

Amendment No. 932

Assembly Amendment to Senate Bill No. 295 First Reprint (BDR 54-913)

Proposed by: Assembly Committee on Commerce and Labor**Amendment Box:** Replaces Amendment No. 904.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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 dashed underlining is newly added transitory language.

DP/WLK



Date: 5/22/2009

S.B. No. 295—Revises provisions relating to dentistry. (BDR 54-913)



SENATE BILL NO. 295—SENATOR CARLTON

MARCH 16, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to dentistry. (BDR 54-913)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 certain exceptions from the list of persons deemed to be practicing dentistry; providing that certain acts are not precluded pursuant to the statutes governing dentistry; **providing for the revocation of the state business license, under certain circumstances, of a person who manages the business of a dental practice, office or clinic;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 5** of this bill revises that list to provide that a person may provide **certain** goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or certain entities, with certain limitations.

Section 2 of this bill ~~sets forth a list of certain acts which are~~ **provides that a person or entity is** not precluded by the provisions of chapter 631 of NRS, ~~including certain management services and the ownership of certain assets used in~~ **from providing certain goods or services to** a dental practice, office or clinic.

Section 3 of this bill provides that the contracting for, provision of and payment for **certain** goods or services to a dental practice, office or clinic under certain circumstances do not constitute violations of law or cause for disciplinary action under chapter 631 of NRS.

~~Section 4 of this bill requires a person who provides management services to a dental practice, office or clinic to register certain information with the Board.~~

Sections 4.5 and 6 of this bill provide for the revocation of the state business license of a person who manages the business of a dental practice, office or clinic if the person commits certain prohibited acts.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~1, 3 and 4~~ to 4.5, inclusive, of this act.

Sec. 2. *Nothing in this chapter precludes a person or entity not licensed by the Board from:*

~~1. Owning or leasing any tangible or intangible assets used in a dental practice, office or clinic. These assets include, without limitation, real property, furnishings, equipment and inventory. These assets do not include patients' dental records as they relate to clinical care.~~

~~2. Employing or contracting for the services of personnel other than licensed dentists and hygienists.~~

~~3. Managing~~ providing goods or services for the support of the business of a dental practice, office or clinic (but if the person or entity does not manage or control the clinical practice of dentistry.

Sec. 3. 1. It is not a violation of NRS 631.395, or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for a person described in paragraph (f) of subsection 2 of NRS 631.215 to provide, or receive payment for providing, goods or services in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

2. It is not a violation of NRS 631.346 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with a person described in and operating in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

Sec. 4. ~~[A person who manages the business of a dental practice, office or clinic shall register with the Board:~~

~~1. The name and business address of the person;~~

~~2. The address of the dental practice, office or clinic of the business which the person manages; and~~

~~3. The names of the licensed dentist or other entity not prohibited from owning or operating a dental practice, office or clinic whose business the person manages; (Deleted by amendment.)~~

Sec. 4.5. 1. If the Board determines that a person who provides goods or services for the support of the business of a dental practice, office or clinic has committed any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215, the Board may seek revocation of any state business license held by that person by submitting a request for such revocation to the Department of Taxation.

2. Upon receipt of a request for a revocation of a state business license pursuant to subsection 1, the Department of Taxation shall commence proceedings to revoke that license in accordance with the provisions of this section and in the manner provided in subsections 2, 3 and 4 of NRS 360.798 as if the holder of the license had failed to comply with a provision of NRS 360.760 to 360.798, inclusive. In addition to providing notice of a hearing to the holder of the license pursuant to NRS 360.798, the Department of Taxation shall provide notice of the hearing to the Board and allow the Board to show cause why the license should be revoked.

3. The Department of Taxation shall not issue a new license to the former holder of a state business license revoked pursuant to this section unless the Department receives notification from the Board that the Board is satisfied that the person:

(a) Will comply with any regulations of the Board adopted pursuant to the provisions of this chapter; and

(b) Will not commit any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215 or any act prohibited by regulations of the Board adopted pursuant to the provisions of this chapter.

4. As used in this section, "state business license" has the meaning ascribed to it in NRS 360.773.

Sec. 5. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical

procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits a person from providing goods or services ~~for~~ for the support of the business of a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not:

(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues of the dental practice, office or clinic; ~~for~~

(2) Share in the profits or revenue of the dental practice, office or clinic;
or

(3) Exercise any authority or control over ~~the~~

~~(1) The clinical practice of dentistry.~~

3. The Board shall adopt regulations identifying activities that constitute the exercise of authority or control over the clinical practice of dentistry, including, without limitation, activities which:

(a) Exert authority or control over the clinical judgment of a licensed dentist ~~;~~ or ~~relieve~~

(b) Relieve a licensed dentist of responsibility for ~~oversight of all~~ the clinical aspects of the dental practice.

~~(II) The formation or approval of any contract for the provision of dental services to a patient by a licensed dentist.~~

~~(III) The hiring or firing of licensed dentists or hygienists or the material clinical terms of the relationship between a licensed dentist and other licensed dentists or hygienists.~~

~~(IV) The referrals by a licensed dentist to another licensed dentist or place any restriction or limitation on referral of patients to a specialist or any other practitioner a licensed dentist determines is necessary.~~

~~(V) A licensed dentist's use of any type of procedure on a patient or establishment of a treatment plan for a patient.~~

~~(VI) Patient records to the exclusion of the applicable licensed dentist or the applicable patient.~~

~~(VII) A licensed dentist's schedule, including time spent with any patient, or place conditions on the number of patients a licensed dentist may see in a period of time.~~

Sec. 6. NRS 360.798 is hereby amended to read as follows:

360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, the Department may revoke or suspend the state business license of the person.

2. Before ~~so doing~~ revoking or suspending the state business license of a person, the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.

3. If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.

4. The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.

5. The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will

- 1 comply with the provisions of this chapter and the regulations of the Department
- 2 adopted pursuant thereto.