

NEVADA STATE BOARD
of
DENTAL EXAMINERS



REGULATION WORKSHOP

WEDNESDAY, JUNE 1, 2022

6:00 P.M.

PUBLIC BOOK

Agenda Item 3(1):

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

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(1):

Relevant Segment of AB 438

REQUIRES TWO-THIRDS MAJORITY VOTE
(§§ 3, 7)

A.B. 438

ASSEMBLY BILL NO. 438—COMMITTEE
ON COMMERCE AND LABOR

MARCH 26, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to dentistry.
(BDR 54-1137)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to dentistry; authorizing the Board of Dental Examiners of Nevada to employ persons for certain purposes; prescribing conditions concerning such employment; revising provisions governing the treatment of a patient by a dentist, dental hygienist or dental therapist licensed in another jurisdiction during certain courses of continuing education; providing for the licensure by endorsement of dentists and dental hygienists; prohibiting the imposition of disciplinary action against a dentist, dental hygienist or dental therapist for certain reasons; revising the types of disciplinary action that the Board is authorized to impose; revising provisions concerning the investigation of a complaint against a dentist, dental hygienist or dental therapist; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law creates the Board of Dental Examiners of Nevada to regulate the
2 practices of dentistry, dental hygiene and dental therapy in this State and provides
3 for the appointment of the Executive Director of the Board. (NRS 631.120,
4 631.160) **Section 2** of this bill authorizes the Board to employ certain personnel
5 necessary to the discharge of its duties. **Sections 2 and 4** of this bill provide that all
6 employees of the Board, including the Executive Director, are at-will employees
7 who serve at the pleasure of the Board. **Section 2** prescribes certain additional
8 requirements governing the employment of hearing officers. **Section 2** also



1 ~~—6. The Board may revoke a temporary license at any time if the~~
 2 ~~Board finds, by a preponderance of the evidence, that the holder of~~
 3 ~~the license violated any provision of this chapter or the regulations~~
 4 ~~of the Board.] An applicant for licensure by endorsement to~~
 5 ~~practice dentistry pursuant to this section must have practiced~~
 6 ~~dentistry pursuant to the laws of another state or territory of the~~
 7 ~~United States, or the District of Columbia, or served as a full-time~~
 8 ~~faculty member in an accredited program of dentistry, for:~~

9 (a) *A minimum of 3 years, if the applicant has successfully*
 10 *completed an accredited residency program, including, without*
 11 *limitation, a general practice residency, a program for advanced*
 12 *education in general dentistry or a training program in a specialty*
 13 *recognized by the American Dental Association, or its successor*
 14 *organization; or*

15 (b) *A minimum of 5 years, if the applicant has not successfully*
 16 *completed such a program.*

17 **Sec. 8.** NRS 631.350 is hereby amended to read as follows:

18 631.350 1. Except as otherwise provided in *subsection 3 and*
 19 *NRS 631.271, 631.2715 and 631.347, the Board may:*

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

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

23 (c) Fine a person it has licensed ~~{}~~ *in an amount not to exceed*
 24 *\$5,000 for each violation;*

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

27 (e) Issue a public reprimand to a person;

28 (f) *Issue a written warning, letter of concern or other written*
 29 *correspondence, other than a private reprimand, to a person;*

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

31 ~~{(g)}~~ (h) Require a person to participate in a program relating to
 32 an alcohol or other substance use disorder or any other impairment;

33 ~~{(h)}~~ (i) Require that a person's practice be supervised;

34 ~~{(i)}~~ (j) Require a person to perform community service without
 35 compensation;

36 ~~{(j)}~~ (k) Require a person to take a physical or mental
 37 examination or an examination of his or her competence;

38 ~~{(k)}~~ (l) Require a person to fulfill certain training or
 39 educational requirements;

40 ~~{(l)}~~ (m) Require a person to reimburse a patient; or

41 ~~{(m)}~~ (n) Any combination thereof,

42 ↪ if the Board finds, by a preponderance of the evidence, that the
 43 person has engaged in any of the activities listed in subsection 2.

44 2. The following activities may be punished as provided in
 45 subsection 1:



1 (a) Engaging in the illegal practice of dentistry, dental hygiene
2 or dental therapy;

3 (b) Engaging in unprofessional conduct; or

4 (c) Violating any regulations adopted by the Board or the
5 provisions of this chapter.

