

Amendment No. 189

Senate Amendment to Senate Bill No. 250

(BDR 54-1257)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of SB250 (§ 19).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 3, page 5, by deleting lines 12 through 14 and inserting:

“the Board to determine eligibility:

(a) Must present to the Board a certificate granted by the Joint”.

Amend sec. 3, page 5, by deleting lines 18 through 22 and inserting:

“(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination given by the Board which examines the applicant’s practical knowledge of dentistry and which includes demonstrations of the applicant’s skill in dentistry; or

SH/KP

Date: 4/11/2005

S.B. No. 250—Revises provisions governing practice of dentistry and dental hygiene.

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

Amend sec. 3, page 5, by deleting lines 26 through 32 and inserting:

“3. All persons who have satisfied the requirements for licensure as a dentist must be registered as”.

Amend sec. 5, page 6, line 15, by deleting “[~~demonstration~~] *examination*” and inserting “examination”.

Amend sec. 5, page 6, by deleting lines 41 through 44 and inserting:

“5. The Board [~~shall~~] *may* revoke a specialist’s license at any time upon [~~proof satisfactory~~] *submission of substantial evidence* to the Board that the holder of the license violated any provision of this [~~section~~] *chapter* or the regulations of the Board.”.

Amend sec. 6, page 7, line 3, by deleting “[~~demonstration~~] *examination*” and inserting “examination”.

Amend sec. 6, page 7, by deleting lines 28 through 31 and inserting:

“5. The Board [~~shall~~] *may* revoke a specialist’s license at any time upon [~~proof satisfactory~~] *submission of substantial evidence* to the Board that the holder of the license violated any provision of this [~~section~~] *chapter* or the regulations of the Board.”.

Amend sec. 7, page 7, by deleting lines 34 and 35 and inserting:

“examination required by NRS 631.240 or [~~a practical examination required by NRS~~] 631.300, issue a limited”.

Amend sec. 7, page 7, line 45, by deleting “*and*”.

Amend sec. 7, page 8, by deleting line 2 and inserting:

“appropriate; and

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

(1) Has a license to practice dentistry or dental hygiene 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; or

(3) 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 and is a citizen of the United States or is lawfully entitled to remain and work in the United States. 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, is lawfully entitled to remain and work in the United States and is in compliance with all other requirements for the limited license.”.

Amend sec. 7, page 8, by deleting lines 27 through 30 and inserting:

“4. 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 ~~[subsection 2 of]~~ NRS 631.330 and the”.

Amend sec. 7, page 8, line 33, by deleting:

“~~1 year.~~ **2 years.**” and inserting “1 year.”.

Amend sec. 7, page 8, line 39, by deleting “proof satisfactory” and inserting:

“~~proof satisfactory~~ ***submission of substantial evidence***”.

Amend sec. 8, page 8, by deleting lines 42 through 44 and inserting:

“631.272 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.240, issue a temporary license to”.

Amend sec. 8, page 9, line 26, by deleting “~~demonstration~~ ***examination***” and inserting “examination”.

Amend sec. 8, page 9, by deleting lines 35 through 44 and inserting:

“4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dentistry pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dentistry issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dentistry under the temporary license until December 31, 2008, or until the person is qualified to apply for and is issued or denied a permanent license to practice dentistry in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.”.

Amend sec. 9, page 10, by deleting lines 2 through 4 and inserting:

“631.272 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.240, issue a temporary license to”.

Amend sec. 9, page 10, line 30, by deleting “[~~demonstration~~] **examination**” and inserting “**examination**”.

Amend sec. 9, pages 10 and 11, by deleting lines 39 through 45 on page 10 and lines 1 through 3 on page 11 and inserting:

“4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dentistry pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dentistry issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dentistry under the temporary license until December 31, 2008, or until the person is qualified to apply for and is issued or denied a permanent license to practice dentistry in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.”.

Amend sec. 10, page 11, lines 6 and 35, by deleting “practical” and inserting “[~~practical~~] **clinical**”.

Amend sec. 10, page 12, between lines 11 and 12, by inserting:

“6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.”.

