

**Amendment No. 401**

Senate Amendment to Senate Bill No. 256 First Reprint (BDR 54-549)

**Proposed by:** Senator Settlemeyer**Amendment Box:** Replaces Amendment No. 351.**Amends:** Summary: No Title: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

MKM/BJF



Date: 4/17/2017

S.B. No. 256—Revises provisions relating to the Board of Dental Examiners of Nevada. (BDR 54-549)





SENATE BILL NO. 256—COMMITTEE ON  
COMMERCE, LABOR AND ENERGY(ON BEHALF OF THE SUNSET SUBCOMMITTEE  
OF THE LEGISLATIVE COMMISSION)

MARCH 10, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the Board of Dental Examiners of Nevada. (BDR 54-549)

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; requiring the Board of Dental Examiners of Nevada to appoint a panel to review investigations and informal hearings conducted by an investigator of the Board; requiring the review and consideration of the findings and recommendations of a review panel before disciplinary action is taken against a person; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Board of Dental Examiners of Nevada, upon its own motion, and requires the Board, upon a verified complaint by any person, to investigate a person who practices dentistry in this State for allegations of actions that would support disciplinary action. (NRS 631.360) Existing law also authorizes the Board to appoint one of its members, employees, investigators or other agents to conduct an investigation and informal hearing relating to a person who is alleged to have violated the provisions of chapter 631 of NRS. (NRS 631.363)

**Section 1** of this bill requires the Board to appoint a panel of three people, consisting of ~~employees or investigators~~ **two members** of the Board ~~for holders~~ **and one holder** of a license to practice dentistry or dental hygiene in this State, to review an investigation and informal hearing conducted by an investigator appointed by the Board. **Section 1** requires such a panel to review: (1) all files and records collected or produced by the investigator; (2) findings of fact and conclusions prepared by the investigator and submitted to the Board; and (3) any other information deemed necessary by the panel. **Section 1** further requires: (1) a review panel to submit a recommendation to the Board as to whether the findings and recommendations of the investigation should be accepted by the Board; and (2) the Board to review and consider the findings and recommendations of the review panel before taking any disciplinary action against a person or taking any other action relating to a complaint filed with the Board. **Section 3** of this bill requires a hearing officer or panel to review and consider the findings and recommendations of a review panel before taking disciplinary action against a person. **Section 5** of this bill provides that any records or information obtained by a review panel are deemed confidential. **Section 6** of this bill extends to members of a review panel the

immunity from civil liability provided under existing law to members and employees of the Board.

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 a new section to read as follows:

*1. The Board shall appoint ~~any three of its employees or investigators, any three holders of a license to practice dentistry or dental hygiene, or any combination of three such persons to~~ a panel to review an investigation or informal hearing conducted pursuant to NRS 631.363. Such a panel must consist of:*

*(a) If the subject of the investigation or informal hearing is a holder of a license to practice dental hygiene, two members of the Board other than a member appointed pursuant to NRS 631.363 to conduct the investigation and informal hearing and one holder of a license to practice dental hygiene who is not a member of the Board and is not the subject of the investigation or informal hearing.*

*(b) If the subject of the investigation or informal hearing is a holder of a license to practice dentistry or any other person not described in paragraph (a), two members of the Board other than a member appointed pursuant to NRS 631.363 to conduct the investigation and informal hearing and one holder of a license to practice dentistry who is not a member of the Board and is not the subject of the investigation or informal hearing.*

*2. A review panel appointed pursuant to subsection 1 shall, in conducting a review of an investigation or informal hearing conducted pursuant to NRS 631.363, review and consider, without limitation:*

*(a) All files and records collected or produced by the investigator;*

*(b) Any written findings of fact and conclusions prepared by the investigator; and*

*(c) Any other information deemed necessary by the review panel.*

*3. The investigator who conducted the investigation or informal hearing pursuant to NRS 361.363 shall not participate in a review conducted pursuant to subsection 1.*

*4. Before the Board takes any action or makes any disposition relating to a complaint, the review panel appointed pursuant to subsection 1 to conduct a review of the investigation or informal hearing relating to the complaint shall present to the Board its findings and recommendation relating to the investigation or informal hearing, and the Board shall review and consider those findings and recommendations.*

*5. Meetings held by a review panel appointed pursuant to subsection 1 are not subject to the provisions of chapter 241 of NRS.*

**Sec. 2.** NRS 631.190 is hereby amended to read as follows:

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

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

2. Appoint such committees, *review panels*, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their

1 duties and incur such expense as it may deem proper or necessary to carry out the  
2 provisions of this chapter, the expense to be paid as provided in this chapter.  
3 Notwithstanding the provisions of this subsection, the Attorney General in his or  
4 her sole discretion may, but is not required to, serve as legal counsel for the Board  
5 at any time and in any and all matters.

