

NEVADA STATE BOARD  
of  
DENTAL EXAMINERS



REGULATION WORKSHOP

WEDNESDAY, APRIL 20, 2022

6:00 P.M.

**PUBLIC BOOK**

**Agenda Item 3:**

**NRS 631.350- NRS 631.368**

**NRS 631.350** Authorized disciplinary or other action; 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. [Effective January 1, 2020.]

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 relating to an alcohol or other substance use disorder or any other impairment;
  - (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,

↪ if the Board finds, by a preponderance of the evidence, 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, dental hygiene or dental therapy;
  - (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, savings and loan associations or savings banks 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](#); [2015, 719](#); [2019, 3219](#), effective January 1, 2020)

**NRS 631.355** Disciplinary action by hearing officer or panel: Procedural requirements; powers and duties of officer or panel; final decision in contested case.

1. Any disciplinary action taken by a hearing officer or panel pursuant to [NRS 631.350](#) is subject to the same procedural requirements which apply to disciplinary actions taken by the Board, and the officer or panel has those powers and duties given to the Board in relation thereto. Before taking disciplinary action, the hearing officer or panel shall review and consider the findings and recommendations of a review panel appointed pursuant to [NRS 631.3635](#).

2. Any decision of the hearing officer or panel relating to the imposition of any disciplinary action pursuant to this chapter is a final decision in a contested case.

(Added to NRS by [1983, 1535](#); A [1987, 861](#); [2017, 989](#))

**NRS 631.360** Investigation, notice and hearing; subpoena; search warrant; continuances; retention of complaints; regulations. [Effective January 1, 2020.]

1. Except as otherwise provided in [NRS 631.364](#), the Board may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for initiating disciplinary action, investigate the actions of any person who practices dentistry, dental hygiene or dental therapy in this State. A complaint may be filed anonymously. If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. The Board shall, before initiating disciplinary action, at least 10 days before the date set for the hearing, notify the accused person in writing of any charges made. The notice may be served by delivery of it personally to the accused person or by mailing it by registered or certified mail to the place of business last specified by the accused person, as registered with the Board.

3. At the time and place fixed in the notice, the Board shall proceed to hear the charges. If the Board receives a report pursuant to subsection 5 of [NRS 228.420](#), a hearing must be held within 30 days after receiving the report.

4. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Executive Director may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

5. The Board may obtain a search warrant from a magistrate upon a showing that the warrant is needed for an investigation or hearing being conducted by the Board and that reasonable cause exists to issue the warrant.

6. If the Board is not sitting at the time and place fixed in the notice, or at the time and place to which the hearing has been continued, the Board shall continue the hearing for a period not to exceed 30 days.

7. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

[Part 11:152:1951] — (NRS A [1969, 95](#); [1981, 99](#); [1983, 1114](#); [1993, 784](#); [2007, 508](#); [2009, 883](#); [2013, 2219](#); [2017, 4415](#), effective January 1, 2020)

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

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 and any member of a review panel appointed pursuant to [NRS 631.3635](#) 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](#); A [2017, 989](#))

**NRS 631.3635** Appointment of panel to review investigation or informal hearing; members; requirements of review; findings and recommendation.

1. The Board shall appoint a panel to review an investigation or informal hearing conducted pursuant to [NRS 631.363](#). Such a panel must consist of:

(a) If the subject of the investigation or informal hearing is a holder of a license to practice dental hygiene, one member of the Board who is a holder of a license to practice dentistry, one member of the Board who is a holder of a license to practice dental hygiene and one holder of a license to practice dental hygiene who is not a member of the Board and is not the subject of the investigation or informal hearing.

(b) If the subject of the investigation or informal hearing is a holder of a license to practice dentistry or any other person not described in paragraph (a), one member of the Board who is a holder of a license to practice dentistry, one member of the Board who is a holder of a license to practice dental hygiene and one holder of a license to practice dentistry who is not a member of the Board and is not the subject of the investigation or informal hearing.

2. A review panel appointed pursuant to subsection 1 shall, in conducting 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;

(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 investigator who conducted the investigation or informal hearing pursuant to [NRS 631.363](#) shall not participate in a review conducted pursuant to subsection 1.

