

Nevada State Board of Dental Examiners



2651 N. Green Valley Pkwy, Ste. 104 • Henderson, NV 89014 • (702) 486-7044 • (800) DDS-EXAM • Fax (702) 486-7046

Notice of Public Meeting and Agenda for The Legislative, Legal, & Dental Practice Committee

Meeting Date & Time

Wednesday, April 19, 2023
6:00 p.m.

Meeting Location:

Nevada State Board of Dental Examiners
2651 N. Green Valley Pkwy., Suite 104
Henderson, NV 89014

Video Conferencing / Teleconferencing Available

To access by phone, call Zoom teleconference Phone Number: (669) 900 6833

To access by video webinar, visit www.zoom.com or use the Zoom app

Zoom Webinar/Meeting ID#: **864 8068 0820**

Zoom Webinar/Meeting Passcode: **853892**

PUBLIC NOTICE:

Public Comment by pre-submitted email/written form, live public comment, and by teleconference is available after roll call (beginning of meeting and prior to adjournment (end of meeting)). Live Public Comment is limited to three (3) minutes for each individual.

Members of the public may submit public comment in written form to: **Nevada State Board of Dental Examiners, 2651 N. Green Valley Pkwy, Ste. 104, Henderson, NV 89014; FAX number (702) 486-7046; e-mail address nsbde@dental.nv.gov.** Written submissions received by the Board on or before **Tuesday, April 18th, 2023, by 4:00 P.M.** may be entered into the record during the meeting. Any other written public comment submissions received prior to the adjournment of the meeting will be included in the permanent record.

The Nevada State Board of Dental Examiners may 1) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; 2) combine items for consideration by the public body; 3) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. See NRS 241.030. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the board may refuse to consider public comment. See NRS 233B.126.

Persons/facilities who want to be on the mailing list must submit a written request every six (6) months to the Nevada State Board of Dental Examiners at the address listed in the previous paragraph. With regard to any board meeting or telephone conference, it is possible that an amended agenda will be published adding new items to the original agenda. Amended Nevada notices will be posted in compliance with the Open Meeting Law.

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Board, at (702) 486-7044, no later than 48 hours prior to the meeting. Requests for special arrangements made after this time frame cannot be guaranteed.

Pursuant to NRS 241.020(2) you may contact at (702) 486-7044, to request supporting materials for the public body or you may download the supporting materials for the public body from the Board's website at <http://dental.nv.gov>. In addition, the supporting materials for the public body are available at the Board's office located at 2651 N. Green Valley Pkwy, Ste. 104, Henderson, NV 89014.

Note: Asterisks (*) "**For Possible Action**" denotes items on which the Board may take action.

Note: Action by the Board on an item may be to approve, deny, amend, or tabled.

1. Call to Order

- Roll call/Quorum

Dr. Johl called the meeting to order at approximately 6 p.m. Mr. Chris Bateman conducted roll call. Quorum was met.

Dr. Tejpaull Johl (Dr. Johl) – Present	Dr. David Lee (Dr. Lee) – Present
Dr. Ronald West (Dr. West) – Absent	Dr. Joshua Branco (Dr. Branco) – Present
Ms. Jana McIntyre (Ms. McIntyre) – Present	Mr. Michael Pontoni (Mr. Pontoni) – Absent

Others Present: Mr. Chris Bateman, Executive Director; Mr. Mark Karris, General Counsel; Dr. Todd Thompson; Ms. Alex Cannito

Public Attendees: Caryn Solie, RDH; Paul Klein; Jerry Mats; Jillhinxman; Mary Bobbett, RDH;

2. Public Comment (Live public comment, by teleconference, and pre-submitted email/written form):

The public comment period is limited to matters specifically noticed on the agenda. No action may be taken upon the matter raised during public comment unless the matter itself has been specifically included on the agenda as an action item. Comments by the public may be limited to three (3) minutes as a reasonable time, place and manner restriction, but may not be limited based upon viewpoint. The Chairperson may allow additional time at his/her discretion.

Pursuant to Section 2 of Directive 006, and extended by Directives 016, 018, 021, 026, and 029, members of the public may participate in the meeting without being physically present by submitting public comment via email to nsbde@dental.nv.gov, or by mailing messages to the Board office. Written submissions received by the Board on or before **Tuesday, April 18, 2023, by 4:00 p.m.** may be entered into the record during the meeting. Any other written public comment submissions received prior to the adjournment of the meeting will be included in the permanent record.

