

Amendment No. CA29

Conference Committee Amendment to (BDR 54-913)
Senate Bill No. 295 Second Reprint

Proposed by: Conference Committee

Resolves Conflicts with: A.B. 146.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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: 5/31/2009

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 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 sole discretion, to serve as legal counsel for the Board at any time and in any and 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 thereto the
2 provisions set forth as sections 2 to 4.5, inclusive, of this act.

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

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

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

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

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

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

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

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

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

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

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

35 *2. Upon receipt of a request for a revocation of a state business license*
36 *pursuant to subsection 1, the ~~Department~~ Secretary of Taxation, State shall*
37 *~~commence proceedings to~~ revoke that license in accordance with the provisions*
38 *of this section and in the manner provided in ~~subsections 2, 3 and 4 of NRS~~*
39 *~~360.798~~ section 18 of Assembly Bill No. 146 of this session as if the holder of the*
40 *license had failed to comply with a provision of [NRS 360.760] sections 6 to*
41 *[360.798] 18, inclusive [In addition to providing notice of a hearing to the*
42 *holder of the license pursuant to NRS 360.798, the Department of Taxation shall*
43 *provide notice of the hearing to the Board and allow the Board to show cause*
44 *why the license should be revoked.], of Assembly Bill No. 146 of this session.*

45 *3. The ~~Department~~ Secretary of Taxation, State shall not issue a new*
46 *license to the former holder of a state business license revoked pursuant to this*
47 *section unless the ~~Department~~ Secretary of State receives notification from the*
48 *Board that the Board is satisfied that the person:*

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

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

6 4. As used in this section, "state business license" has the meaning ascribed
7 to it in ~~NRS 360.773~~ section 9 of Assembly Bill No. 146 of this session.

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

9 631.190 In addition to the powers and duties provided in this chapter, the
10 Board shall:

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

13 2. Appoint such committees, examiners, officers, employees, agents,
14 attorneys, investigators and other professional consultants and define their duties
15 and incur such expense as it may deem proper or necessary to carry out the
16 provisions of this chapter, the expense to be paid as provided in this chapter.

17 Notwithstanding the provisions of this subsection, the Attorney General in his
18 sole discretion may, but is not required to, serve as legal counsel for the Board at
19 any time and in any and all matters.

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

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

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

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

26 7. Have and use a common seal.

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

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

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

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

35 631.215 1. Any person shall be deemed to be practicing dentistry who:

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

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

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

43 (d) Extracts teeth;

44 (e) Corrects malpositions of the teeth or jaws;

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

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

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

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

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

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

6 (l) Determines:

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

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

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

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

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

15 2. Nothing in this section:

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

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

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

26 (d) Prevents a licensed dentist or dental hygienist from another state or country
27 from appearing as a clinician for demonstrating certain methods of technical
28 procedures before a dental society or organization, convention or dental college or
29 an accredited school of dental hygiene or an accredited school of dental assisting.

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

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

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

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

42 ~~*(3) Exercise any authority or control over the clinical practice of*~~
43 ~~*dentistry.*~~

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

47 (a) *Exert authority or control over the clinical judgment of a licensed dentist;*
48 *or*

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

51 *Such regulations must not prohibit or regulate aspects of the business*
52 *relationship, other than the clinical practice of dentistry, between a licensed*

1 dentist or professional entity organized pursuant to the provisions of chapter 89
2 of NRS and the person or entity providing goods or services for the support of the
3 business of a dental practice, office or clinic owned or operated by the licensed
4 dentist or professional entity.

5 **Sec. 6.** ~~[NRS 360.798 is hereby amended to read as follows:~~

6 ~~360.798 1. If a person who holds a state business license fails to comply~~
7 ~~with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the~~
8 ~~Department adopted pursuant thereto, the Department may revoke or suspend the~~
9 ~~state business license of the person.~~

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

14 ~~[2.] 3. If the license is suspended or revoked, the Department shall give~~
15 ~~written notice of the action to the person who holds the state business license.~~

16 ~~[3.] 4. The notices required by this section may be served personally or by~~
17 ~~mail in the manner provided in NRS 360.250 for the service of a notice of the~~
18 ~~determination of a deficiency.~~

19 ~~[4.] 5. The Department shall not issue a new license to the former holder of a~~
20 ~~revoked state business license unless the Department is satisfied that the person will~~
21 ~~comply with the provisions of this chapter and the regulations of the Department~~
22 ~~adopted pursuant thereto.] **(Deleted by amendment.)**~~