4. Before the Board takes any action or makes any disposition relating to a complaint, the review panel appointed pursuant to subsection 1 to conduct a review of the investigation or informal hearing relating to the complaint shall present to the Board its findings and

recommendation relating to the investigation or informal hearing, and the Board shall review and consider those findings and recommendations.

5. Meetings held by a review panel appointed pursuant to subsection 1 are not subject to the provisions of [chapter 241](#) of NRS.

(Added to NRS by [2017, 988](#))

**NRS 631.364** Review and investigation of complaint relating to prescriptions for certain controlled substances; notice to licensee; formal complaint and hearing; referral or postponement of investigation; regulations; explanation or technical advisory bulletin for dentists regarding relevant law.

1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to [NRS 453.164](#), or from a law enforcement agency, professional licensing board or any other source indicating that:

(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.

2. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.

3. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:

(a) A review of relevant information contained in the database of the program established pursuant to [NRS 453.162](#); and

(b) A request for additional relevant information from the licensee who is the subject of the review and evaluation.

4. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this

chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.

5. When deemed appropriate, the Executive Director of the Board may:

(a) Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.

(b) Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.

6. The Board shall:

(a) Adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of [NRS 639.2391](#) to [639.23916](#), inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

(b) Develop and disseminate to each dentist licensed pursuant to this chapter or make available on the Internet website of the Board an explanation or a technical advisory bulletin to inform those dentists of the requirements of this section and [NRS 631.365](#), [639.23507](#) and [639.2391](#) to [639.23916](#), inclusive, and any regulations adopted pursuant thereto. The Board shall update the explanation or bulletin as necessary to include any revisions to those provisions of law or regulations. The explanation or bulletin must include, without limitation, an explanation of the requirements that apply to specific controlled substances or categories of controlled substances.

(Added to NRS by [2017, 4412](#); A [2019, 2129](#))

**NRS 631.365** Summary suspension of licensee's authority to prescribe, administer or dispense certain controlled substances; issuance of order; formal hearing and decision.

1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the



investigation or the member, employee, investigator or other agent of the Board who conducted the investigation.

2. If an order to summarily suspend a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board, that person shall not participate in any further proceedings of the Board relating to the order.

3. If the Board, the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board issues an order summarily suspending a licensee's authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 180 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

(Added to NRS by [2017, 4414](#))

**NRS 631.366** Enforcement of subpoena by district court.

1. The district court for the county in which any investigation or hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by or on behalf of the Board.

2. If any witness refuses to attend or testify or produce any papers required by a subpoena, the Board may so report to the district court for the county in which the investigation or hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter;

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board in the investigation or hearing named in the subpoena, or has refused to answer questions propounded to him or her in the course of the investigation or hearing;

(d) That the subpoena identified specifically any documents or the subject of any testimony required;

(e) That the documents or testimony were relevant to the allegations being investigated or heard; and

(f) That no reasonable cause exists for the failure or refusal to comply with the subpoena,

↳ and requesting an order of the court compelling the witness to attend and testify or produce the books or papers before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, not more than 10 days after the service of the order, and show cause why the witness has not attended or testified or produced the books or papers before the Board. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by or on behalf of the Board and there is no reasonable cause for the refusal or failure to comply, the court shall thereupon enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order the witness must be dealt with as if in contempt of court.

4. The court may consider, in determining whether reasonable cause existed for the witness's refusal or failure to comply with the subpoena, such factors as:

- (a) The burden or cost of compliance, financial or otherwise, to the witness;
- (b) The time allowed for compliance;
- (c) The extent of the information requested in relation to the nature of the underlying charge; and
- (d) The extent of the statistical information necessary to investigate the charge adequately.

(Added to NRS by [1983, 1109](#); A [2007, 508](#))

**NRS 631.368** Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records; cooperation with or dissemination of records to other agencies.

1. Except as otherwise provided in this section and [NRS 239.0115](#), any records or information obtained during the course of an investigation by the Board or a review panel appointed pursuant to [NRS 631.3635](#) and any record of the investigation or review are confidential.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The Board shall, to the extent feasible, communicate or cooperate with or provide any record or information described in subsection 1 to any other licensing board or any other agency that is investigating a person, including a law enforcement agency.