6 3. *The Board shall not impose disciplinary action for:*

7 (a) *Any grounds not described in this chapter or NRS*
8 *695D.190, including, without limitation, matters relating solely to*
9 *the amount of a fee charged by a licensee, the amount of an*
10 *insurance claim or the length of time a licensee took to perform a*
11 *procedure; or*

12 (b) *Any alleged misconduct that occurred more than 5 years*
13 *before the date on which the complaint concerning the alleged*
14 *misconduct was submitted.*

15 4. The Board may delegate to a hearing officer or panel its
16 authority to take any disciplinary action pursuant to this chapter,
17 impose and collect fines therefor and deposit the money therefrom
18 in banks, credit unions, savings and loan associations or savings
19 banks in this State.

20 ~~4.~~ 5. If a hearing officer or panel is not authorized to take
21 disciplinary action pursuant to subsection ~~3.~~ 4 and the Board
22 deposits the money collected from the imposition of fines with the
23 State Treasurer for credit to the State General Fund, it may present a
24 claim to the State Board of Examiners for recommendation to the
25 Interim Finance Committee if money is needed to pay attorney's
26 fees or the costs of an investigation, or both.

27 ~~5.~~ 6. The Board shall not administer a private reprimand.

28 ~~6.~~ 7. An order that imposes discipline and the findings of fact
29 and conclusions of law supporting that order are public records.

30 **Sec. 9.** NRS 631.355 is hereby amended to read as follows:

31 631.355 1. Any disciplinary action taken by a hearing officer
32 or panel pursuant to NRS 631.350 is subject to the same procedural
33 requirements which apply to disciplinary actions taken by the
34 Board, and the officer or panel has those powers and duties given to
35 the Board in relation thereto. Before taking disciplinary action, the
36 hearing officer or panel shall review and consider the *findings and*
37 *conclusions of an investigator appointed pursuant to NRS 361.363*
38 *and the findings and recommendations of a review panel appointed*
39 *pursuant to NRS 631.3635.*

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

43 **Sec. 10.** NRS 631.360 is hereby amended to read as follows:

44 631.360 1. Except as otherwise provided in NRS 631.364,
45 the Board may, upon its own motion, and shall, upon the ~~verified~~



1 complaint in writing of any person setting forth facts which, if
2 proven, would constitute grounds for initiating disciplinary action,
3 investigate the actions of any person who practices dentistry, dental
4 hygiene or dental therapy in this State. A complaint may be filed
5 anonymously. If a complaint is filed anonymously, the Board may
6 accept the complaint but may refuse to consider the complaint if
7 anonymity of the complainant makes processing the complaint
8 impossible or unfair to the person who is the subject of the
9 complaint.

10 2. The Board shall, before initiating disciplinary action, at least
11 10 days before the date set for the hearing, notify the accused person
12 in writing of any charges made. The notice may be served by
13 delivery of it personally to the accused person or by mailing it by
14 registered or certified mail to the place of business last specified by
15 the accused person, as registered with the Board.

16 3. *Except as otherwise provided in NRS 361.364, a committee*
17 *designated by the Board and consisting of members of the Board*
18 *shall review and investigate each complaint to determine if the*
19 *complaint concerns a matter that is within the jurisdiction of the*
20 *Board and whether there is a reasonable basis for the complaint.*
21 *The committee must be composed of at least four members of the*
22 *Board, at least one of whom is not a holder of a license to practice*
23 *dentistry. A meeting of such a committee is not subject to the*
24 *provisions of chapter 241 of NRS.*

25 4. *Not more than 20 days after the meeting of the committee,*
26 *the committee shall publish a summary of the meeting and the*
27 *conclusions of the committee that does not identify any person*
28 *involved in the activities discussed in the complaint. If the*
29 *committee determines that the complaint concerns a matter that is*
30 *within the jurisdiction of the Board and that there is a reasonable*
31 *basis for the complaint, the committee must refer the complaint to*
32 *the Board or a hearing officer or panel to whom the Board has*
33 *delegated its authority pursuant to subsection 4 of NRS 631.350*
34 *for a hearing pursuant to subsection 6.*

35 5. *Before a complaint is submitted to a committee for review*
36 *pursuant to subsection 3, an employee of the Board must redact*
37 *from the complaint the identifying information of each person*
38 *involved in the activities discussed in the complaint. The identities*
39 *of those persons must not be revealed unless the committee refers*
40 *the complaint for a hearing.*

41 6. At the time and place fixed in the notice, the Board shall
42 proceed to hear the charges. If the Board receives a report pursuant
43 to subsection 5 of NRS 228.420, a hearing must be held within 30
44 days after receiving the report.