In accordance with Attorney General Opinion No. 00-047, as restated in the Attorney General's Open Meeting Law Manual, the Chair may prohibit comment if the content of that comment is a topic that is not relevant to, or within the authority of, the Nevada State Board of Dental Examiners, or if the content is willfully disruptive of the meeting by being irrelevant, repetitious, slanderous, offensive, inflammatory, irrational, or amounting to personal attacks or interfering with the rights of other speakers.

There was a public comment from Ms. Caryn Solie, RDH, who spoke on behalf of the Nevada Dental Hygienists Association Legislative Committee in reference to item 4(a)(1). She respectfully requested that the information included in the public book regarding dental therapy regulations be tabled to include and be handled conjunctively with the items the legislature is considering that may require NAC changes, so that they may be handled together. Dr. Johl thanked her for her comment.

*3. Chairman's Report: Tejpaull Johl, DDS (For Possible Action)

*a. Request to Remove Agenda Item(s) (For Possible Action)

Dr. Johl introduced the above agenda item and requested to remove from 4(a)(1): AB 363, AB 402, and SB 399 as they are no longer relevant.

*b. Approve Agenda (For Possible Action)

Ms. McIntyre motioned to approve the agenda as changed. Dr. Lee seconded the motion. All were in favor. Motion passed.

*4. New Business: (For Possible Action)

*a. Discussion, Review, and Possible Recommendations to the Board Regarding Proposed Legislation, Including, but not limited to, the Following: (For Possible Action)

- (1) Regulations Concerning licensure of Dentists and Dental Hygienists: AB 147, AB 363, AB 402, SB 44, SB 310, and SB 399

Dr. Johl introduced the amended agenda item and asked if Ms. Alex Cannito from Lewis Roca was present. She was and began to touch upon the regulations that are no longer relevant and some that may be such as SB 393 as it pertains to dental insurance, and SB 310 which can allow Dental Hygienists to prescribe and dispense certain drugs. Ms. Cannito gave a brief overview of the bills and their importance

to the Board. Dr. Johl questioned if Ms. Cannito had any information on AB 147 or SB 44. Ms. Cannito mentioned that AB 147 is awaiting approval on the committee floor and SB 44 passed out of the assembly floor this past Monday and has since been referred to Health and Human Services.

Dr. Lee mentioned SB 310 and noted that there is more to it than simply allowing Hygienists to prescribe and dispense drugs. Ms. Cannito corroborated that it was a more robust and lengthier bill including an amendment adding, deleting, and modifying language in the different subsections of the bill. Dr. Lee continued that it also extended to Dental Assistants, Ms. Cannito noted she will send that to the Board for review. Dr. Lee questioned the timeline, Ms. Cannito answered that this bill passed out of the senate committee last week, was amended, and now we're waiting for a vote in the senate floor. Ms. Cannito made it a point that it may not pass and that is something they are preparing for just in case.

Dr. Lee mentioned SB 44 and questioned the stage it's in. Ms. Cannito answered that it was voted on today in the Senate floor unanimously, and has since been sent to the assembly and has been referred to the Assembly on Health and Human Services. Waiting for a hearing date, will inform Board when known.

Dr. Lee again brought up SB 310 and expressed concern about the functions that this bill will allow. He continued by questioning what education will they bring to do these procedures, referencing sections 5 or 7 example, dental assistants are only meant to do reversible procedures and this would allow them to do permanent procedures such as a crown. Dr. Johl commented that accessibility and higher employment are a positive, as shown in other states. Ms. Cannito questioned if a Restorative Endorsed Dental Hygienist would be similar to what Dr. Johl referred to in other states. Dr. Johl said in California it's called 'extended functions' mainly involving taking impressions. Dr. Lee questioned if a dental assistant can use an ultrasonic scaler for expanded functions what is the difference between an assistant and a hygienist—this would allow assistants to do what hygienists do without education and experience. Ms. Cannito noted one of the amendments accepted included to add the reference of restorative endorsed dental hygienists and to replace the word 'supervision' with 'authorization.' In addition to that, it was agreed to add a new subsection to 8 that would set forth certain functions that could be performed by a Dental Assistant and Expanded Function Dental Assistants under the authorization of a Public Health Endorsed Dental Hygienist without a Restorative Endorsement, in certain settings. Mr. Bateman explained further that this will require the Board to set a Nevada Standard of Care, that there is no nation-wide consensus as all states have different requirements. Examination requirements, particularly. Discussion ensued between Dr. Johl and Dr. Lee about Dental Hygiene Therapists having more restrictions than the Dental Assistants. Dr. Lee asked to promote Dr. Thompson as a panelist to speak. Dr. Thompson noted that he has a Dental Hygienist from Colorado who had expanded duties. He continued by stating the Legislature will say yay or nay, and then the Board would have to come up with the regulations, the disciplinary actions, and the licensing requirements. Dr. Lee questioned, since the bill hasn't passed yet, could we send recommendations to amend the language. Dr. Lee questioned then Dr. Thompson about the aforementioned Dental Hygienist on staff's education and teaching experience; Dr. Thompson guessed there were programs offered through community colleges with a certain number of hours and classes, and that the Board will have to determine that. Dr. Thompson suggested forming a committee as done for Dental Therapists to create regulations once it's passed. Dr. Thompson also noted that the bill is being promoted by the Nevada Dental Association, Ms. Cannito corroborated.