(Added to NRS by [1993, 2742](#); A [2003, 3439](#); [2007, 2135](#); [2013, 2220](#); [2017, 990](#))

### **Agenda Item 3:**

**Notice of Public Workshop, Request for Comments and Review of Nevada Administrative Code Chapter 631, related to the changes to and/or additions to regulations regarding administration of Board disciplinary proceedings pursuant to NRS 631.350- NRS 631.368**

## DISCIPLINARY ACTION

**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 if~~ the use ~~does not~~ constitutes 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 ~~attest 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, [dental therapist](#), 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, [dental therapist](#), 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, [dental therapist](#), or dental hygienist before offering employment or contracting for services with the dentist, [dental therapist](#), or dental hygienist as an independent contractor [unless the employee or independent contractor fraudulently misrepresents credentials](#).

~~(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, [dental therapist](#), 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.

~~(v) If the Board takes action pursuant to [NRS 631.350 \(l\)](#) the person required to reimburse is defined as the licensee subject to the action.~~

~~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 submitted on the public complaints form on the Nevada State Dental Examiners website written;~~

~~— (b) Be attested to signed and verified by the complainant; and~~

~~— (c) Contain specific charges. Must qualify as violations of NRS 631 or NAC 631 which are listed specifically on the public complaints form.~~

~~2. The Board will send a notice and a copy of the complaint to the licensee. The licensee may must file a response to the complaint within 30 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)~~

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**1. A complaint filed by an aggrieved person must be:**

**(a) Attested under oath and filed on a form prescribed on the Board website.**

(b) Submitted with sufficient evidence to support the allegations in order to make a determination of whether the Board has jurisdiction in the matter and whether there is sufficient evidence to support the allegation of a violation. The complaint form shall list each violation of unprofessional conduct under Chapter 631. The complainant shall indicate on the complaint form, the specific violation that correlates with the allegation and shall provide sufficient evidence to support the allegation of the violation. Allegations involving financial disputes do not qualify as violations of professional misconduct. The complaint form shall contain the authorization for use/disclosure of protected health information of the complainant.

(c) The complaint form shall be redacted of any information identifying the accused person before it is reviewed for jurisdiction by the Board counsel.

(d) Upon receipt of a complaint filed pursuant to paragraph (a), (b) and (c) the Board Counsel shall make a determination whether to accept jurisdiction in the matter and whether the evidence submitted with the complaint is sufficient to warrant an investigation pursuant to NRS 631.360 in the matter. This determination shall be made within 30 days after receiving the redacted complaint. Board counsel shall attest on the document for the determination:

- (i) have no knowledge of the identity of the accused person and
- (ii) had no communication with any person with regard to the subject matter of the complaint
- (iii) have not been unduly influenced in making the determination

(e) If the Board Counsel determines the Board does not have jurisdiction in the matter or the complainant fails to submit sufficient evidence in the matter, the redacted complaint will be referred to the Review Panel with a recommendation to dismiss the complaint. Upon receiving a recommendation from the Board counsel, the Review Panel will within 45 days:

- (i) reject the recommendation without prejudice and instruct the Executive Director to assign the matter to a Nevada licensed investigator; or
- (ii) accept the recommendation and recommend the Board dismiss the redacted complaint. The Board counsel's recommendation shall be presented, with the redacted complaint, to the Board for dismissal.

(f) Each member of the Review Panel shall attest on the document of their recommendation:

- (i) have no knowledge of the identity of the accused person; and
- (ii) had no communication with any person with regard to the subject matter of the complaint
- (iii) have not been unduly influenced in making the recommendation

(g) If the Board receives a recommendation of the Review Panel to dismiss the redacted complaint the Board will within 60 days:

- (i) reject the recommendation without prejudice and instruct the Executive Director to assign the matter to a Nevada licensed investigator; or
- (ii) accept the recommendation and dismiss the complaint.
- (iii) the Executive Director shall, in writing, obtain the identity of the licensee and notify the complainant and the accused person of the dismissal within ten days.