1 ~~{4.}~~ 7. The Board may compel the attendance of witnesses or
 2 the production of documents or objects by subpoena. The Board
 3 may adopt regulations that set forth a procedure pursuant to which
 4 the Executive Director may issue subpoenas on behalf of the Board.
 5 Any person who is subpoenaed pursuant to this subsection may
 6 request the Board to modify the terms of the subpoena or grant
 7 additional time for compliance.

8 ~~{5.}~~ 8. The Board may obtain a search warrant from a
 9 magistrate upon a showing that the warrant is needed for an
 10 investigation or hearing being conducted by the Board and that
 11 reasonable cause exists to issue the warrant.

12 ~~{6.}~~ 9. If the Board is not sitting at the time and place fixed in
 13 the notice, or at the time and place to which the hearing has been
 14 continued, the Board shall continue the hearing for a period not to
 15 exceed 30 days.

16 ~~{7.}~~ 10. The Board shall retain all complaints received by the
 17 Board pursuant to this section for at least 10 years, including,
 18 without limitation, any complaints not acted upon.

19 **Sec. 11.** NRS 631.363 is hereby amended to read as follows:

20 631.363 1. The Board may appoint one of its members and
 21 any of its employees, investigators or other agents to conduct an
 22 investigation and informal hearing concerning any practice by a
 23 person constituting a violation of the provisions of this chapter or
 24 the regulations of the Board.

25 2. The investigator designated by the Board to conduct ~~{a}~~ *an*
 26 *informal* hearing shall notify the person being investigated at least
 27 10 days before the date set for the hearing. The notice must describe
 28 the reasons for the investigation and must be served personally on
 29 the person being investigated or by mailing it by registered or
 30 certified mail to his or her last known address.

31 3. ~~{If, after}~~ *After* the *informal* hearing ~~{, the investigator~~
 32 ~~determines that the Board should take further action concerning the~~
 33 ~~matter,}~~ the investigator shall prepare written findings of fact and
 34 conclusions and submit them to the Board. A copy of the report
 35 must be sent to the person being investigated. *The investigator may*
 36 *not dismiss a complaint.*

37 4. ~~{If the Board, after}~~ *After* receiving the report of its
 38 investigator pursuant to this section ~~{, holds}~~ *the Board shall hold*
 39 *its own hearing on the matter pursuant to NRS 631.360 . {, it may}*
 40 *At the hearing, the Board shall* consider the investigator's report
 41 *and the findings and recommendations of the review panel*
 42 *appointed pursuant to NRS 361.3635* but is not bound by ~~{his or~~
 43 ~~her}~~ *the* findings or conclusions ~~{}~~ *of the investigator or the*
 44 *findings and recommendations of the review panel.* The
 45 investigator and any member of a review panel ~~{appointed pursuant~~



1 ~~to NRS 631.3635~~ shall not participate in the hearing conducted by
2 the Board.

3 5. If the person who was investigated agrees in writing to the
4 findings and conclusions of the investigator, the Board may adopt
5 that report as its final order and take such action as is necessary
6 without conducting its own hearing on the matter.

7 **Sec. 12.** NRS 631.3635 is hereby amended to read as follows:

8 631.3635 1. The Board shall appoint a panel to review an
9 investigation ~~or~~ and informal hearing conducted pursuant to NRS
10 631.363. Such a panel must consist of:

11 (a) If the subject of the investigation ~~or~~ and informal hearing
12 is a holder of a license to practice dental hygiene, one member of
13 the Board who is a holder of a license to practice dentistry, one
14 member of the Board who is a holder of a license to practice dental
15 hygiene and one holder of a license to practice dental hygiene who
16 is not a member of the Board and is not the subject of the
17 investigation ~~or~~ and informal hearing.

18 (b) If the subject of the investigation ~~or~~ and informal hearing
19 is a holder of a license to practice dentistry or any other person not
20 described in paragraph (a), one member of the Board who is a
21 holder of a license to practice dentistry, one member of the Board
22 who is a holder of a license to practice dental hygiene and one
23 holder of a license to practice dentistry who is not a member of the
24 Board and is not the subject of the investigation ~~or~~ and informal
25 hearing.