Amend sec. 11, page 12, lines 14 and 42, by deleting “practical” and inserting “[~~practical~~]
clinical”.

Amend sec. 11, page 13, between lines 17 and 18, by inserting:

“6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.”.

Amend sec. 12, page 13, by deleting lines 20 and 21 inserting:

“examination required by NRS 631.240 or [~~a practical examination required by NRS~~] 631.300, issue a restricted”.

Amend sec. 12, pages 14 and 15, by deleting line 44 on page 14 and lines 1 and 2 on page 15, and inserting:

“unrestricted license without a clinical examination required by NRS 631.240 or [~~a practical examination required by NRS~~] 631.300 if the person:”.

Amend sec. 12, page 15, by deleting lines 20 through 23 and inserting:

“8. The Board [~~shall~~] may revoke a restricted geographical license at any time upon [~~proof satisfactory~~] submission of substantial evidence to the Board that the holder of the license violated any provision of this [~~section~~] chapter or the regulations of the Board.”.

Amend sec. 13, page 15, by deleting lines 26 and 27 and inserting:

“examination required by NRS 631.240 or [~~a practical examination required by NRS~~] 631.300, issue a restricted”.

Amend sec. 13, page 17, by deleting lines 5 through 7 and inserting:

“unrestricted license without a clinical examination required by NRS 631.240 or ~~for a practical examination required by NRS~~ 631.300 if the person:”.

Amend sec. 13, page 17, by deleting lines 25 through 28 and inserting:

“8. The Board ~~shall~~ **may** revoke a restricted geographical license at any time upon ~~proof satisfactory~~ **submission of substantial evidence** to the Board that the holder of the license violated any provision of this ~~section~~ **chapter** or the regulations of the Board.”.

Amend sec. 14, page 18, line 21, after “4.” by inserting:

“A restricted 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 restricted license. The holder of a restricted 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 restricted license for 1 year.

5.”.

Amend sec. 14, page 18, by deleting line 25 and inserting:

“~~5.]~~ 6. The Board may revoke a restricted license at any time ~~[-]~~ **upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.”.**

Amend sec. 16, page 19, by deleting lines 7 through 14 and inserting:

“Board to determine eligibility ~~[-must be examined]~~ :

(a) Must pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint

Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and ~~[, except]~~

(b) Except as otherwise provided in ~~[NRS 631.271 and 631.274, be given a practical]~~ this chapter, must:

(1) Successfully complete a clinical examination in dental hygiene ~~[, including,]~~ given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth ~~[,]~~ ; or

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

2. The *clinical* examination *given by the Board* must ~~[be:]~~ *include components that are:*

(a) Written ~~[,]~~ *or* oral, or a combination of both; and”.

Amend sec. 16, page 19, by deleting lines 20 through 25 and inserting:

“4. ~~[In lieu of the written examination which may be required by subsection 2, the Board shall recognize a certificate from the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75.] All persons who have satisfied the requirements for”.~~

Amend sec. 17, page 19, by deleting lines 31 and 32 and inserting:

“631.330 1. Licenses *issued pursuant to NRS 631.271 and 631.275* must be renewed annually.

All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 ~~[-:]~~ **and 631.275:**”.

Amend sec. 18, page 20, by deleting lines 7 and 8 and inserting:

“631.330 1. Licenses *issued pursuant to NRS 631.271 and 631.275* must be renewed annually.

All other licenses must be renewed biennially.

2. Except as otherwise provided in NRS 631.271 ~~[-:]~~ **and 631.275:**”.

Amend sec. 19, page 20, by deleting line 29 and inserting:

“~~[Examination]~~ ***Application*** fee for ~~[a]~~ ***an initial*** license to”.

Amend sec. 19, page 20, by deleting line 31 and inserting:

“~~[Examination]~~ ***Application*** fee for ~~[a]~~ ***an initial*** license to”.

Amend sec. 19, page 20, line 32, by deleting “**500**” and inserting “**750**”.