Dr. Johl asked Ms. Cannito to give a brief synopsis on the main points of AB 147. Ms. Cannito first noted that one of the main points they're focusing on is administering immunizations and imposing different requirements to allow that. As well as tele-dentistry and having certain requirements for those services. Ms. Cannito mentioned that this was from last Legislation but didn't go anywhere.

Dr. Branco questioned if AB 198 could be discussed, Dr. Lee informed him that unfortunately that was not addressed in the agenda so it will have to be in the next meeting. Ms. Cannito noted that it did pass out of the Committee of Commerce and Labor last week, and right now it has eligibility for exemption. Mr. Karris advised that AB 198 can be discussed as the agenda notes "Including, but not limited, to" Proposed Legislation. Dr. Thompson continued it's informational only and that no action is being taken, therefore it's okay to discuss.

Dr. Thompson continued by voicing concerns regarding this bill stating it's a huge safety issue to Nevada by this potentially allowing Certified Registered Nurse Anesthetist's (CRNA) to practice in dental offices outside of the regulation of the Dental Board. The Anesthesia sub-committee has routinely denied this

proposal because of the already licensed Anesthesiologists, Dental Anesthesiologists as well as Oral Maxillary and other dentists that do anesthesia who are regulated by the Board. Dr. Thompson's biggest safety concern is the fact that most dental anesthesia is being performed on children in the pediatric field and, to ensure the protection of our patients, another huge concern is that CRNA's have less education and requirements than the dental licensed clinicians. The Dental Board would also have no jurisdiction of CRNA's and therefore no accountability if something went wrong. A discussion ensued about whether CRNA's carry Malpractice Insurance, Ms. McIntyre noted that Dental Hygienists do not. Dr. Thompson continued by questioning if the Board of Nursing would create regulations inside of dental offices and, if something bad happens, would the dentist inevitably be sued and carry the responsibility if board can't even regulate CRNAs. He continued that most dentists do not have anesthesia experience and therefore no one besides a CRNA would have that experience in the office during procedures, again raising red flags about accountability. Dr. Johl questioned if issuing Site Permits could mitigate the issue, however most Site Permits are administered to the owning dentist or practitioner who then outsources an Anesthesiologist or Dental Anesthesiologist, again leaving room for issues. Dr. Johl voiced concern about a CRNA's lack of malpractice insurance and the lack of dental medical education, noting 2 recent deaths in Arizona by a CRNA in a dental office. Dr. Lee and Thompson discussed CRNA's education requirements, and noted it was a lot less of an education requirement. It was noted too that most do not have pediatric experience while most of the anesthesia procedures are happening in Pediatric cases.