26 2. A review panel appointed pursuant to subsection 1 shall, in
27 conducting a review of an investigation ~~or~~ and informal hearing
28 conducted pursuant to NRS 631.363, review and consider, without
29 limitation:

30 (a) All files and records collected or produced by the
31 investigator;

32 (b) Any written findings of fact and conclusions prepared by the
33 investigator; and

34 (c) Any other information deemed necessary by the review
35 panel.

36 3. The investigator who conducted the investigation ~~or~~ and
37 informal hearing pursuant to NRS 631.363 shall not participate in a
38 review conducted pursuant to subsection 1.

39 4. Before the Board takes any action or makes any disposition
40 relating to a complaint, the review panel appointed pursuant to
41 subsection 1 to conduct a review of the investigation ~~or~~ and
42 informal hearing relating to the complaint shall present to the Board
43 its findings and recommendation relating to the investigation ~~or~~
44 and informal hearing, ~~and the~~ *which must include, without*
45 *limitation, findings concerning whether any determination made*



1 *during the investigation and informal hearing was without basis.*
 2 *The* Board shall review and consider those findings and
 3 recommendations.

4 5. Meetings held by a review panel appointed pursuant to
 5 subsection 1 are not subject to the provisions of chapter 241 of
 6 NRS.

7 **Sec. 13.** NRS 241.016 is hereby amended to read as follows:

8 241.016 1. The meetings of a public body that are quasi-
 9 judicial in nature are subject to the provisions of this chapter.

10 2. The following are exempt from the requirements of this
 11 chapter:

12 (a) The Legislature of the State of Nevada.

13 (b) Judicial proceedings, including, without limitation,
 14 proceedings before the Commission on Judicial Selection and,
 15 except as otherwise provided in NRS 1.4687, the Commission on
 16 Judicial Discipline.

17 (c) Meetings of the State Board of Parole Commissioners when
 18 acting to grant, deny, continue or revoke the parole of a prisoner or
 19 to establish or modify the terms of the parole of a prisoner.

20 3. Any provision of law, including, without limitation, NRS
 21 91.270, 219A.210, 228.495, 239C.140, 239C.420, 281A.350,
 22 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415,
 23 287.04345, 287.338, 288.220, 288.590, 289.387, 295.121, 360.247,
 24 388.261, 388A.495, 388C.150, 388D.355, 388G.710, 388G.730,
 25 392.147, 392.467, 394.1699, 396.3295, 414.270, 422.405, 433.534,
 26 435.610, 442.774, 463.110, 480.545, 622.320, 622.340, 630.311,
 27 630.336, **631.360**, 631.3635, 639.050, 642.518, 642.557, 686B.170,
 28 696B.550, 703.196 and 706.1725, which:

29 (a) Provides that any meeting, hearing or other proceeding is not
 30 subject to the provisions of this chapter; or

31 (b) Otherwise authorizes or requires a closed meeting, hearing
 32 or proceeding,

33 ↪ prevails over the general provisions of this chapter.

34 4. The exceptions provided to this chapter, and electronic
 35 communication, must not be used to circumvent the spirit or letter of
 36 this chapter to deliberate or act, outside of an open and public
 37 meeting, upon a matter over which the public body has supervision,
 38 control, jurisdiction or advisory powers.

39 **Sec. 14.** Notwithstanding the provisions of NRS 218D.430 and
 40 218D.435, a committee, other than the Assembly Standing
 41 Committee on Ways and Means and the Senate Standing Committee
 42 on Finance, may vote on this act before the expiration of the period
 43 prescribed for the return of a fiscal note in NRS 218D.475. This
 44 section applies retroactively from and after March 22, 2021.



Agenda Item 3(1):

Proposed Draft

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~~ attest 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) Verified by Declaration under the penalty of perjury 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 by an independent third-party of any information identifying the accused person before it is reviewed for jurisdiction by the Board Counsel.

(d) Upon receipt of a redacted 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 redacted 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 redacted complaint; and
- (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 redacted 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 an 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 an **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 an **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 a licensed dental professionals with no board action within the past ten (10) years and a minimum of five (5) years actively practicing dentistry, dental hygiene and/or dental therapy 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; and

(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 (10) years and a minimum of five (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 fifteen (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 sixty (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; or

(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)

CONFLICTS

NAC 631..... Any complaints received by the Board involving Board members and/or employees of the Board shall be referred to the Attorney General's office for resolution.

