing education required pursuant to NAC 631.173, a dentist must annually complete at least 15 hours in clinical subjects approved pursuant to

subsection 1 or biennially complete at least 30 hours in clinical subjects approved pursuant to subsection 1, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dentist.

3. In completing the hours of continuing education required pursuant to NAC 631.173, a dental hygienist must annually complete at least 12 hours in clinical subjects approved pursuant to subsection 1 or biennially complete at least 24 hours in clinical subjects approved pursuant to subsection 1, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dental hygienist.

4. In completing the hours of continuing education required pursuant to NAC 631.173, a dentist or dental hygienist must annually complete at least 2 hours in the clinical subject of infection control in accordance with the provisions of the guidelines adopted by reference in NAC 631.178 or biennially complete at least 4 hours in the clinical subject of infection control in accordance with the provisions of the guidelines adopted by reference in NAC 631.178, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dentist or dental hygienist.

5. *In completing the hours of continuing education required pursuant to NAC 631.173, a dentist who is registered to dispense controlled substances pursuant to NRS 453.231 must complete at least 2 hours of training relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure.*

6. The Board will credit, as a maximum in any one year of an annual or biennial licensing period, the following number of hours of instruction for the following types of courses or activities:

(a) For approved study by a group, 3 hours.

(b) For attendance at a meeting or convention of a dental or dental hygiene society, 1 hour for each meeting, but not more than 3 hours, exclusive of hours of continuing education offered in conjunction with the meeting.

(c) For courses completed via home study, on-line study, self-study or journal study through correspondence, webinar, compact disc or digital video disc, not more than 50 percent of the number of hours of continuing education required by subsection 1 or 2 of NAC 631.173, as applicable.

(d) For all other courses conducted by an approved instructor, the number of hours completed by the dentist or dental hygienist.

(e) For approved dental or dental hygiene services provided in approved nonprofit settings, 6 hours, except that not more than 3 hours will be allowed for any day of volunteer services provided.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R044-17

1. A clear and concise explanation of the need for the adopted regulation.

The Nevada State Board of Dental Examiners has conducted a review of Nevada Administrative Codes Chapter 631. Upon this review, discussion and public comment of the proposed/amended regulations a public workshop was held on July 21, 2017 after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A Notice of Intent to Act Upon Regulations public hearing and adoption of the proposed regulation changes to permanent regulations was held on January 19, 2018 after a 30 day notice was posted in compliance with the Nevada administrative rulemaking requirements. Public comment was sought in all meetings, workshops, hearings and adoption. Further, upon review of certain regulations the Board proposed changes/amendments to include a new section for injecting a neuromodulator that is derived from Clostridium botulinum or a dermal or soft tissue filler to a patient of record pursuant to SB 101 and a change to NAC 631.175 regarding additional continuing education hours.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Public workshop was held on July 21, 2017 for consideration of amended/proposed regulations after a 15 day notice was posted in compliance with the Nevada administrative rulemaking requirements. A Notice of Intent to Act Upon Regulations public hearing and adoption of the proposed regulation changes to permanent regulations was held on January 19, 2018 after a 30 day notice was posted in compliance with the Nevada administrative rulemaking requirements. Public comment was sought in all workshops, hearings and adoptions. Public notice of the workshop and hearing were posted at a site in each county along with the Las Vegas and Carson City offices of the Attorney General, State Library and Archives, the Clark County Health District, and mailings of said notices to interested parties including affected practitioner associations within Nevada. Notices were also posted on the website maintained by the Board. Comments were recorded at each meeting if offered and are available in the minutes of those meetings which can be inspected at the board office and a copy obtained on the Board's website. A copy of the written minutes of the meetings may be obtained by contacting the Nevada State Board of Dental Examiners at (702) 486-7044 or by writing to the Board at 6010 S. Rainbow Blvd, A-1, Las Vegas, NV 89118 or downloaded by visiting our website at dental.nv.gov.

3. The number of persons who. Exhibit A

(a) **Attended each hearing:** Approx. 8 07/21/2017

Approx: 13 01/19/2018

(b) **Testified at each hearing: Exhibit B**

07/21/2017
01/19/2018

(c) **Submitted written comments: Exhibit B**

07/21/2017
01/19/2018

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:

See Exhibit B attached

5. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.

Public notices of the workshop and hearing were posted at a site in each county along with the Las Vegas and Carson City offices of the Attorney General, State Library and Archives, the Clark County Health District, and mailings of said notices to interested parties including affected practitioner associations within Nevada. Notices were also posted on the website maintained by the Board. Comments were recorded at each meeting if offered and are available in the minutes of those meetings which can be inspected at the board office and a copy obtained on the Board's website. A copy of the written minutes of the meetings may be obtained by contacting the Nevada State Board of Dental Examiners at (702) 486-7044 or by writing to the Board at 6010 S. Rainbow Blvd, A-1, Las Vegas, NV 89118 or downloaded by visiting our website at dental.nv.gov.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The following regulations listed below were adopted as proposed and as recommended by the Board and LCB.

Adopted Proposed Regulations–R044–17

NEW Section–Injecting Neuromodulator that is derived from Clostridium botulinum, dermal or soft fillers to patients of record (SB101)

NAC 631.175–Continung Education

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

New Section– Injecting Neuromodulator that is derived from Clostridium botulinum, dermal or soft tissue fillers to patients of record.

a). Adverse and Beneficial Effect.

There is no adverse effect of the changes in the regulations on the dental profession

b). Immediate and Long Term Effect.

There should be no economic effect of the changes in the regulations on the dental profession

c). Method utilized to Determine Economic Effect.

Upon holding a Public Workshop where licensees, members of local associations and societies and public persons attended, the attendees did not object to this regulation to establish the education, training and reporting for license renewal for those dentists who wish to inject a neuromodulator that is derived from Clostridium botulinum, dermal or soft tissue fillers to patients of record pursuant to SB 101.

d). The estimated cost to the agency for enforcement of the proposed regulation.

There should be no costs for enforcement of the proposed regulation to the agency. The immediate cost would include informing the licensed professionals of the State of Nevada of the change in regulation.

NAC 631.175–Continung Education

This amendment/change to NAC 31.175 was a result from AB474 which adds 2 hours of continuing education in misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure for those dentists who are registered to dispense controlled substances pursuant to NRS 453.231.

a). Adverse and Beneficial Effect.

This proposed regulation would require 2 hours of continuing education in misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure for those dentists who are registered to dispense controlled substances pursuant to NRS 453.231.

b). Immediate and Long Term Effect.

There should be no adverse effect of the changes in the regulations on the dental profession.

c). Method utilized to Determine Economic Effect.

Upon holding a Public Workshop where licensees, members of local associations and societies and public persons attended, the attendees did not object to this regulation to establish the 2 hours of training in the misuse and abuse of controlled substances, prescribing opioids and addiction as set forth in NRS 631.344

d). The estimated cost to the agency for enforcement of the proposed regulation.

There should be no costs for enforcement of the proposed regulation to the agency. The immediate cost would include informing the licensed professionals of the State of Nevada of the change in regulation.

8. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

We are aware of no other duplication in regulations either in state or federal regulations.

9. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

There are no federal regulations providing these provisions that the board is aware of.

10. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

These regulations do not provide a new fee or an increase to an existing fee.