**NRS 631.364 Review and investigation of complaint relating to prescriptions for certain controlled substances; notice to licensee; formal complaint and hearing; referral or postponement of investigation; regulations.**

1. The Executive Director of the Board or his or her designee shall review and evaluate any complaint or information received from the Investigation Division of the Department of Public Safety or the State Board of Pharmacy, including, without limitation, information provided pursuant to NRS 453.164, or from a law enforcement agency, professional licensing board or any other source indicating that:
2. A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;
3. A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or
4. A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.
5. If the Executive Director of the Board or his or her designee receives information described in subsection 1 concerning the licensee, the Executive Director or his or her designee must notify the licensee as soon as practicable after receiving the information.
6. A review and evaluation conducted pursuant to subsection 1 must include, without limitation:
7. A review of relevant information contained in the database of the program established pursuant to NRS 453.162;
8. A requirement that the licensee who is the subject of the review and evaluation attest that he or she has complied with the requirements of NRS 639.23507, 639.2391, 639.23911 and 639.23915, as applicable; and
9. A request for additional relevant information from the licensee who is the subject of the review and evaluation.
10. If, after a review and evaluation conducted pursuant to subsection 1, the Executive Director or his or her designee determines that a licensee may have issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board must proceed as if a written complaint had been filed against the licensee. If, after conducting an investigation and a hearing in accordance with the provisions of this chapter, the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription, the Board must impose appropriate disciplinary action.
11. When deemed appropriate, the Executive Director of the Board may:
12. Refer information acquired during a review and evaluation conducted pursuant to subsection 1 to another professional licensing board, law enforcement agency or other appropriate governmental entity for investigation and criminal or administrative proceedings.
13. Postpone any notification, review or part of such a review required by this section if he or she determines that it is necessary to avoid interfering with any pending administrative or criminal investigation into the suspected fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, dispensing or use of a controlled substance.
14. The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to

complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

(Added to NRS by 2017, 4412)

**NRS 631.365 Summary suspension of licensee’s authority to prescribe, administer or dispense certain controlled substances; issuance of order; formal hearing and decision.**

1. If the Board determines from an investigation of a licensee that the health, safety or welfare of the public or any patient served by the licensee is at risk of imminent or continued harm because of the manner in which the licensee prescribed, administered, dispensed or used a controlled substance, the Board may summarily suspend the licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pending a determination upon the conclusion of a hearing to consider a formal complaint against the licensee. An order of summary suspension may be issued only by the Board, the President of the Board, the presiding officer of an investigative committee convened by the Board to conduct the investigation or the member, employee, investigator or other agent of the Board who conducted the investigation.
2. If an order to summarily suspend a licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV is issued pursuant to subsection 1 by the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board, that person shall not participate in any further proceedings of the Board relating to the order.
3. If the Board, the presiding officer of an investigative committee of the Board or a member, employee, investigator or other agent of the Board issues an order summarily suspending a licensee’s authority to prescribe, administer or dispense a controlled substance listed in schedule II, III or IV pursuant to subsection 1, the Board must hold a hearing to consider the formal complaint against the licensee. The Board must hold the hearing and render a decision concerning the formal complaint within 180 days after the date on which the order is issued, unless the Board and the licensee mutually agree to a longer period.

(Added to NRS by 2017, 4414)

**NRS 631.344 Training relating to misuse and abuse of controlled substances, prescribing of opioids or addiction; regulations.** The Board shall, by regulation, require each holder of a license to practice dentistry who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least 2 hours of training relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure. Any such holder of a license may use such training to satisfy 2 hours of any continuing education requirement established by the Board.

(Added to NRS by 2015, 117; A 2017, 4414)

**NRS 631.3475 Malpractice; professional incompetence; disciplinary action in another state; substandard care; procurement or administration of controlled substance or dangerous drug; inebriety or addiction; gross immorality; conviction of certain crimes; failure to comply with certain provisions relating to controlled substances; inappropriate administration of botulinum toxin or dermal or soft tissue fillers; failure to obtain certain training; certain operation of medical facility.** The following acts, among others, constitute unprofessional conduct:

# Malpractice;

1. Professional incompetence;
2. Suspension or revocation of a license to practice dentistry, the imposition of a fine or other disciplinary action by any agency of another state authorized to regulate the practice of dentistry in that state;
3. More than one act by the dentist or dental hygienist constituting substandard care in the practice of dentistry or dental hygiene;
4. Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it is not required to treat the dentist’s patient;
5. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:
6. Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;
7. Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or
8. Is marijuana being used for medical purposes in accordance with chapter 453A of NRS;
9. Chronic or persistent inebriety or addiction to a controlled substance, to such an extent as to render the person unsafe or unreliable as a practitioner, or such gross immorality as tends to bring reproach upon the dental profession;
10. Conviction of a felony or misdemeanor involving moral turpitude or which relates to the practice of dentistry in this State, or conviction of any criminal violation of this chapter;
11. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
12. Failure to comply with the provisions of NRS 453.163, 453.164, 453.226, 639.23507 and 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto.
13. Fraudulent, illegal, unauthorized or otherwise inappropriate prescribing, administering or dispensing of a controlled substance listed in schedule II, III or IV;
14. Failure to comply with the provisions of NRS 454.217 or 629.086;
15. Failure to obtain any training required by the Board pursuant to NRS 631.344; or
16. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
17. The license of the facility is suspended or revoked; or
18. An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

 This subsection applies to an owner or other principal responsible for the operation of the facility.

