

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 provides that a person or entity is not precluded by the provisions of chapter 631 of NRS 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 3.5 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.

Section 4.7 of this bill revises the powers of the Board as they relate to the appointment of attorneys to authorize, but not require, the Attorney General, in his



21 sole discretion, to serve as legal counsel for the Board at any time and in any and
22 all matters.

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

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

4 **Sec. 2.** *Nothing in this chapter precludes a person or entity*
5 *not licensed by the Board from providing goods or services for the*
6 *support of the business of a dental practice, office or clinic if the*
7 *person or entity does not manage or control the clinical practice of*
8 *dentistry. Such goods and services may include, without limitation,*
9 *transactions involving:*

10 1. *Real and personal property, other than the ownership of*
11 *the clinical records of patients; and*

12 2. *Personnel, other than licensed dentists and dental*
13 *hygienists.*

14 **Sec. 3.** 1. *It is not a violation of NRS 631.395, or an act of*
15 *dishonorable or unprofessional conduct under NRS 631.346 to*
16 *631.349, inclusive, for a person described in paragraph (f) of*
17 *subsection 2 of NRS 631.215 to provide, or receive payment for*
18 *providing, goods or services in accordance with the conditions set*
19 *forth in paragraph (f) of subsection 2 of NRS 631.215.*

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

25 **Sec. 3.5.** *A person who manages the business of a dental*
26 *practice, office or clinic shall register with the Board:*

27 1. *The name and business address of the person;*

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

30 3. *The names of the licensed dentist or other entity not*
31 *prohibited from owning or operating a dental practice, office or*
32 *clinic whose business the person manages.*

33 **Sec. 4.** (Deleted by amendment.)

34 **Sec. 4.5.** 1. *If the Board determines that a person who*
35 *provides goods or services for the support of the business of a*
36 *dental practice, office or clinic has committed any act described in*
37 *subparagraph (1) or (2) of paragraph (f) of subsection 2 of NRS*
38 *631.215, the Board may seek revocation of any state business*



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1 *license held by that person by submitting a request for such*
2 *revocation to the Secretary of State.*

3 2. *Upon receipt of a request for a revocation of a state*
4 *business license pursuant to subsection 1, the Secretary of State*
5 *shall revoke that license in accordance with the provisions of this*
6 *section and in the manner provided in section 18 of Assembly Bill*
7 *No. 146 of this session as if the holder of the license had failed to*
8 *comply with a provision of sections 6 to 18, inclusive, of Assembly*
9 *Bill No. 146 of this session.*

10 3. *The Secretary of State shall not issue a new license to the*
11 *former holder of a state business license revoked pursuant to this*
12 *section unless the Secretary of State receives notification from the*
13 *Board that the Board is satisfied that the person:*

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

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

20 4. *As used in this section, "state business license" has the*
21 *meaning ascribed to it in section 9 of Assembly Bill No. 146 of this*
22 *session.*

23 **Sec. 4.7.** NRS 631.190 is hereby amended to read as follows:

24 631.190 In addition to the powers and duties provided in this
25 chapter, the Board shall:

26 1. Adopt rules and regulations necessary to carry out the
27 provisions of this chapter.

28 2. Appoint such committees, examiners, officers, employees,
29 agents, attorneys, investigators and other professional consultants
30 and define their duties and incur such expense as it may deem
31 proper or necessary to carry out the provisions of this chapter, the
32 expense to be paid as provided in this chapter. *Notwithstanding the*
33 *provisions of this subsection, the Attorney General in his sole*
34 *discretion may, but is not required to, serve as legal counsel for*
35 *the Board at any time and in any and all matters.*

36 3. Fix the time and place for and conduct examinations for the
37 granting of licenses to practice dentistry and dental hygiene.

38 4. Examine applicants for licenses to practice dentistry and
39 dental hygiene.

40 5. Collect and apply fees as provided in this chapter.

41 6. Keep a register of all dentists and dental hygienists licensed
42 in this State, together with their addresses, license numbers and
43 renewal certificate numbers.

44 7. Have and use a common seal.



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8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

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 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 or profits of the dental practice, office or clinic; or

(2) Exercise any authority or control over 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

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

↪ Such regulations must not prohibit or regulate aspects of the business relationship, other than the clinical practice of dentistry, between a licensed dentist or professional entity organized pursuant to the provisions of chapter 89 of NRS and the person or entity providing goods or services for the support of the business of a dental practice, office or clinic owned or operated by the licensed dentist or professional entity.



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1 **Sec. 6.** (Deleted by amendment.)

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