Amend sec. 19, page 20, lines 35 and 36, by deleting:

“license, temporary license, restricted geographical”.

Amend sec. 19, page 21, line 3, by deleting “**\$300**” and inserting “**\$600**”.

Amend sec. 19, page 21, line 12, by deleting “**500**” and inserting “**1,000**”.

Amend sec. 19, page 21, line 13, by deleting “***Biennial***” and inserting “***Annual***”.

Amend sec. 19, page 21, line 17, by deleting “***limited license,***”.

Amend sec. 19, page 21, line 19, by deleting “**300**” and inserting “**600**”.

Amend sec. 19, page 21, by deleting lines 20 and 21 and inserting:

“Annual license renewal fee for a limited license ***to practice dental hygiene*** ~~[100]~~ **300”.**

Amend sec. 19, page 21, line 22, by deleting “~~***Annual***~~” and inserting “~~[Annual]~~”.

Amend sec. 19, page 21, line 23, by deleting “**200**” and inserting “**400**”.

Amend sec. 19, page 21, line 25, by deleting “**25**” and inserting “~~[25]~~ **100**”.

Amend sec. 19, page 21, line 27, by deleting “**100**” and inserting “**200**”.

Amend sec. 19, page 21, line 29, by deleting “25” and inserting “[~~25~~] **100**”.

Amend the bill as a whole by deleting sec. 21 and renumbering sections 22 and 23 as sections 21 and 22.

Amend sec. 23, page 24, by deleting lines 30 through 32 and inserting:

“**Sec. 22.** Section 32 of chapter 89, Statutes of Nevada 2003, at page 522 is hereby repealed.”.

Amend the bill as a whole by adding a new section designated sec. 23, following sec. 23, to read as follows:

“**Sec. 23.** Any person who has applied for a permanent license to practice dental hygiene pursuant to chapter 631 of NRS and whose application is pending on July 1, 2005, must be issued a permanent license to practice dental hygiene if the person meets either the requirements for the issuance of the license in effect before the enactment of this act or the requirements for the issuance of the license in effect after the enactment of this act.”.

Amend the bill as a whole by deleting the text of repealed sections and adding the text of the repealed section to read as follows:

“

TEXT OF REPEALED SECTION

Section 32 of Chapter 89, Statutes of Nevada 2003, at page 522:

Sec. 32. Section 14 of this act is hereby amended to read as follows:

Sec. 14. NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility, must be examined by the Board upon such subjects as the Board deems necessary and, except as otherwise provided in NRS 631.271 and 631.274, ~~[and section 2 of this act]~~ be given a practical examination in dental hygiene, including, but not limited to, the removal of deposits from, and the polishing of, the exposed surface of the teeth.

2. The examination must be:

(a) Written, oral or a combination of both; and

(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. In lieu of the written examination which may be required by subsection 2, the Board shall recognize a certificate from the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75.”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Under existing law, the Board of Dental Examiners of Nevada consists of 11 members, three of whom must be dental hygienists. The members who are dental hygienists are prohibited from grading any portion of the licensing examination for dentists. The licensing examination for dentists includes a clinical portion which examines the applicant's practical knowledge of dentistry and which includes clinical demonstrations of the applicant's dentistry skills. (NRS 631.130, 631.240)

This bill allows the members of the Board who are dental hygienists to grade portions of the licensing examination for dentists. However, those members are prohibited from grading the clinical portion of the examination.

Existing law prohibits a person from practicing dentistry without a license. (NRS 631.395, 631.400) Existing law also defines which activities are considered to be practicing dentistry. (NRS 631.215)

This bill provides that a person is practicing dentistry if the person uses X-ray or laser radiation for dental diagnosis or treatment or if the person dispenses certain tooth whitening agents or undertakes to whiten or bleach teeth other than with over-the-counter products. However, a person may engage in such activities without being licensed as a dentist if the person is acting in a manner authorized by the regulations of the Board.

