

BEFORE THE NEVADA STATE BOARD OF DENTAL EXAMINERS

IN REGARDS TO THE MATTER OF:

Request for the Advisory Opinion by licensee Tyree Davis, DDS regarding Informed Consent for Minors pursuant to NAC 631.2237 and NAC 631.230

AO-14-0627

On June 27, 2014, pursuant to agenda item 5(a) at a properly noticed meeting held at the Nevada State Board of Dental Examiners ("Board") office located at 6010 S Rainbow Boulevard, Suite A-1, Las Vegas, Nevada 89118 the "Board" issued the following advisory opinion.

Dr. Jade A Miller	Present
Dr. Gregory Pisani	Present
Dr. Jason Champagne	Present
Dr. Timothy Pinther	Present
Dr. James G Kinard	Present
Dr. J. Stephen Sill	Excused
Dr. Byron Blasco	Present
Ms. Caryn Solie	Present
Mrs. Leslea Villigan	Present
Mrs. Theresa Guillen	Present
Mrs. Lisa Wark	Present

ADVISORY OPINION

I.

BACKGROUND

1. As set forth in NAC 631.279 through authority of NRS 631.190 and NRS 233B.120 the Board is authorized to provide advisory opinions.

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**NAC 631.279 Proceedings to determine applicability and construction of statutes and regulations. (NRS 631.190)**

1. Any applicant or licensed dentist or dental hygienist may obtain a determination or advisory opinion from the Board as to the applicability of any provision of chapter 631 of NRS or any regulation adopted pursuant thereto by bringing an action for a declaratory judgment before the Board.

2. The Board will construe any statute or regulation reviewed pursuant to this section in a manner consistent with the declared policy of the State of Nevada.

- A. The Board has discretion whether or not to issue an advisory opinion pursuant to NAC 631.279.
- B. Licensee, Tyree Davis, DDS, with Nevada Health Services a federally qualified health facility requested an advisory opinion regarding informed consent for minors as set forth in NAC 631.2237 and NAC 631.230 to ensure compliance.
- C. Public notice of the above-referenced request for an advisory opinion was provided in accordance with state law.

II.  
**DISCUSSION**

- D. Dr. Bryce Putnam, was present on behalf of Dr. Tyree Davis who requested the advisory opinion regarding informed consent for minors as set forth in NAC 631.2237 and NAC 631.230 to ensure compliance. Dr. Putnam explained the unique practice of dentistry they as a federally qualified health facility face when treating persons under the age of 18 years old in rural areas. Dr Putnam wanted to ensure the informed consent forms used by the federally qualified health facility are in compliance with the Nevada Dental Practice Act. Board Counsel stated they are required to obtain informed consent from a parent or legal guardian. Unless, in the event of an emergency. Dr. Putnam inquired if telephonic/verbal consent would be acceptable. Board Counsel noted the regulation (NAC 631.2237) states that if a patient is a minor the consent must be from the parent or legal guardian. The regulation does not require the informed consent be in writing. Further, Board Counsel provided a legal opinion that the Board cannot approve the informed consent forms presented by Dr. Davis and Nevada Health Services. However, the Board can provide what they interpret the regulation to read.
- E. Board Counsel read into the record all provisions set forth in NAC 631.2237.

Therefore, it is the legal opinion of Board Counsel that the informed consent as set forth in NAC 631.2237 for minors by a parent or legal guardian be either verbal (as long as the verbal consent is documented in the patient's dental record) or written consent without the necessity of a notary is acceptable.

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

### III. CONCLUSION

After considering and discussing public comment pursuant to the authority set forth in NAC 631.279, NRS 631.190 and NRS 233B.120, a motion was made by Board Member Blasco that the Board issue an opinion that informed consent for minors by a parent or legal guardian be either verbal (as long as the verbal consent is documented in the patient's dental record) or written consent without the necessity of a notary is acceptable.

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

### III

Dr. Kinard called for the motion:

Dr. Jade A Miller	yes
Dr. Gregory Pisani	yes
Dr. Jason Champagne	yes
Dr. Timothy Pinther	yes
Dr. James G Kinard	yes
Dr. J. Stephen Sill	yes
Dr. Byron Blasco	yes
Ms. Caryn Solie	yes
Mrs. Leslea Villigan	yes
Mrs. Theresa Guillen	yes
Mrs. Lisa Wark	yes

The motion was passed unanimously that informed consent for minors by a parent or legal guardian be either verbal (as long as the verbal consent is documented in the patient's dental record) or written consent without the necessity of a notary is acceptable.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a smaller 'G' and a final flourish.

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JAMES G KINARD, DDS, PRESIDENT  
Nevada State Board of Dental Examiners