

**ADOPTED REGULATION OF THE
BOARD OF MEDICAL EXAMINERS**

LCB File No. R169-05

Effective December 29, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 630.130 and section 1 of chapter 487, Statutes of Nevada 2005, at page 2512 (NRS 630.30665).

A REGULATION relating to medical professionals; requiring a physician licensed to practice medicine to report annually certain types of surgeries; and providing other matters properly relating thereto.

Section 1. Chapter 630 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Each holder of a license to practice medicine shall annually submit a report pursuant to section 1 of chapter 487, Statutes of Nevada 2005, at page 2512 (NRS 630.30665), on a form to be provided by the Board. The form must include, without limitation:

- (a) The name of the licensee;*
- (b) The office address of the licensee;*
- (c) The office phone number of the licensee;*
- (d) The number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the licensee at his office or any other facility, excluding any surgical care performed:*

(1) At a medical facility, as defined in NRS 449.0151; or

(2) Outside of this State; and

(e) Information regarding the occurrence of any sentinel event arising from the type of surgeries described in paragraph (d) of subsection 1.

2. As used in this section:

(a) “Conscious sedation” means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) “Deep sedation” means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) “General anesthesia” means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) “Sentinel event” means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R169-05

The Board of Medical Examiners adopted regulations assigned LCB File No. R169-05 which pertain to chapter 630 of the Nevada Administrative Code on December 2, 2005.

Notice date: 10/12/2005
Hearing date: 11/21/2005

Date of adoption by agency: 12/2/2005
Filing date: 12/29/2005

INFORMATIONAL STATEMENT

DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED
SUMMARY OF THE PUBLIC RESPONSE
EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN
A COPY OF THE SUMMARY

How public comment was solicited:

The Nevada State Board of Medical Examiners published a Notice of Workshops to solicit comments on proposed changes to the regulation. The workshops were to be conducted in Reno on Monday, November 7, 2005, at the hour of 2:00 o'clock p.m., at the offices of the Board of Medical Examiners located at 1105 Terminal Way, Suite 310, Reno, Nevada, and on Tuesday, November 8, 2005, at the hour of 10:00 o'clock a.m., at the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada. The Nevada State Board of Medical Examiners published, concurrent with the Notice of Workshops, Notice of a Public Hearing to receive comments from all interested persons regarding the proposed changes to the regulation, and that the public hearing was to be held at 10:00 o'clock a.m., on Monday, November 21, 2005, at the offices of the Board of Medical Examiners located at 1105 Terminal Way, Suite 310, Reno, Nevada.

In the notices the public were notified that a copy of the proposed regulation was on file at the State Library, 100 Stewart St., Carson City, Nevada; available at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada; in all counties in the state of Nevada in which the Board does not maintain an office; at the main public library; in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653; and, on the Internet at <http://www.leg.state.nv.us>, as well as posted at the following locations:

Washoe County Courthouse - Reno, Nevada
Reno City Hall - Reno, Nevada
Elko County Courthouse - Elko, Nevada
White Pine County Courthouse - Ely, Nevada
Clark County Health Department - Las Vegas, Nevada
Carson City Office of the State Attorney General
Las Vegas Office of the State Attorney General

Office of the Nevada State Board of Medical Examiners – Reno, Nevada
Carson City Public Library - Carson City, Nevada
Churchill County Public Library - Fallon, Nevada
Las Vegas Public Library - Las Vegas, Nevada
Douglas County Public Library - Minden, Nevada
Elko County Public Library - Elko, Nevada
Goldfield Public Library - Goldfield, Nevada
Eureka Branch Public Library - Eureka, Nevada
Humboldt County Public Library - Winnemucca, Nevada
Lincoln County Public Library - Pioche, Nevada
Lyon County Public Library - Yerington, Nevada
Mineral County Public Library - Hawthorne, Nevada
Tonopah Public Library - Tonopah, Nevada
Pershing County Public Library - Lovelock, Nevada
Storey County Public Library - Virginia City, Nevada
Washoe County Public Library – Reno, Nevada
White Pine County Public Library - Ely, Nevada
Battle Mountain Branch Public Library - Battle Mountain, Nevada

Attached hereto, and made a part hereof, are copies of certifications of posting from many of the above named.

