

NEVADA STATE BOARD
of
DENTAL EXAMINERS



LEGISLATIVE, LEGAL, & DENTAL PRACTICE
COMMITTEE TELECONFERENCE MEETING

TUESDAY MARCH 1, 2022

6:00 P.M.

PUBLIC BOOK

Agenda Item 4(a)(1):
**Additional [Draft] Regulations Regarding Administration
of Board Disciplinary Proceedings**

NAC 631.230 Unprofessional conduct.

([NRS 631.190](#), [631.346](#), [631.347](#), [631.350](#))

1. In addition to those specified by statute and subsection 3 of [NAC 631.177](#), the following acts constitute unprofessional conduct:

(a) The falsification of records of health care or medical records.

(b) Writing prescriptions for controlled substances in such excessive amounts as to constitute a departure from prevailing standards of acceptable dental practice.

(c) The consistent use of dental procedures, services or treatments which constitute a departure from prevailing standards of acceptable dental practice even though the use does not constitute malpractice or gross malpractice.

(d) The acquisition of any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge.

(e) Making an unreasonable additional charge for laboratory tests, radiology services or other testing services which are ordered by the dentist and performed outside his or her own office.

(f) The failure to report to the Board as required in [NAC 631.155](#) or to sign any affidavit required by the Board.

(g) Employing any person in violation of [NAC 631.260](#) or failing to report to the Board as required by that section.

(h) The failure of a dentist who is administering or directly supervising the administration of general anesthesia, deep sedation or moderate sedation to be physically present while a patient is under general anesthesia, deep sedation or moderate sedation.

(i) Administering moderate sedation to more than one patient at a time, unless each patient is directly supervised by a person authorized by the Board to administer moderate sedation.

(j) Administering general anesthesia or deep sedation to more than one patient at a time.

(k) The failure to have any patient who is undergoing general anesthesia, deep sedation or moderate sedation monitored with a pulse oximeter or similar equipment required by the Board.

(l) Allowing a person who is not certified in basic cardiopulmonary resuscitation to care for any patient who is undergoing general anesthesia, deep sedation or moderate sedation.

(m) The failure to obtain a patient's written, informed consent before administering general anesthesia, deep sedation or moderate sedation to the patient or, if the patient is a minor, the failure to obtain his or her parent's or guardian's consent unless the dentist determines that an emergency situation exists in which delaying the procedure to obtain the consent would likely cause permanent injury to the patient.

(n) The failure to maintain a record of all written, informed consents given for the administration of general anesthesia, deep sedation or moderate sedation.

(o) The failure to report to the Board, in writing, the death or emergency hospitalization of any patient to whom general anesthesia, deep sedation or moderate sedation was administered. The report must be made within 30 days after the event.

(p) Allowing a person to administer general anesthesia, deep sedation or moderate sedation to a patient if the person does not hold a permit to administer such anesthesia or sedation unless the anesthesia or sedation is administered in a facility for which a permit is held as required by [NRS 449.442](#).

(q) The failure of a dentist who owns a dental practice to provide copies of the records of a patient to a dentist or dental hygienist who provided the services as an employee or independent contractor of the dentist when the records are the basis of a complaint before the Board. Nothing in this paragraph relieves the treating dentist or dental hygienist from the obligation to provide records of the patient to the Board.

(r) The failure of a dentist who owns a dental practice to verify the license of a dentist or dental hygienist before offering employment or contracting for services with the dentist or dental hygienist as an independent contractor.

(s) The failure of a dentist who owns a dental practice and participates in the diagnosis and treatment of any patient to ensure that the services rendered by a dentist or dental hygienist who is an employee or independent contractor of that dentist meet the prevailing standards of acceptable dental practice. If a dentist or dental hygienist who is an employee or independent contractor of the dentist is found by substantial evidence to have provided services below the prevailing standards of acceptable dental practice, the dentist who owns the dental practice may be required to reimburse the patient to whom the services were provided pursuant to paragraph (l) of subsection 1 of [NRS 631.350](#).