(h) If the Board counsel determines that the Board has jurisdiction in the matter to investigate all or a portion of the complaint, the Executive Director shall assign the redacted complaint to a Nevada licensed investigator. The Executive Director shall notify the licensee that the matter has been forwarded to a Nevada licensed investigator.

(i)The Executive Director and the Nevada licensed investigator shall attest on the notice of complaint that they:

- (i) have knowledge of the identity of the accused person; and
- (ii) will maintain the identity of the accused person confidential from the Board Dental Expert and the Review Panel.

NAC 631..... Authorized Board Investigation upon its own motion:

1. If the Board receives information that leads the Executive Director and Board counsel to reasonably conclude that a licensee may have committed a violation under the jurisdiction of chapter 631, the Executive Director and Board counsel may make a recommendation to the Board that the Board initiate a complaint upon its own motion.

2. A recommendation from the Executive Director and Board counsel pursuant to subsection 1 must:

- (a) contain a written statement setting forth the information that supports the recommendation; and



(b) list the specific violation of unprofessional conduct under Chapter 631.

(c) Include any reliable and competent form of proof, including, without limitation, statements of witnesses, public or private records, audio or visual recordings, documents, exhibits, concrete objects or another form of proof, that supports the recommendation.

(d) redact the identifying information of the accused person

3. The Executive Director and the Board counsel shall attest on the recommendation of the authorized investigation that they:

(i) have knowledge of the identity of the accused person; and

(ii) will maintain the identity of the accused person confidential from the Board Dental Expert and the Review Panel.

4. Upon receiving a recommendation from the Executive Director and General Counsel pursuant to subsection 1, the Board will:

(a) Reject the recommendation without prejudice; or

(b) Accept the recommendation and initiate a notice of complaint upon its own motion pursuant to NRS 631.360

Such a motion shall:

(1) be a determination by the Board that it has jurisdiction in the matter and the evidence is sufficient to warrant an investigation in the matter; and

(2) will direct the Executive Director to investigate the complaint as required pursuant to NRS 631.360

5. The notice of complaint shall contain:

(a) contain a written statement setting forth the information that supports the recommendation; and

(b) list the specific violation of unprofessional conduct under Chapter 631; and

(c) Include any reliable and competent form of proof, including, without limitation, statements of witnesses, public or private records, audio or visual recordings, documents, exhibits, concrete objects or another form of proof, that supports the recommendation.

**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 public complaints form and but will not extend the investigation to any additional matters beyond the complaint, which appear to constitute a violation of any provision of chapter 631 of NRS or of this chapter.

2. If, the investigation deems that there is no violation of NRS 631 or NAC 631 after its investigation, the Board shall dismisses the complaint. The complaint shall not be remanded over the licensee to be used in the dismissal does not operate as a limitation on or a detriment to any subsequent complaints or investigations or other action by the Board unless the Board receives additional information from the complainant relevant to that complaint.

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 disciplinary committee of the Board before the Board's hearing on the matter.

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

4. The Nevada licensed investigator shall forward the notice of complaint to the accused person to the addresses on file at the Board via ~~certified~~ registered U.S. Mail and electronic mail.

5. The accused person shall have thirty (30) days upon receipt of the notice of complaint to provide all records for the patient within the past 5 years.

6. The Executive Director may grant reasonable requests for extensions as needed by the licensee.

7. Failure to provide requested records pertaining to the notice of complaint may be deemed unprofessional conduct pursuant to NAC 631.230.

NAC 631... Assignment of matter to Board Dental Expert

1. Upon receipt of the records and/or written response including any expert opinions from the accused person the Nevada licensed investigator shall redact any identifying information of the accused person from the records and response and forward to a Board Dental Expert.

2. The Board shall retain a Board Dental Expert to review the redacted complaint and records. The complaint and the dental records shall be redacted of any identifying information about the accused person.

3. A Board Dental Expert shall be licensed dental professionals with no board action within the past ten years and a minimum of 5 years actively practicing in Nevada. Redacted complaints against licensed dentists or specialists shall be sent to Board Dental Expert dentists or specialists. Redacted complaints against dental therapists shall be sent to Board Dental Expert dentists or Board Dental Expert dental therapists. Redacted complaints against registered dental hygienists shall be sent to Board Dental Expert dentists, Board Dental Expert dental therapists or Board Dental Expert registered dental hygienists. Redacted complaints shall be assigned to Board Dental Expert's with expertise in the relevant subject matter of the complaint.

