

SENATE BILL NO. 265—SENATOR CARLTON
(BY REQUEST)

MARCH 12, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to dentistry and dental hygiene. (BDR 54-1184)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; providing for the issuance of subpoenas by the Executive Director of the Board of Dental Examiners of Nevada under certain circumstances; revising the requirements for the issuance of a permanent license for an applicant who holds a temporary license; eliminating the requirement that the Board meet at least annually to examine applicants for licenses; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill removes the requirement that the Board of Dental
2 Examiners of Nevada meet at least once each year to examine applicants for
3 licenses and removes the requirement that examinations be conducted by members
4 of the Board or its appointees. **Section 3** of this bill requires a person who applies
5 for a license without examination to file an application at least 45 days before the
6 Board is scheduled to take action on the application. **Section 4** of this bill specifies
7 that an applicant for a license to practice dentistry must pass a clinical examination
8 approved by the Board and the American Board of Dental Examiners. **Sections 5**
9 **and 6** of this bill eliminate the requirement that a person who holds a temporary
10 license and wishes to apply for a permanent license must not have been involved in
11 any disciplinary action during the period he held the temporary license. **Section 7**
12 of this bill authorizes the Board to adopt regulations setting forth a procedure
13 pursuant to which the Executive Director of the Board may issue subpoenas on
14 behalf of the Board. **Section 8** of this bill prohibits a dentist from practicing
15 dentistry in a manner or place that is not permitted by the provisions of chapter 631



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16 of NRS. **Section 8** also provides that a first or second offense is a gross
17 misdemeanor and a third or subsequent offense is a category D felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 631.170 is hereby amended to read as follows:
2 631.170 1. The Board shall meet ~~{at least once annually}~~
3 *whenever necessary* to examine applicants. The dates of the
4 examinations must be fixed by the Board. The Board may conduct
5 examinations outside ~~{of}~~ this State, and for this purpose may use
6 the facilities of dental colleges . ~~{, but all examinations must be~~
7 ~~conducted by members of the Board or examiners appointed by the~~
8 ~~Board.}~~

9 2. The Board may also meet at such other times and places and
10 for such other purposes as it may deem proper.

11 3. A quorum consists of five members who are dentists and
12 two members who are dental hygienists.

13 **Sec. 2.** (Deleted by amendment.)

14 **Sec. 3.** NRS 631.220 is hereby amended to read as follows:

15 631.220 1. Every applicant for a license to practice dental
16 hygiene or dentistry, or any of its special branches, ~~{shall:}~~ *must:*

17 (a) File an application with the Board *at least* 45 days before
18 ~~{the}~~ :

19 (1) *The* date on which the examination ~~{is to}~~ *will* be given
20 ~~{}~~ ; *or*

21 (2) *If an examination is not required for the issuance of a*
22 *license, the date on which the Board is scheduled to take action on*
23 *the application.*

24 (b) Accompany the application with a recent photograph of
25 himself together with the required ~~{examination}~~ fee and such other
26 documentation as the Board may require by regulation.

27 (c) Submit with the application a complete set of fingerprints
28 and written permission authorizing the Board to forward the
29 fingerprints to the Central Repository for Nevada Records of
30 Criminal History for submission to the Federal Bureau of
31 Investigation for its report.

32 2. An application must include all information required to
33 complete the application.

34 **Sec. 4.** NRS 631.240 is hereby amended to read as follows:

35 631.240 1. Any person desiring to obtain a license to practice
36 dentistry in this State, after having complied with the regulations of
37 the Board to determine eligibility:



(a) Must present to the Board a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Examination with an average score of at least 75; and

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

(1) Successfully ~~[complete]~~ *pass* a clinical examination ~~[given]~~ *approved* by the Board ~~[which examines the applicant's practical knowledge of dentistry and which includes demonstrations of the applicant's skill in dentistry;]~~ *and the American Board of Dental Examiners;* 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 Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

3. All persons who have satisfied the requirements for licensure as a dentist must be registered as licensed dentists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 5. NRS 631.272 is hereby amended to read as follows:

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 practice dentistry to a person who:

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

(b) Has practiced dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia, for a minimum of 5 years;

(c) Has not had his license to practice dentistry revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(d) Has not been refused a license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(e) Is not involved in or does not have pending a disciplinary action concerning his license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(f) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;



(g) Submits all information required to complete an application for a license; and

(h) Satisfies the requirements of NRS 631.230.

