

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 26, 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#: **896 7679 8981**

Zoom Webinar/Meeting Passcode: **106305**

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 25th, 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. Tejpaul Johl (Dr. Johl) – Present	Dr. David Lee (Dr. Lee) – Present
Dr. Ronald West (Dr. West) – Present	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;

Public Attendees: Antonio, 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 25th, 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 were two previously submitted comments, which Mr. Karris read out. The first was from Dr. Steven A. Saks expressing concern regarding AB 198. The second was from the Nevada Dental Hygienists Association regarding EO 2023.003 and their multiple suggestions to propose changed language within different regulations. Dr. Johl thanked them for their comments.

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

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

Dr. Johl introduced the above agenda item and noted that there were no requests to remove items.

*b. Approve Agenda (For Possible Action)

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

*4. New Business: (For Possible Action)

*a. In Accordance with NRS 233B.0608, Review of Executive Order 2023-003:

1. Board to Identify Existing Regulations

Dr. Johl introduced the above agenda item and welcomed comments from the Committee.

Dr. West suggested first identifying what is in progress, today and in the future, and what meets the criteria of the request. Dr. Johl mentioned that we should stick to what is on the book currently and will address other work in the future. Dr. West then read EO 2023.003 and Dr. Johl confirmed that we will discuss current and in progress notes. Let's first identify the regulations and then rank them.

Dr. Lee began by mentioning NRS 631.030 and eliminating sections I and K. He continued by reading

subsections I and K and noted that the purpose of eliminating these sections would be to not hold past misdemeanor or felony convictions against an applicant if it does not pertain to dentistry. Subsection J deals with convictions regarding dentistry, making subsection I and K mute and would eliminate applicants' identification of previous convictions. A discussion ensued regarding submission of previous convictions within the application of licensure currently, and how applicants may be inhibited by that. Removing these subsections would not inhibit the Dental Board's due diligence process in looking at an applicant's background as multiple background checks are still going to be conducted before licensure is granted. Dr. Lee continued by including subsection H for elimination, stating that they are nearly the same thing. A discussion ensued regarding the background check coming up positive, what would inhibit the applicant from being denied if it was not dentistry-related? Dr. Johl mentioned insurance fraud as related to moral turpitude. A discussion ensued between the Committee about applicants being deterred by this process, but decided to eliminate subsections H, I, and K.

Dr. Lee mentioned NAC 631.050 section 2 D, a history of drug abuse, to eliminate everything under subsection D. The reason being that some may have convictions for Marijuana, for example, that is now obsolete as it is legalized. He continued by recommending amendments to subsection H by extending the years without practice from 2 to 5 years for approval. A discussion ensued about the necessity of a 2-year minimum versus a longer period of pause, the possibility of using a sliding scale for those tests, and different scenarios for those out of practice being granted licensure again. It was agreed upon by the Committee to raise that requirement from 2 years to 5 years.

Dr. Lee mentioned NAC 631.179 and eliminating section 1 regarding random inspections. The Committee expressed concern that random inspections can be an abuse of power. If a complaint is formed, an inspection should be conducted, however, there is room for bias within this current language. It was agreed upon to strike that section by the Committee.

Dr. Lee mentioned NAC 631.230 and eliminating sections 1 S and T. He continued by reading subsections S and T and noted that the purpose of eliminating section S is to give responsibility to the dental licensee that is performing a procedure to be held liable rather than the employer. Dr. Johl noted that in this section it is following the money, which would lead to holding the licensee who owns the practice accountable as well as the licensee who made a mistake. Dr. Lee wants to hold the practicing dentist or hygienist or therapist as the only person being held accountable, not the owner to which they are employed under. Ms. McIntyre noted that Hygienists work under Dentists, however Dr. Lee noted that they are individually licensed professionals and should be held accountable. Dr. Lee suggested removing the first sentence and leaving the second sentence in subsection S. He continued by bringing up subsection T to be eliminated as well. Mr. Karris reminded the Committee that this section is unprofessional conduct and would therefore be weary about removing these clearly defined statues of unprofessionalism. Dr. Lee expressed concern about the financial obligation of a business owner for their employed licensee's mistake as well as disciplinary action against the owner. Ms. McIntyre expressed a struggle accepting this change as the owner still assumes financial compensation and responsibility for their employee's work. Mr. Bateman questioned outside of financial reasons, is the owner of a practice guilty of professional misconduct if they did not do the procedure. The Committee discussed that statement. Dr. Lee clarified that the change to section S would remove the first half up to "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 renders by the dentist or dental hygienist who is an employee or an Independent Contractor of that dentist meet the prevailing standards acceptable dental practice." Clarifying, the dentist or dental hygienist who conducted the procedure should be held accountable. Dr. West then clarified to eliminate section T completely, again to hold the licensee accountable rather than the owner. The Committee agreed.

Dr. Lee mentioned NAC 631.250 and proposed changing the language to read, "if the Board conducts an investigation upon a complaint against a licensee the Board will limit the scope of its investigation to the matter set forth in its complaint." The reason is to remove the ability for the Board to pile wrongdoings against a dental office that has a complaint against them, thus ensuring no abuse of power. It would only allow the Board to investigate a complaint filed, not anything else they may deem wrong. The Committee agreed.

Dr. Lee mentioned NAC 631.030 subsection 1 Q, changing the language from "2 sets of certified Finger Print cards" to "certified set of Fingerprints." Mr. Bateman clarified we would like to streamline the license

process by changing this language to allow licensees to utilize digital fingerprint scans. It would possibly cut 4-7 days off the application process. The Committee agreed.