4. The Board Dental Expert shall include in their expert opinion and attest to the Nevada licensed investigator within 45 days of receipt of the records:

- (a) whether there was a breach of the standard of care under Chapter 631; and
- (b) provide sufficient evidence that supports the specific violation which correlates with the allegation
- (c) have no knowledge of the identity of the accused person and

(d) had no communication with any person with regard to the subject matter of the complaint

(e) have not been unduly influenced in making the determination

5. The Executive Director may grant reasonable extensions to the Board Dental Expert as needed to

complete the expert opinion.

6. The Board Dental Expert's opinion shall be deemed confidential, except from the licensee,

pursuant to NRS 631.368.

7. The Board may retain other expert opinions from dental professionals who have experienced no board action within the past ten years and a minimum of 5 years actively practicing outside the state of Nevada. The Executive Director must submit, in writing, a reasonable reason for using an out of state Board Dental Expert.

8. The Nevada licensed investigator shall forward a copy of the Board Dental Expert opinion to the accused person within 15 days of receipt of the opinion.

9. The accused person shall have thirty (30) days upon receipt of the Board Dental Expert opinion to provide a written response including any expert opinions.

10. A complainant may withdraw their complaint:

(a) at any time before the Nevada licensed investigator forwards the matter to the Board Dental Expert; or

(b) With the consent of the Board, after the Nevada licensed investigator forwards the matter to the Board Dental Expert.

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

1. Pursuant to NRS 631.3635, the Nevada licensed investigator shall forward the redacted complaint, Board Dental Expert opinion and accused person's redacted records and response including any expert opinions 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 Board Dental Expert.

(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 may:

(i) make a recommendation to dismiss the complaint; or

(ii) request the Board Dental Expert, Nevada licensed investigator or licensee to respond to any other questions presented by the Review Panel. They shall have 60 days to respond to the Review Panel; or

(iii) make a recommendation for an informal disposition by stipulation. If an informal disposition is made, the parties may waive the requirement for findings of fact and conclusions of law.

(iv) make a recommendation for an informal hearing

(v) make a recommendation for a formal hearing

4. The Review Panel shall present their findings and recommendations to a Hearing Panel delegated by the Board to conduct a formal hearing pursuant to NRS 631.350(3)

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

1. Pursuant to NRS 631.350 (3) and NRS 622a.170 (2) the Board shall designate a Hearing Panel to take

any disciplinary action pursuant to NRS 631.350.

2. The Hearing Panel may retain the services of a Hearing Advisor who is an independent contractor retained by the Board to attend hearings and advise the hearing panel. The Hearing Advisor may advise the Hearing Panel regarding any aspects of the hearing as well as the admissibility of any evidence produced during administrative proceedings.

3. The Hearing Panel shall have three (3) members of the Nevada State

Board of Dental Examiners Disciplinary Committee to preside over any formal hearing conducted pursuant to NRS 631.350 (3) and NRS 622a.170 (2). One member shall be named the Chair for the formal hearing.

4. Each member of the Hearing Panel shall have one vote as to the verdict of any formal 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 Advisor may advise the Hearing Panel in reviewing the Order and findings of fact and conclusions of law 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.

7. Failure to comply with the above timetable is not grounds for dismissal of the underlying charges

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

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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.

**Commented [ADM1]:** Violates NRS 631.355 (2) Hearing panel decision is final.

**NAC 631.255 Record of hearing conducted by investigator or hearing officer or panel.** ([NRS 631.190](#), [631.350](#), [631.360](#), [631.363](#)) If the Board has delegated its responsibility pursuant to the provisions of subsection 3 of [NRS 631.350](#) or [NRS 631.363](#), the [informal or formal](#) hearing conducted as a result of that delegation of authority must be recorded and transcribed in permanent form by a shorthand reporter licensed to do business in this State.

(Added to NAC by Bd. of Dental Exam'rs, eff. 4-3-89)