(t) The failure of a dentist who owns a dental practice to record the name of the dentist or dental hygienist who provided the services in the records of a patient each time the services are rendered.

(u) The failure of a dentist who is registered to dispense controlled substances with the State Board of Pharmacy pursuant to [chapter 453](#) of NRS to conduct annually a minimum of one self-query regarding the issuance of controlled substances through the Prescription Monitoring Program of the State Board of Pharmacy.

2. For purposes of [NRS 631.347](#), a plan or practice requiring a patient to select a dentist from a specific group does not provide the patient with a reasonable opportunity to select a dentist of his or her own choice, and constitutes unprofessional conduct on the part of any dentist participating in such a plan or practice, unless it, or another plan concurrently available to the patient, allows the patient to:

(a) Have an annual opportunity, lasting for a minimum of 30 days, to select a dentist of his or her own choice for all dental work to be performed during the subsequent 12 months. Any new patient added to the plan or practice must immediately be given an initial opportunity, lasting at least 30 days, to select the coverage supplied by the plan or practice or a dentist of his or her own choice.

(b) Receive the allowance for a procedure performed by a dentist of his or her own choice in substantially the same amount as he or she would if he or she used the services of one of the group of dentists specified by the plan or practice.

[Bd. of Dental Exam'rs, § XXVII, eff. 7-21-82] — (NAC A 10-21-83; 7-30-84; 9-13-85; 9-16-85; 4-3-89; 11-28-90; R005-99, 9-7-2000; R023-06, 9-18-2006; R159-08, 4-23-2009; R020-14, 6-23-2014; R004-17, 5-16-2018)

NAC 631.235 “Insurer” defined for purposes of [NRS 631.348](#). ([NRS 631.190](#), [631.348](#)) For the purposes of [NRS 631.348](#), “insurer” includes any entity licensed or required to be licensed by the Commissioner of Insurance pursuant to title 57 of NRS, Medicare, Medicaid or any third party payor.

(Added to NAC by Bd. of Dental Exam'rs, eff. 7-30-84)

NAC 631.240 Complaints against licensees. ([NRS 631.190](#))

1. Any aggrieved person may file a complaint with the Board against a licensee. The complaint must:

- (a) Be written;
- (b) Be signed and verified by the complainant; and
- (c) Contain specific charges.

2. The Board will send a notice and a copy of the complaint to the licensee. The licensee must file a response to the complaint within 15 days after receiving the notice and copy of the complaint.

[Bd. of Dental Exam'rs, § XVII, eff. 7-21-82] — (NAC A 4-3-89)

NAC 631.250 Investigation by Board. ([NRS 631.190](#), [631.360](#), [631.363](#))

1. If the Board conducts an investigation upon a complaint against a licensee, the Board will not limit the scope of its investigation to the matters set forth in the complaint but will extend the investigation to any additional matters which appear to constitute a violation of any provision of [chapter 631](#) of NRS or of this chapter.

2. If, after its investigation, the Board dismisses the complaint, the dismissal does not operate as a limitation on or a detriment to any subsequent investigation or other action by the Board.

3. Whenever the Board directs that an investigation be conducted into a disciplinary matter, the results of the investigation or any information relating to the investigation will not be examined by and must not be disclosed to, the members of the Board or duly designated Hearing Panel designated by the Board to preside over disciplinary hearings before the Board's hearing on the matter.

[Bd. of Dental Exam'rs, § XVIII, eff. 7-21-82]

NAC 631..... Conduct of Investigation

1. Upon receipt of a verified complaint or upon approval of a Board authorized investigation, the Board shall forward the substance of the complaint to the licensee via regular U.S. Mail.
2. The licensee shall have fourteen (14) days upon receipt of the complaint from the Board to respond to the allegations contained within the original complaint. The response must contain a written response to the allegations as well as all pertinent records from the office.
3. The Board may consider requests for extensions as needed by the licensee.
4. Failure to respond to the allegation and/or failure to provide requested records pertaining to the complaint may be deemed unprofessional conduct pursuant to NAC 631.230

