

Amendment No. 651

Assembly Amendment to Senate Bill No. 265 First Reprint (BDR 54-1184)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

TMC/BJE



Date: 5/11/2007

S.B. No. 265—Revises provisions relating to dentistry and dental hygiene.
(BDR 54-1184)



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; ~~authorizing~~ providing for the issuance of
subpoenas by the Executive Director ~~and the members~~ of the Board
~~to issue subpoenas~~ 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:

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

Section 1. NRS 631.170 is hereby amended to read as follows:

631.170 1. The Board shall meet ~~at least once annually~~ *whenever necessary* to examine applicants. The dates of the examinations must be fixed by the Board. The Board may conduct examinations outside ~~of~~ this State, and for this purpose may use the facilities of dental colleges. ~~[, but all examinations must be conducted by members of the Board or examiners appointed by the Board.]~~

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

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

Sec. 2. (Deleted by amendment.)

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

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

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

(1) The date on which the examination [is to] will be given [;] ; or

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

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

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

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

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

631.240 1. Any person desiring to obtain a license to practice dentistry in this State, after having complied with the regulations of 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 ~~the~~

~~(1) The~~ *the* person has held a temporary license to practice dentistry pursuant to subsection 1 for a minimum of 2 years. ~~the~~ 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 ~~[, any member thereof or the Executive Director]~~ 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

1 the Executive Director may issue subpoenas on behalf of the Board. Any person
2 who is subpoenaed ~~[by the Board]~~ pursuant to this subsection may request the
3 Board to modify the terms of the subpoena or grant additional time for compliance.

4 5. The Board may obtain a search warrant from a magistrate upon a showing
5 that the warrant is needed for an investigation or hearing being conducted by the
6 Board and that reasonable cause exists to issue the warrant.

7 6. If the Board is not sitting at the time and place fixed in the notice, or at the
8 time and place to which the hearing has been continued, the Board shall continue
9 the hearing for a period not to exceed 30 days.

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

11 631.366 1. The district court for the county in which any investigation or
12 hearing is being conducted by the Board may compel the attendance of witnesses,
13 the giving of testimony and the production of books and papers as required by any
14 subpoena issued by or on behalf of the Board.

15 2. If any witness refuses to attend or testify or produce any papers required by
16 a subpoena, the Board may so report to the district court for the county in which the
17 investigation or hearing is pending by petition, setting forth:

18 (a) That due notice has been given of the time and place of attendance of the
19 witness or the production of the books and papers;

20 (b) That the witness has been subpoenaed in the manner prescribed in this
21 chapter;

22 (c) That the witness has failed and refused to attend or produce the papers
23 required by subpoena before the Board in the investigation or hearing named in the
24 subpoena, or has refused to answer questions propounded to him in the course of
25 the investigation or hearing;

26 (d) That the subpoena identified specifically any documents or the subject of
27 any testimony required;

28 (e) That the documents or testimony were relevant to the allegations being
29 investigated or heard; and

30 (f) That no reasonable cause exists for the failure or refusal to comply with the
31 subpoena,

32 and requesting an order of the court compelling the witness to attend and testify
33 or produce the books or papers before the Board.

34 3. The court, upon petition of the Board, shall enter an order directing the
35 witness to appear before the court at a time and place to be fixed by the court in its
36 order, not more than 10 days after the service of the order, and show cause why he
37 has not attended or testified or produced the books or papers before the Board. A
38 certified copy of the order must be served upon the witness. If it appears to the
39 court that the subpoena was regularly issued by or on behalf of the Board and there
40 is no reasonable cause for the refusal or failure to comply, the court shall thereupon
41 enter an order that the witness appear before the Board at the time and place fixed
42 in the order and testify or produce the required books or papers, and upon failure to
43 obey the order the witness must be dealt with as if in contempt of court.

44 4. The court may consider, in determining whether reasonable cause existed
45 for the witness' refusal or failure to comply with the subpoena, such factors as:

46 (a) The burden or cost of compliance, financial or otherwise, to the witness;

47 (b) The time allowed for compliance;

48 (c) The extent of the information requested in relation to the nature of the
49 underlying charge; and

50 (d) The extent of the statistical information necessary to investigate the charge
51 adequately.

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

2 631.400 1. A person who engages in the illegal practice of dentistry in this
3 State ~~[-or-]~~ *is guilty of a category D felony and shall be punished as provided in*
4 *NRS 193.130.*

5 2. *A person* who practices or offers to practice dental hygiene in this State
6 without a license, or who, having a license, practices dental hygiene in a manner or
7 place not permitted by the provisions of this chapter:

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

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

11 ~~[2-]~~ 3. *Unless a greater penalty is provided by specific statute, a person who*
12 *is licensed to practice dentistry who practices dentistry in a manner or place not*
13 *permitted by the provisions of this chapter:*

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

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

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

19 ~~[3.—Whenever]~~

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