- (a) Board members as used in this regulation shall include all active members of the Nevada State Board of Dental Examiners as well as former Board members for five (5) years after the Board member leaves the service of the Nevada State Board of Dental Examiners.
- (b) Employees shall include sub-committee members, Preliminary Screening Experts, Infection Control Inspectors, Anesthesia Evaluators, and any other Dentist, Dental Hygienists, or Dental Therapists who receive compensation for employment derived from services rendered to the Board. Cases involving employees of the Board shall only be referred to the Attorney General's Office for incidents occurring while the Dentist, Dental Hygienist, or Dental Therapist at issue in the complaint was employed by the Board or serving on one of the Board's sub-committees.

NAC 631 . . . Upon receipt of a redacted complaint removing the identifying information of the accused, the Board's General Counsel shall review the complaint for jurisdiction. Upon verification of jurisdiction and upon receiving an unredacted complaint thereafter, the Board shall gather all records from the treating Dentist, Dental Hygienist, or Dental Therapist, and forward to a Board Preliminary Screening Expert who shall certify that they have no knowledge of the incident as well as certifying they can fairly evaluate the matter and are not biased.

NAC 631... Upon receipt of the report from the Preliminary Screening Expert, the Board shall refer the matter to the Attorney General's Office for further investigation.

NAC 631... The Attorney General's office shall, subsequent to any further investigation they deem necessary, request that the Office of the Governor appoint independent Board Members and/or Review Panelists who are neither current sitting members or member who sat on the Board five (5) years after they left service, to review the investigation pursuant to NRS 631.3635. This Panel must be consistent with the requirements outlined in NRS 631.3635. The Board General Counsel shall be permitted to attend the review of the Board Member or employee complained of to ensure consistency and fairness in the process.

ADDENDUM TO PROPOSED REGS RE REVIEW PANEL INVESTIGATIVE POWERS

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:

4.

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

(ii) The Review Panel may compel the attendance of witnesses or the production of documents or objects by subpoena. The Review Panel may authorize the Executive Director to issue a subpoena to compel the attendance of witnesses or the production of documents or objects pursuant to NRS 631.360(4). The authorization to the Executive Director to issue a subpoena from the Review Panel must be in writing and state the reasons and necessity of the documents or objects under subpoena to ascertain the allegations being investigated. Any person who is subpoenaed pursuant to this subsection may request the Review Panel to modify the terms of the subpoena or grant additional time for compliance.

(iii)

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

(iv) 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;

(v) make a recommendation for an informal hearing; ~~or~~

(v) make a recommendation for a formal hearing.

5. 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).

Agenda Item 3(2):

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 limited licensure permitting pursuant to NRS 631.271

NRS 631.271 Limited license to practice dentistry, dental hygiene or dental therapy; permit authorizing certain persons to practice dentistry or dental hygiene; regulations. [Effective January 1, 2020.]

1. The Board shall, without a clinical examination required by [NRS 631.240](#), [631.300](#) or [631.3121](#), issue a limited license to practice dentistry, dental hygiene or dental therapy to a person who:

(a) Is qualified for a license to practice dentistry, dental hygiene or dental therapy in this State;

(b) Pays the required application fee;

(c) Has entered into a contract with:

(1) The Nevada System of Higher Education to provide services as a dental intern, dental resident or instructor of dentistry, dental hygiene or dental therapy at an educational or outpatient clinic, hospital or other facility of the Nevada System of Higher Education; or

(2) An accredited program of dentistry, dental hygiene or dental therapy of an institution which is accredited by a regional educational accrediting organization that is recognized by the United States Department of Education to provide services as a dental intern, dental resident or instructor of dentistry, dental hygiene or dental therapy at an educational or outpatient clinic, hospital or other facility of the institution and accredited by the Commission on Dental Accreditation of the American Dental Association or its successor specialty accrediting organization;

(d) Satisfies the requirements of [NRS 631.230](#), [631.290](#) or [631.312](#), as appropriate; and

(e) Satisfies at least one of the following requirements:

(1) Has a license to practice dentistry, dental hygiene or dental therapy issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(2) Presents to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the person has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board;

(3) Successfully passes a clinical examination approved by the Board and the American Board of Dental Examiners; or

(4) Has the educational or outpatient clinic, hospital or other facility where the person will provide services as a dental intern or dental resident in an internship or residency program submit to the Board written confirmation that the person has been appointed to a position in the program. If a person qualifies for a limited license pursuant to this subparagraph, the limited

license remains valid only while the person is actively providing services as a dental intern or dental resident in the internship or residency program and is in compliance with all other requirements for the limited license.