(Added to NRS by 1983, 1107; A 1987, 1556; 1993, 784; 2009, 882; 2011, 258,

849; 2015, 117, 1171; 2017, 1256, 4414)

## NRS CROSS REFERENCES.

Computerized program to track prescriptions for controlled substances, duties, NRS 453.163, 453.164 Controlled substance defined, NRS 0.031

## NEVADA CASES.

**District court erred in vacating board of dental examiner’s order suspending dentist’s license on ground of unprofessional conduct where dentist did not supervise patient ordering drugs through dentist’s office.** Where a dentist allowed a patient to order, through his office, large quantities of schedule II controlled substances which were not part of any medical treatment for the patient, and did not supervise his office personnel adequately so as to know the quantity of drugs or frequency with which the patient ordered them, it was error for the district court to vacate an order of the board of dental examiners suspending the dentist’s license to practice on the ground that he was guilty of dishonorable and unprofessional conduct. The appellate court found that the district court erred in concluding: (1) that the dentist’s conduct did not fall within any of the specific types of conduct enumerated in NRS 631.3475 as dishonorable or unprofessional conduct; (2) that his conduct could therefore only come under more general provisions the provisions of former NRS 631.050(2); and

(3) that subsection 2 was unconstitutionally overbroad and vague as applied in this case. Finding instead that the dentist’s conduct constituted willful negligence in the practice of dentistry (one of the items enumerated in former NRS 631.050(1), cf. NRS 631.3475(4)), the appellate court determined that it was unnecessary for the district court to reach the question of the constitutionality of subsection 2. State Bd. of Dental Examiners v. Toogood, 97 Nev. 255, 628 P.2d 301 (1981)

**In reviewing decision of state board of dental examiners to suspend dentist’s license for unprofessional conduct, district court was prohibited from substituting its judgment for that of the board on question of punishment.** The district court, in reviewing a decision of the state board of dental examiners to suspend a dentist’s license for 3 months for dishonorable or unprofessional conduct (see NRS 631.3475) in allowing a patient to order, through his office, large quantities of schedule II controlled substances which were not part of any medical treatment for the patient and in failing to supervise his office personnel adequately so as to know the quantity of drugs or frequency with which the patient ordered them, was prohibited by the former provisions of NRS 233B.140 (cf. NRS 233B.135) from substituting its judgment for that of the board on the question of punishment appropriate for the licensee’s conduct. Where nothing in the record showed that the board had acted in an arbitrary or capricious manner or abused its discretion in imposing the 3-month suspension, the district court could not properly vacate the board’s order of suspension. State Bd. of Dental Examiners v. Toogood, 97 Nev. 255, 628 P.2d 301 (1981), cited, State, Dep’t of Motor Vehicles v. Jenkins, 99 Nev. 460, at 462, 663 P.2d

1186 (1983), Mishler v. State Bd. of Medical Examiners, 109 Nev. 287, at 292, 849 P.2d 291 (1993), see also

State Bd. of Nursing v. Merkley, 113 Nev. 659, at 664, 666, 940 P.2d 144 (1997)

**NRS 631.360 Investigation, notice and hearing; subpoena; search warrant; continuances; retention of complaints; regulations.**

1. Except as otherwise provided in NRS 631.364, 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 initiating disciplinary action, investigate the actions of any person who practices dentistry or dental hygiene in this State. A complaint may be filed anonymously. If a complaint is filed anonymously, the Board may accept the complaint but may refuse to consider the complaint if anonymity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.
2. The Board shall, before initiating disciplinary action, at least 10 days before the date set for the hearing, notify the accused person in writing 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 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 the Executive Director may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.
5. The Board may obtain a search warrant from a magistrate upon a showing that the warrant is needed for an investigation or hearing being conducted by the Board and that reasonable cause exists to issue the warrant.
6. If the Board is not sitting at the time and place fixed in the notice, or at the time and place to which the hearing has been continued, the Board shall continue the hearing for a period not to exceed 30 days.
7. The Board shall retain all complaints received by the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

[Part 11:152:1951]—(NRS A 1969, 95; 1981, 99; 1983, 1114; 1993, 784; 2007,

508; 2009, 883; 2013, 2219; 2017, 4415)

**NRS CROSS REFERENCES.**

Industrial Insurance Act, reports of violations, NRS 228.420