Summary of the public response:

Public response received by the Nevada State Board of Medical Examiners at the aforementioned workshops and hearings was limited. Further, Robert Merchant, M.D., was the only member of the public who provided written input regarding the proposed regulation.

**How other interested persons may obtain a copy of
the public response to the regulations:**

On file with the Board at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada, is a complete transcript of the hearing conducted on the regulation change, and documentation of the public comment offered at the workshops.

Any member of the public may visit the offices of the Board and may review any or all of transcript referred to above. Also, any member of the public may request copies of the entire transcript of all the public by contacting the court reporter and requesting the preparation of a transcript.

The court reporter may be contacted at:

Bonanza Reporting
1111 Forest Street
Reno, Nevada 89509
(775) 786-7655

Persons who attended the workshop and hearing:

At the Workshop, Monday, November 7, 2005, at the offices of the Board of Medical Examiners located at 1105 Terminal Way, Suite 310, Reno, Nevada:

One member of the public attended and offered comments at this workshop. Ms. Sherrie Koppelman, representing Robert Merchant, M.D, noted the same concerns that are memorialized the letter received by the Board from Dr. Merchant and which is included with this Informational Statement.

At the Workshop, Tuesday, November 8, 2005, at the Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada:

Two members of the public offered comment at this workshop. Jack Kim, M.D., asked that the Board mail out the adopted form to providers and indicate the new requirements in its newsletter.

Mr. Larry Matheis indicated that he and who he represents, the Nevada State Medical Association, had no objections to the proposed regulation.

Persons who testified at the public hearing:

The Public Hearing was held on Monday, November 21, 2005, at the offices of the Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada:

One member of the public testified at the public hearing. Mr. Larry Matheis, representing the Nevada State Medical Association, again indicated that he and his constituents had no opposition to the proposed regulation.

The number of persons who submitted written statements:

One written comment was submitted to the Board and is included herein.

HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES, A SUMMARY OF THEIR RESPONSE, AND HOW INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY

The comments, conclusions, and information set out above and all information contained there under applies to this portion of the informational statement as well.

THE REGULATION WAS ADOPTED IN REVISED FORM

The proposed regulation was adopted in the enclosed form. The content of which was recommended in advance of its adoption, by Mr. Andrew Min, of the Legislative Counsel Bureau. In addition, the report that will be tendered by practitioners to the Board will meet the mandates of the adopted regulation, and actual form is currently in the process of being printed for its subsequent dissemination.

**THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE
BUSINESS WHICH THE BOARD REGULATES AND ON THE PUBLIC**

The economic effect of the regulations on the medical profession:

There will be no economic effect to the medical profession by adoption instant regulation.

The economic effect of the regulations on the general public:

There will be no economic effect to the medical profession by adoption instant regulation.

**THE ESTIMATED COST TO THE NEVADA STATE BOARD OF MEDICAL
EXAMINERS TO ENFORCE THE PROPOSED REGULATION**

The Nevada State Board of Medical Examiners estimates that there will be no additional cost to itself to enforce the proposed regulation.

**THE REGULATION OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS
DOES NOT OVERLAP OR DUPLICATE ANY REGULATIONS OF ANY OTHER
STATE OR GOVERNMENTAL AGENCIES, INCLUDING THE FEDERAL
GOVERNMENT**

**THE REGULATION OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS
DOES NOT INCLUDE PROVISIONS WHICH ARE MORE STRINGENT THAN A
FEDERAL REGULATION WHICH REGULATES THE SAME ACTIVITY**

THE NEW REGULATION DOES NOT PROVIDE OR INVOLVE A NEW FEE