2. The Board shall not issue a limited license to a person:

(a) Who has been issued a license to practice dentistry, dental hygiene or dental therapy if:

- (1) The person is involved in a disciplinary action concerning the license; or
- (2) The license has been revoked or suspended; or

(b) Who has been refused a license to practice dentistry, dental hygiene or dental therapy,

↳ in this State, another state or territory of the United States, or the District of Columbia.

3. Except as otherwise provided in subsection 4, a person to whom a limited license is issued pursuant to subsection 1:

(a) May practice dentistry, dental hygiene or dental therapy in this State only:

(1) At the educational or outpatient clinic, hospital or other facility where the person is employed; and

(2) In accordance with the contract required by paragraph (c) of subsection 1.

(b) Shall not, for the duration of the limited license, engage in the private practice of dentistry, dental hygiene or dental therapy in this State or accept compensation for the practice of dentistry, dental hygiene or dental therapy except such compensation as may be paid to the person by the Nevada System of Higher Education or an accredited program of dentistry, dental hygiene or dental therapy for services provided as a dental intern, dental resident or instructor of dentistry, dental hygiene or dental therapy pursuant to paragraph (c) of subsection 1.

4. The Board may issue a permit authorizing a person who holds a limited license to engage in the practice of dentistry, dental hygiene or dental therapy in this State and to accept compensation for such practice as may be paid to the person by entities other than the Nevada System of Higher Education or an accredited program of dentistry, dental hygiene or dental therapy with whom the person is under contract pursuant to paragraph (c) of subsection 1. The Board shall, by regulation, prescribe the standards, conditions and other requirements for the issuance of a permit.

5. A limited license expires 1 year after its date of issuance and may be renewed on or before the date of its expiration, unless the holder no longer satisfies the requirements for the limited license. The holder of a limited license may, upon compliance with the applicable requirements set forth in [NRS 631.330](#) and the completion of a review conducted at the

discretion of the Board, be granted a renewal certificate that authorizes the continuation of practice pursuant to the limited license for 1 year.

6. A permit issued pursuant to subsection 4 expires on the date that the holder's limited license expires and may be renewed when the limited license is renewed, unless the holder no longer satisfies the requirements for the permit.

7. Within 7 days after the termination of a contract required by paragraph (c) of subsection 1, the holder of a limited license shall notify the Board of the termination, in writing, and surrender the limited license and a permit issued pursuant to this section, if any, to the Board.

8. The Board may revoke a limited license and a permit issued pursuant to this section, if any, at any time if the Board finds, by a preponderance of the evidence, that the holder of the license violated any provision of this chapter or the regulations of the Board.

(Added to NRS by [1999, 1653](#); A [1999, 2849](#); [2001, 907](#); [2003, 1182](#); [2005, 46, 274](#); [2011, 74](#); [2015, 713](#); [2019, 3209, 4273](#), effective January 1, 2020)

Agenda Item 3(2):

Proposed Draft

Discussion of Regulations pertaining to the Limited License Permit pursuant to NRS 631.271

NAC 631.271. In order for an applicant to qualify for a limited license permit pursuant to NRS 631.271 that applicant must meet all of the requirements for a licensee pursuant to NAC 631.090 including:

1. Pass the Dental Simulated Clinical Examination or a comparable examination administered by the Western Regional Examining Board and/or CDCA-WREB exam, as applicable;
2. Demonstrate proficiency in endodontics as the organization administering the clinical examination requires;
3. Demonstrate proficiency in fixed prosthodontics as the organization administering the clinical examination requires;
4. Demonstrate proficiency in restorative dentistry as the organization administering the clinical examination requires;
5. Demonstrate proficiency in periodontics as the organization administering the clinical examination requires; and
6. Perform such other procedures as the Board requires.

Agenda Item 3(3) and 3(4):

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 hands-on CPR requirements and continuing education audit language pursuant to NRS 631.190

NRS 631.190 Powers and duties. [Effective January 1, 2020.] In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.
2. Appoint such committees, review panels, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.
3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry, dental hygiene and dental therapy.
4. Examine applicants for licenses to practice dentistry, dental hygiene and dental therapy.
5. Collect and apply fees as provided in this chapter.
6. Keep a register of all dentists, dental hygienists and dental therapists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.
7. Have and use a common seal.
8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in [NRS 631.368](#), the records must be open to public inspection.
9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.
10. Have discretion to examine work authorizations in dental offices or dental laboratories.