2. A person to whom a temporary license is issued pursuant to subsection 1 may:

(a) Practice dentistry for the duration of the temporary license; and

(b) Apply for a permanent license to practice dentistry without a clinical examination required by NRS 631.240 if ~~he~~

~~(1) The~~ *the* person has held a temporary license to practice dentistry pursuant to subsection 1 for a minimum of 2 years . ~~he~~ *and*

~~(2) The person has not been involved in any disciplinary action during the time he has held a temporary license pursuant to subsection 1.~~

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

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.

Sec. 6. NRS 631.273 is hereby amended to read as follows:

631.273 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.300, issue a temporary license to practice dental hygiene to a person who:

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

(b) Satisfies the requirements of NRS 631.290;

(c) Has practiced dental hygiene pursuant to the laws of another state or territory of the United States, or the District of Columbia, for at least 5 years immediately preceding the date that he applies for a temporary license;



(d) Has not had his license to practice dental hygiene revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(e) Has not been denied a license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(f) Is not involved in or does not have pending a disciplinary action concerning his license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(g) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.300; and

(h) Submits all information required to complete an application for a license.

2. A person to whom a temporary license is issued pursuant to this section may:

(a) Practice dental hygiene for the duration of the temporary license; and

(b) Apply for a permanent license to practice dental hygiene without a clinical examination required by NRS 631.300 if ~~he~~

~~— (1) The~~ *the* person has held a temporary license to practice dental hygiene issued pursuant to this section for at least 2 years . ~~he~~ *and*

~~— (2) The person has not been involved in any disciplinary action during the time he has held a temporary license issued pursuant to this section.]~~

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

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

5. Any person who, on July 1, 2006, holds a temporary license to practice dental hygiene issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dental hygiene 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 dental hygiene 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.



Sec. 7. NRS 631.360 is hereby amended to read as follows:

631.360 1. 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 refusal, suspension or revocation of a license or certificate under this chapter, investigate the actions of any person holding a certificate.

2. The Board shall, before refusing to issue, or before suspending or revoking any certificate, at least 10 days before the date set for the hearing, notify in writing the applicant or the holder of the certificate 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 ~~[by the Board]~~ *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.

Sec. 7.5. NRS 631.366 is hereby amended to read as follows:

631.366 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;



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(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 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 he 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' 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.

Sec. 8. NRS 631.400 is hereby amended to read as follows:

631.400 1. A person who engages in the illegal practice of dentistry in this State ~~[or]~~ *is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

2. *A person* who practices or offers to practice dental hygiene in this State without a license, or who, having a license, practices



1 dental hygiene in a manner or place not permitted by the provisions
2 of this chapter:

3 (a) If it is his first or second offense, is guilty of a gross
4 misdemeanor.

5 (b) If it is his third or subsequent offense, is guilty of a category
6 D felony and shall be punished as provided in NRS 193.130.

7 ~~[2-]~~ 3. *Unless a greater penalty is provided by specific statute,*
8 *a person who is licensed to practice dentistry who practices*
9 *dentistry in a manner or place not permitted by the provisions of*
10 *this chapter:*

11 (a) *If it is his first or second offense, is guilty of a gross*
12 *misdemeanor.*

13 (b) *If it is his third or subsequent offense, is guilty of a*
14 *category D felony and shall be punished as provided in*
15 *NRS 193.130.*

16 4. The Board may assign ~~[such]~~ a person *described in*
17 *subsection 1, 2 or 3* specific duties as a condition of renewing his
18 license.

19 ~~[3.—Whenever]~~

20 5. *If* a person has engaged or is about to engage in any acts or
21 practices which constitute or will constitute an offense against this
22 chapter, the district court of any county, on application of the Board,
23 may issue an injunction or other appropriate order restraining the
24 conduct. Proceedings under this subsection are governed by Rule 65
25 of the Nevada Rules of Civil Procedure, except that no bond or
26 undertaking is required in any action commenced by the Board.