NAC 631... Assignment of matter to Preliminary Screening Consultant

1. The Board shall retain Preliminary Screening Consultants to review the details of the complaint as well as the records received from the licensee.
2. The Board shall retain any number of Preliminary Screening Consultants it deems necessary to conduct investigations.
3. A Preliminary Screening Consultant (PSC) shall be licensed dental professionals in good standing. Complaints against licensed dentists shall be sent to PSCs holding a valid license to practice dentistry in the State of Nevada and be in good standing with the Nevada State Board of Dental Examiners. Complaints regarding allegations of misconduct against Registered Dental Hygienists shall be sent to a PSC holding a valid license practice dental hygiene and be in good standing to practice dental hygiene with the Nevada State Board of Dental Examiners. Complaints regarding allegations of misconduct against Dental Therapists must be sent to PSC holding a valid license to practice Dental Therapy in the State of Nevada and be in good standing with the Nevada State Board of Dental Examiners.
4. The Preliminary Screening Consultant shall review all records provided by Nevada State Board of Dental Examiners as well as conduct any additional interviews or investigations it deems necessary for the conduct of a thorough investigation. Within 30 days of receipt of the records from the Board the PSC shall issue a written opinion as to the conduct of the licensee under investigation. The substance of the PSC's report shall be deemed confidential pursuant to NRS 631.368.

- i. The Board may grant extensions to the PSC as needed to complete the investigation.

NAC 631..... Assignment of file to Review Panel

1. Pursuant to NRS 631.3635, the Board shall forward the investigation including the Preliminary Screening Report as well as all records relating to the investigation to a Review Panel appointed by the Board pursuant to NRS 641.3635.
2. The Review Panel shall conduct a review of an investigation or informal hearing conducted pursuant to [NRS 631.363](#), review and consider, without limitation:
 - (a) All files and records collected or produced by the investigator, Board, and/or Preliminary Screening Consultant.
 - (b) Any written findings of fact and conclusions prepared by the investigator; and
 - (c) Any other information deemed necessary by the review panel.
3. The Review Panel shall present their findings and recommendations to a Hearing Panel delegated by the Board to conduct disciplinary hearings pursuant to NRS 631.350(3)

NAC 631..... Board Delegation to a Hearing Panel

1. Pursuant to NRS 631.350 the Board shall designate a Hearing Panel to take any disciplinary action pursuant to NRS 631.350.
2. The Hearing Panel shall be composed of a Hearing Officer who is an independent contractor retained by the Board to preside over hearings pursuant to NRS 631. The Hearing Officer shall make decisions regarding the procedure of the hearing as well as the admissibility of any evidence produced during administrative proceedings.
3. The Hearing Panel shall also have two (2) members of the Nevada State Board of Dental Examiners Disciplinary Committee who shall be selected based upon availability to preside over any hearing conducted pursuant to NRS 631.

4. Each member of the Hearing Panel shall have one vote as to the verdict of any hearing conducted by the Panel.
5. Any disciplinary action taken by the Hearing Panel is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the Hearing Panel has those powers and duties given to the Board in relation thereto. Before taking any disciplinary action the Hearing Panel shall review and consider the findings of a review panel pursuant to NRS 631.365
6. The Hearing Officer shall draft a Finding of Facts within thirty (30) days after the conclusion of any disciplinary hearing. All members of the Hearing Panel must attach their signature on the Findings within forty five (45) days after the conclusion of the hearing.
 - i. Failure to comply with the above timetable is not grounds for dismissal of the underlying charges

NAC 631..... Board Approval of Hearing Panel actions.

1. The Board shall consider the actions taken by the Hearing Panel at the first Board meeting after the Findings have been adopted by the Hearing Panel.
2. The Board may either adopt the Findings as presented or they may reject the findings and schedule a subsequent hearing where the full Board may consider the matter.

NAC 631.255 Record of hearings.

1. Any hearing conducted pursuant to this section authority must be recorded and transcribed in permanent form by a shorthand reporter licensed to do business in this State.