[Part 4:152:1951; A [1953, 363](#)] — (NRS A [1963, 150](#); [1967, 865](#); [1993, 2743](#); [2009, 3002](#); [2017, 989, 2848](#); [2019, 3205](#), effective January 1, 2020)

Agenda Item 3(3) and 3(4):

Proposed Draft

New proposed language in Green

NAC 631.173 Continuing education: Required hours; types of courses and activities; approval of provider or instructor. (NRS 631.190, 631.342, SB366 (2019))

1. Each dentist licensed to practice in this State must annually complete at least 20 hours of instruction in approved courses of continuing education or biennially complete at least 40 hours of instruction in approved courses of continuing education, as applicable, based on the renewal period set forth in [NRS 631.330](#) for the type of license held by the dentist. Hours of instruction may not be transferred or carried over from one licensing period to another.

2. Each dental hygienist licensed to practice in this State must annually complete at least 15 hours of instruction in approved courses of continuing education or biennially complete at least 30 hours of instruction in approved courses of continuing education, as applicable, based on the renewal period set forth in [NRS 631.330](#) for the type of license held by the dental hygienist. Hours of instruction may not be transferred or carried over from one licensing period to another.

3. Each dental therapist licensed to practice in this State must annually complete at least 18 hours of instruction in approved courses of continuing education or biennially complete at least 40 hours of instruction in approved courses of continuing education, as applicable, based on the renewal period set forth in NRS 631.330 for the type of license held by the dental therapist. Hours of instruction may not be transferred or carried over from one licensing period to another.

4. In addition to the hours of instruction prescribed in subsections 1 and 2, each dentist, *dental therapist and* dental hygienist must maintain current certification in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life. Any course taken pursuant to this subsection must be taught by a certified instructor and *include, at minimum, XX hours of hands-on training.*

5. Any provider of or instructor for a course in continuing education relating to the practice of dentistry, *dental therapy* or dental hygiene which meets the requirements of this section must be approved by the Board, unless the course is for training in cardiopulmonary resuscitation or is approved by:

- (a) The American Dental Association or the societies which are a part of it;
- (b) The American Dental Hygienists' Association or the societies which are a part of it;
- (c) The Academy of General Dentistry;
- (d) Any nationally recognized association of dental or medical specialists;
- (e) Any university, college or community college, whether located in or out of Nevada; or
- (f) Any hospital accredited by The Joint Commission.

6. To be approved as a provider of a course in continuing education, the instructor of the course must complete a form provided by the Board and submit it to the Board for review by a committee appointed by the Board not later than 45 days before the beginning date of the course. Upon receipt of the form, the committee shall, within 10 days after receiving the form, approve or disapprove the application and inform the applicant of its decision.

7. Study by group may be approved for continuing education if the organizer of the group complies with the requirements of subsection [5 6](#) and furnishes the Board with a complete list of all members of the group, a synopsis of the subject to be studied, the time, place and duration of the meetings of the group, and the method by which attendance is recorded and authenticated.

8. Credit may be allowed for attendance at a meeting or a convention of a dental and dental hygiene society.

9. Credit may be allowed for courses completed via home study, on-line study, self-study or journal study which are taught through correspondence, webinar, compact disc or digital video disc.

10. Credit may be allowed for dental and dental hygiene services provided on a voluntary basis to nonprofit agencies and organizations approved by the Board.

(Added to NAC by Bd. of Dental Exam'rs, eff. 9-16-85; A 12-15-87; 9-6-96; R231-03, 5-25-2004; R063-05, 12-29-2005; R159-08, 4-23-2009; R020-14, 6-23-2014)

NAC 631.177 Continuing education: Renewal or reinstatement of license; records; unprofessional conduct; audits. (NRS 631.190, 631.330, 631.335, 631.342, SB 366 (2019))

1. When requesting a renewal or reinstatement of his or her license, each:

(a) Dentist shall submit a signed, written statement in substantially the following language for each year since his or her last renewal:

I,, hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 20 approved hours of instruction in continuing education during the period July 1,, through and including June 30,I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this (day) of (month) of.....(year)

.....
Signature of Dentist

(b) Dental hygienist shall submit a signed, written statement in substantially the following language for each year since his or her last renewal:

I,, hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 15 approved hours of instruction in continuing education during the period July 1,, through and including June 30,I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this (day) of (month) of.....(year)

.....
Signature of Dental Hygienist

(c) Dental therapist shall submit a signed, written statement in substantially the following language for each year since his or her last renewal:

I,, hereby certify to the Board of Dental Examiners of Nevada that I have obtained at least 18 approved hours of instruction in continuing education during the period July 1,, through and including June 30,I also certify to the Board of Dental Examiners of Nevada that I am currently certified in administering cardiopulmonary resuscitation or another medically acceptable means of maintaining basic bodily functions which support life.