Dr. Johl questioned whether Ms. Cannito was still present, she was. He asked if she could speak on SB 44's changes to section 1. Ms. Cannito noted that the amendment accepted to this bill changed language to reflect that the state dental health officer must have completed the educational requirements of licensure and may meet the other requirements to hold current license to practice dentistry pursuant to chapter 631 of NRS. Dr. Thompson, doesn't have to require the license, just meeting the education requirement? Section 1(b): NRS 422.239 is hereby amended to read as follows: the Director shall appoint a state dental health officer who may serve in the unclassified service of the state or as a contractor for the dept. The State Dental Health Officer must have satisfied the educational requirement for and may but is not required to satisfy any other requirements for the issuance of an unrestricted license to practice dentistry pursuant to NRS 631. A discussion ensued between the Committee members about the fact that it does not require dental education, and concerns regarding someone without that education and experience advising on dentistry. They expressed major concerns about that lack of experience, and suggested sending a friendly amendment to the legislature voicing these concerns and instead requiring it be a licensed or previously licensed dentist. Dr. Branco questioned the language of the bill, stating that it requires a dental degree. Mr. Karris reread the bill and clarified that the language should be cleared up requiring licensure to avoid loopholes within the current education requirement. Main concern is an unqualified person making decisions in the field of dentistry, a public safety issue. Dr. Lee noted that public safety trumps accessibility. Along with this friendly amendment, Dr. Johl clarified that the Board will also send a friendly amendment for AB 198. In the sake of public safety, we shouldn't allow clinicians outside of the Board's jurisdiction within a dental office.

A discussion ensued about Oral Surgeons, Medical Anesthesiologists, and CRNAs regarding the supervision and regulations of administering anesthesia. Dr. Thompson noted that CRNAs are not allowed to work under those who have a dental license, as of right now. Although most Oral Surgeons have the degree and training, they do not hold a medical license. Dr. Thompson noted that these clinicians typically outsource dental anesthesiologists to intubate for Moderate Sedation rather than doing it themselves. Dr. Johl and Dr. Lee brought this up to see if a registered Oral Surgeon who holds a medical license could easily hire and regulate a CRNA who is also under the jurisdiction of the medical board.

Dr. Johl asked if Ms. Cannito could briefly elaborate on SB 393's bundling. Ms. Cannito pointed to section 7 of the bill which adds in new section about coding and specifically states that an organization for dental care or an administrator shall not do these things such as alter a code that could prevent a dentist from collecting from the member or organization for dental care the contracted fee for actual services performed. She continued by reviewing some of those examples. Dr. Johl commented that that's a wonderful bill looking out for dentists. Ms. Cannito mentioned she will keep the Board abreast of information relating to this bill.

Dr. Thompson posed a question regarding communicating with the Legislature and how could a regular dentist voice opinion. Ms. Cannito clarifies that they would be the point of contact for initiating

communications with the Legislature. She continued that for dentists and hygienists, they can attend the hearings and voice approval or opposition to proposed legislation. The Dental Board can testify in neutral, as they are a government entity/division and cannot testify for or against.

5. Public Comment (Live public comment and by teleconference): This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon the matter raised during public comment unless the matter itself has been specifically included on the agenda as an action item. Comments by the public may be limited to three (3) minutes as a reasonable time, place and manner restriction, but may not be limited based upon viewpoint. The Chairperson may allow additional time at his/her discretion.

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There was a public comment from call-in user Antonio who is a part of the Nevada Dental Hygienists Association Legislative Committee. He noted that on April 6th, they collaborated with the Nevada Dental Association for the legislation proposed and offered his knowledge of what happened. Dr. Johl asked if he could provide a summary of what happened and thanked him for calling in. He started by stating that in SB 393, the biggest concern is putting patients before profits by requiring reporting of dental insurances of their spending on patients and upping the percentage of money spent towards those patients from 70% to 80%. For AB 147, they call it 'modernizing dentistry' regarding the vaccine bills being put into law as well as tele-health dentistry regulations. For SB 310, regarding the expanding duties of dental assistants by requiring them to graduate from a CODA approved program. However, some programs are months long while others are years. This offers a bit of inconsistency that the dentists would have to figure out their requirements for. Antonio also noted their requiring of CODA approved programs for cavitron usage. Dr. Johl extended Antonio's time to allow for questions. He continued with SB 44, hygienists can only be required for a part-time job which would make it difficult to find employees who only want a part-time position. They mirrored language from Medical Association that does not require a license for that Public Health Officer position and noted that the lack of funding would hinder well-qualified employees from applying for that job. Dr. Johl thanked him for his comments.

6. Announcements

There were no announcements.

***7. Adjournment** (For Possible Action)

Ms. McIntyre motioned to adjourn. Dr. Lee seconded the motion. All were in favor. Motion passed.

PUBLIC NOTICE POSTING LOCATIONS

Office of the N.S.B.D.E., 2651 N. Green Valley Pkwy, Ste. 104, Henderson, NV 89014
Nevada State Board of Dental Examiners website: www.dental.nv.gov
Nevada Public Posting Website: www.notice.nv.gov