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

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

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

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

12 7. Have and use a common seal.

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

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

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

20 **Sec. 3.** NRS 631.355 is hereby amended to read as follows:

21 631.355 1. Any disciplinary action taken by a hearing officer or panel  
22 pursuant to NRS 631.350 is subject to the same procedural requirements which  
23 apply to disciplinary actions taken by the Board, and the officer or panel has those  
24 powers and duties given to the Board in relation thereto. *Before taking disciplinary*  
25 *action, the hearing officer or panel shall review and consider the findings and*  
26 *recommendations of a review panel appointed pursuant to section 1 of this act.*

27 2. Any decision of the hearing officer or panel relating to the imposition of  
28 any disciplinary action pursuant to this chapter is a final decision in a contested  
29 case.

30 **Sec. 4.** NRS 631.363 is hereby amended to read as follows:

31 631.363 1. The Board may appoint one of its members and any of its  
32 employees, investigators or other agents to conduct an investigation and informal  
33 hearing concerning any practice by a person constituting a violation of the  
34 provisions of this chapter or the regulations of the Board.

35 2. The investigator designated by the Board to conduct a hearing shall notify  
36 the person being investigated at least 10 days before the date set for the hearing.  
37 The notice must describe the reasons for the investigation and must be served  
38 personally on the person being investigated or by mailing it by registered or  
39 certified mail to his or her last known address.

40 3. If, after the hearing, the investigator determines that the Board should take  
41 further action concerning the matter, the investigator shall prepare written findings  
42 of fact and conclusions and submit them to the Board. A copy of the report must be  
43 sent to the person being investigated.

44 4. If the Board, after receiving the report of its investigator pursuant to this  
45 section, holds its own hearing on the matter pursuant to NRS 631.360, it may  
46 consider the investigator's report but is not bound by his or her findings or  
47 conclusions. The investigator *and any member of a review panel appointed*  
48 *pursuant to section 1 of this act* shall not participate in the hearing conducted by  
49 the Board.

50 5. If the person who was investigated agrees in writing to the findings and  
51 conclusions of the investigator, the Board may adopt that report as its final order  
52 and take such action as is necessary without conducting its own hearing on the  
53 matter.

**Sec. 5.** NRS 631.368 is hereby amended to read as follows:

631.368 1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board *or a review panel appointed pursuant to section 1 of this act* and any record of the investigation *or review* are confidential.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The Board shall, to the extent feasible, communicate or cooperate with or provide any record or information described in subsection 1 to any other licensing board or any other agency that is investigating a person, including a law enforcement agency.

**Sec. 6.** NRS 631.378 is hereby amended to read as follows:

631.378 1. Any person who furnishes information to the Board concerning a licensee or an applicant for licensure, in good faith and without malicious intent, is immune from any civil action for furnishing that information.

2. The Board, *a review panel*, any member, employee or committee of the Board ~~or~~ *or a review panel*, counsel, investigator, expert, hearing officer, licensee or other person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in response to information acquired by the Board.

(b) Disseminating information concerning a licensee or an applicant for licensure to any member of the public, other licensing board, national association of registered boards, an agency of the Federal Government or of the State, the Attorney General or any law enforcement agency.

3. A defendant who is the prevailing party in a civil action brought pursuant to subsection 2 may recover the attorney's fees and costs incurred in defending the action.

**Sec. 6.5.** *NRS 241.016 is hereby amended to read as follows:*

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 239C.140, 281A.350, 281A.440, 281A.550, 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 392.147, 392.467, 394.1699, 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725, *and section 1 of this act*, which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,  prevails over the general provisions of this chapter.

1           4. The exceptions provided to this chapter, and electronic communication,  
2 must not be used to circumvent the spirit or letter of this chapter to deliberate or act,  
3 outside of an open and public meeting, upon a matter over which the public body  
4 has supervision, control, jurisdiction or advisory powers.

5           **Sec. 7.** This act becomes effective:

6           1. Upon passage and approval for the purpose of adopting any regulations and  
7 performing any other preparatory administrative tasks that are necessary to carry  
8 out the provisions of this act; and

9           2. On January 1, 2018, for all other purposes.