Dr. Johl mentioned NAC 631.160 to eliminate completely. However, Dr. Lee clarified that the reason for this section is to prevent licensees from leaving in the case of disciplinary action. To eliminate it would be to not hold the licensee accountable and to not require this be disclosed information if the licensee tried to apply and work in a different state. It requires licensees to be held accountable.

There were a few more suggestions from Dr. Johl that would not be permitted. He mentioned lessening or elongating the time in between the requirement of Continued Education (CE) credits nodding to Arizona's 3-year renewal period as opposed to 2 years. Referencing NAC 631.175 subsection 6 C, Dr. Branco questioned if we could grant further liberties to attend online CE courses. Ms. McIntyre clarified that technically 100% of the required CE's can be taken online so long as they're live webinars, per the Board's recent decision. Dr. Johl questioned the necessity of the Live Webinar portion and recommended to change that to any CE course which is approved by the Board, ADA, CERP, or PACE regardless of method of delivery. Dr. Johl continued this would allow ease to licensees as well as accessibility. Discussion ensued about wording, Dr. Lee noted under NAC 631.175 subsection 6 C, we will eliminate not more than 50% of the number of hours of Continued Education required by subsections 1 or 2 of NAC 631.173 as applicable. The Committee agreed.

Dr. Johl further proposed giving a bit of leeway for new graduates. Ms. McIntyre informed Dr. Johl that there is a sliding scale in procedure to allow for an easier transition for recent graduates. The Committee agreed to move on.

Dr. Branco striking all legislation pertaining to Laser usage. Dr. Lee questioned which ones he was pointing to, he clarified that it was all over but specifically NAC 631.033. Dr. Branco's reasoning was that since this legislation as written in 2005, Laser usage has become much more prevalent and he doesn't see the need in requiring special education for usage. Dr. West also motioned to NAC 631.210, but Dr. Branco mentioned that wasn't required either. The Committee expressed concern in striking all language relating to Laser usage as it could jeopardize patient safety. Dr. West suggested to rewrite the language to clarify that for a specific laser used, a licensee must take a course relating to that specific piece of equipment. Dr. Lee questioned the necessity of that as related to the Governor's order. The Committee decided to move on.

Dr. Branco mentioned NAC 631.2219, proposing to eliminate the 5-year live patient retesting due to availability, cost, etc. Dr. West and Ms. McIntyre agreed that by catching it on the disciplinary end rather than hindering those actively utilizing it properly is ineffective. Dr. Branco also noted that at the 5-year inspection, it's a perfect set-up scenario rather than showcasing an everyday scenario. Dr. Branco elaborated that the initial examination should remain, but the 5-year reevaluation should be stricken. Dr. Lee reiterated removing, "and at least once in every 5-year period thereafter."

Dr. West mentioned NAC 631.210 section 3 subsection 3, proposing to eliminate "supervision" and replace it with "authorize." This would allow Hygienists greater ability to work with the authorization from a dentist rather than under constant supervision. Dr. Lee mentioned the previously submitted public comment from the ADHA, they wanted to strike the words "under his or her supervision." He continued by suggesting the change be, "a dentist who is licensed in the state may authorize a dental hygienist in his or her employment to..." and then subsections a-f while also striking "supervising" and rewriting to "authorizing" under this section. The Committee agreed to the changes made.

Ms. McIntyre mentioned another item suggested by the ADHA, NAC 631.210 subsection 4, replacing the words "supervision" with "authorization." Ms. McIntyre continued by granting further liberties for Dental Hygienists to perform anesthesia if the doctor is at lunch or not available. Dr. Lee and Dr. Johl voiced concerns stating that a doctor needs to be present in the case of an emergency or reviewing a patient's medical history and determining next steps. Even requesting a medical release or the example of blood thinners. Dr. West suggested changing the language that the doctor would still be "available" in the case of an emergency. Dr. Johl expressed concern regarding this as he is most concerned with prevention, rather than fixing emergencies in the moment. A conversation continued regarding Local Anesthesia and Nitrous Oxide administration from a Dental Hygienist, Ms. McIntyre clarified that they were only asking for Local Anesthesia administration. The Committee expressed concern against that for fear of people taking

advantage of that privilege.

Dr. Johl expressed concern about work for future Oral Surgeons in the state if CRNAs are allowed to practice. Dr. Lee and Dr. West did not share that sentiment and noted that instead it needs to be determined how to coexist rather than cutting one profession out. Dr. Johl expressed concern about the level of care and education, Dr. West referenced the previous CRNA's testimonies to their robust and required experience. Dr. Johl again expressed concern regarding this as more emergencies may occur. Mr. Bateman expressed concern that in this proposed legislation, there is no reference to NRS 631. Therefore, it would all be decided by the Medical Board rather than the Dental Board. Discussion ensued about the current processes, holding an anesthesia permit, and outsourcing of clinicians who can practice anesthesia procedures. The Committee reread the statutes regarding holding anesthesia permits and the hiring of those to perform that within their offices under NAC 631.224. Dr. Lee mentioned that some of the previous scenarios brought forth from Committee members are mute as this section only refers to CRNAs. Dr. Branco responded that when the CRNAs get permission to practice, this section may pose a problem. Dr. Branco suggested the language change to "a dentist who does not hold a permit to administer General Anesthesia may not allow any person...". Dr. Lee questioned section 1 before that, Dr. Branco said to change that too but that would pose issues. The Committee decided to move forward without action on this issue.

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 Antonio from the Nevada Dental Hygienists Association wanting to give further clarification regarding the administering of Local Anesthesia. Noting that since the 1980's, hygienists have been administering Local Anesthesia with the dentist's authorization. He also noted that under NRS 631.105, the dentist needs to be physically present in the office while the procedure is happening. Changing this would increase patient care and bring new hygienists to the state, while also having authorization from the dentist. Dr. Johl thanked him for his comment.

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