Existing law allows the Board to issue temporary licenses to practice dental hygiene to persons who are licensed in another jurisdiction and who meet certain additional qualifications. These

provisions are set to expire by limitation on September 30, 2005. (NRS 631.273; Section 34 of Chapter 89, Statutes of Nevada 2003, at page 522)

This bill removes the expiration date for the issuance of these temporary licenses. However, this bill prevents the Board from issuing any additional temporary licenses on or after July 1, 2006. Any person who holds a temporary license on July 1, 2006, may continue to practice under the temporary license until December 31, 2008, or until the person applies for and is issued or denied a permanent license, whichever period is shorter.

Existing law establishes certain requirements that an applicant must satisfy before receiving a license to practice dentistry or dental hygiene, including requirements concerning age, citizenship, education and character. (NRS 631.230, 631.290) These requirements are not expressly set forth in each of the licensing statutes administered by the Board. (NRS 631.255, 631.271, 631.272, 631.274, 631.275)

This bill adds the existing requirements concerning age, citizenship, education and character to each of the licensing statutes administered by the Board.

Existing law allows the Board of Dental Examiners to issue a limited license to practice dentistry or dental hygiene to an applicant who will practice as a dental intern, a dental resident or an instructor at a facility of the University and Community College System of Nevada. (NRS 631.271)

This bill establishes additional requirements that an applicant must meet to be issued a limited license by the Board.

Existing law allows a board of county commissioners to request a waiver of certain licensing requirements for an applicant who intends to practice dentistry or dental hygiene in an underserved

rural area of the county. If a waiver is granted by the Board of Dental Examiners, the applicant receives a restricted geographical license for that county only. (NRS 631.274)

This bill authorizes two or more boards of county commissioners to make a joint request for a waiver on behalf of applicants who intend to practice in underserved rural areas within multiple counties. If a waiver is granted by the Board of Dental Examiners, the applicant receives a restricted geographical license covering those counties.

Under existing law, an applicant for a license as a dental hygienist must be a graduate of a school of dental hygiene or other institution which awards at least an associate's degree and which is accredited by a regional educational accrediting organization that is recognized by the United States Department of Education. (NRS 631.290)

This bill removes the requirement that the institution has to award at least an associate's degree. Rather, the institution need only be accredited by a regional educational accrediting organization that is recognized by the United States Department of Education.

Under existing law, an applicant for a license to practice dental hygiene must pass an examination which examines the applicant's practical knowledge of dental hygiene. This examination is administered by the Board of Dental Examiners of Nevada. (NRS 631.300)

This bill amends existing law by giving the applicant the option of either passing the clinical examination administered by the Board or presenting the Board with a certificate establishing that the applicant has passed a clinical examination administered by the Western Regional Examining Board within the 5 years before the date of the application.

Existing law requires dentists and dental hygienists to renew their licenses each year. (NRS 631.330) Existing law also establishes maximum limits on the fees the Board may charge for the issuance and renewal of licenses. (NRS 631.345)

This bill requires dentists and dental hygienists who hold certain licenses to renew their licenses every 2 years. This bill also increases the maximum limits on the fees the Board may charge for the issuance and renewal of licenses.

Under existing law, the Board may deny an application for a license or may take disciplinary action against a licensee upon proof satisfactory to the Board that the person has engaged in certain unlawful or unprofessional conduct. (NRS 631.255, 631.271, 631.274, 631.275, 631.350) The Nevada Supreme Court has interpreted satisfactory proof to mean proof by clear and convincing evidence. (*Gilman v. Nevada State Bd. of Veterinary Med. Exam'rs*, 120 Nev. Adv. Op. 31, 89 P.3d 1000 (2004)) Clear and convincing evidence is established by presenting evidence which shows each factual element to be highly probable or evidence which is so clear as to leave no substantial doubt. (*In re Drakulich*, 111 Nev. 1556 (1995))

This bill changes the Board's standard of proof to substantial evidence, which is the standard of proof generally followed by state agencies under the Nevada Administrative Procedure Act. (NRS 233B.135) Substantial evidence is established by presenting evidence that a reasonable person would deem adequate to support a decision. (*City of Reno v. Reno Police Protective Ass'n*, 118 Nev. 889 (2002))