Dated this (day) of (month) of..... (year)

*.....
Signature of Dental Therapist*

(d) Dentist, *dental therapist* or dental hygienist shall submit proof of his or her current certification in administering cardiopulmonary resuscitation or other medically acceptable means of maintaining basic bodily functions which support life.

2. Legible copies of all receipts, records of attendance, certificates and other evidence of attendance by a dentist, *dental therapist* or dental hygienist at an approved course in continuing education must be retained by the dentist, *dental therapist* or dental hygienist and made available to the Board for inspection or copying for 3 years after attendance at the course is submitted to meet the continuing education requirements of the Board. Proof of attendance and completion of the required credit hours of instruction must be complete enough to enable the Board to verify the attendance and completion of the course by the dentist, *dental therapist* or dental hygienist and must include at least the following information:

- (a) The name and location of the course;
- (b) The date of attendance;
- (c) The name, address and telephone number of its instructor;
- (d) A synopsis of its contents; and
- (e) For courses designed for home study, the number assigned to the provider by the Board at the time the course was approved and the name, address and telephone number of the producer or author of the course.

3. The *second* or subsequent failure of a dentist, *dental therapist or* dental hygienist to obtain or file proof of completion of the credit hours of instruction required by this section and [NAC 631.173](#) and [631.175](#) is unprofessional conduct.

4. The Board will conduct random *initial* audits of dentists, *dental therapists*, or dental hygienists, *and additional follow-up audits as necessary* to ensure compliance with the requirements of this section and [NAC 631.173](#) and [631.175](#).

(Added to NAC by Bd. of Dental Exam'rs, eff. 9-16-85; A 12-15-87; 4-3-89; 9-6-96; R231-03, 5-25-2004; R159-08, 4-23-2009)

Agenda Item 3(5):

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 employment of Board staff to be at-will pursuant to NRS 631.190

NRS 631.190 Powers and duties. [Effective January 1, 2020.] In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.
2. Appoint such committees, review panels, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.
3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry, dental hygiene and dental therapy.
4. Examine applicants for licenses to practice dentistry, dental hygiene and dental therapy.
5. Collect and apply fees as provided in this chapter.
6. Keep a register of all dentists, dental hygienists and dental therapists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.
7. Have and use a common seal.
8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in [NRS 631.368](#), the records must be open to public inspection.
9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.
10. Have discretion to examine work authorizations in dental offices or dental laboratories.

[Part 4:152:1951; A [1953, 363](#)] — (NRS A [1963, 150](#); [1967, 865](#); [1993, 2743](#); [2009, 3002](#); [2017, 989, 2848](#); [2019, 3205](#), effective January 1, 2020)

Agenda Item 3(5):

Proposed Draft

New proposed language in Green**NAC 631. ___ Board Staff**

1. *The Board may employ hearing officers, experts, administrators, attorneys, investigators, consultants and clerical personnel necessary to the discharge of its duties.*
2. *Each employee of the Board is an at-will employee who serves at the pleasure of the Board. The Board may discharge an employee of the Board for any reason that does not violate public policy, including, without limitation, making a false representation to the Board.*
3. *A hearing officer employed by the Board shall not act in any other capacity for the Board or occupy any other position of employment with the Board, and the Board shall not assign the hearing officer any duties which are unrelated to the duties of a hearing officer.*
4. *If a person resigns his or her position as a hearing officer or the Board terminates the person from his or her position as a hearing officer, the Board may not rehire the person in any position of employment with the Board for a period of 2 years following the date of the resignation or termination. The provisions of this subsection do not give a person any right to be rehired by the Board and do not authorize the Board to rehire a person who is prohibited from being employed by the Board pursuant to any other provision of law.*
5. *The Executive Director, ~~may, with the approval of the Board,~~ upon delegation from the Board, may appoint and remove or discharge employees of the Board as may be necessary for the performance of the functions of the Board.*