

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

LCB File No. R085-08

(Sections 1-12, 14-23, 25 and 26 of this regulation have been
split out for separate consideration and are in LCB File No. R217-08)

Effective December 17, 2008

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

AUTHORITY: §§1, NRS 630A.200 and 630A.330; §2, NRS 630A.155, 630A.200, 630A.295,
630A.299 and 630A.330.

A REGULATION relating to homeopathic medicine; increasing certain fees charged and
collected by the Board of Homeopathic Medical Examiners; and providing other
matters properly relating thereto.

Section 1. NAC 630A.120 is hereby amended to read as follows:

630A.120 The Board will charge and collect the following fees:

1. For the *annual* renewal of a license to practice homeopathic medicine.....~~[\$550]~~ *\$600*
2. For the reexamination of an applicant who fails the examination for a
license to practice homeopathic medicine~~[\$330]~~ *\$400*
3. For the reexamination of an applicant who fails the examination for a
certificate to practice as an advanced practitioner of homeopathy~~[\$165]~~ *\$215*
4. For the reexamination of an applicant who fails the examination for a
certificate to practice as a homeopathic assistant~~[\$83]~~ *\$108*
5. For a temporary, special or limited license or certificate.....\$150

Sec. 2. NAC 630A.550 is hereby amended to read as follows:

630A.550 1. A certificate to practice as a homeopathic assistant or advanced practitioner of homeopathy which is issued by the Board must be renewed each year before January 1.

2. To renew a certificate, a homeopathic assistant or advanced practitioner must:

(a) Submit an application for renewal to the Board;

(b) Submit proof that he has completed the required annual continuing education; and

(c) Pay to the Board:

(1) An annual renewal fee of ~~[\$165]~~ \$200 for a certificate to practice as a homeopathic assistant ~~[-]~~; *or*

(2) An annual renewal fee of ~~[\$330]~~ \$400 for a certificate to practice as an advanced practitioner of homeopathy.

3. A homeopathic assistant or advanced practitioner of homeopathy who fails to submit proof to the Board, before January 1, that he has completed the required annual continuing education may not renew his certificate until:

(a) He submits proof that he has completed the continuing education;

(b) The Board determines that he is otherwise qualified to practice as a homeopathic assistant or advanced practitioner of homeopathy; and

(c) He pays to the Board a renewal fee which is equivalent to two times the fee set forth in subsection 2.

4. The Board may revoke the certificate of a homeopathic assistant or advanced practitioner who does not pay the renewal fee before January 1. A homeopathic assistant or advanced practitioner whose certificate is revoked for this reason may request, within 2 years after revocation, that the Board restore his certificate.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R085-08 and R217-08

The Board of Homeopathic Medical Examiners adopted regulations assigned LCB File Nos. R085-08 and R217-08 which pertain to chapter 630A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent by U.S. mail and email to persons who were known to have an interest in the subject of industrial development bonds as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Office of the Nevada State Board of Homeopathic Medical Examiners (BHME), <http://www.nvbhme.com/>, mailed to all county libraries in Nevada and posted at the following locations:

Washoe County Library
301 South Center
Street, Reno, NV 89505

Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Bio Health Center
615 Sierra Rose Drive, Suite 3
Reno, NV 89511

Office of the Attorney General
555 East Washington Ave.
Las Vegas, NV 89101

Board of Homeopathic Medical Examiners
435 Court Street
Reno, NV 89501

Sierra Integrative Medical Center
6512 South McCarran, Suite E
Reno, NV 89509

Cancer Screening & Treatment Center
521 Hammill Lane
Reno, NV 89511

The Nevada Clinic
3663 Pecos-McLeod Intersection
Las Vegas, NV 89121

A workshop was held on May 15, 2008 at the Sierra Integrative Medical Center, 6512 S. McCarran Blvd. Ste E, Reno, NV 89509 and at The Nevada Clinic, 3663 Pecos McLeod Int., Las Vegas, NV 89121, and the minutes of those meetings, attached hereto, contain a summary of the discussion held regarding the proposed amendments. Thereafter, on or about May 22, 2008, the Executive Director of the Nevada State Board of Homeopathic Medical Examiners issued a Notice of Intent to Act upon a Regulation which incorporated in the proposed amendments the suggestions of the parties attending the May 15th workshop.

2. **The number persons who:**
 - (a) **Attended each hearing:** May 15, 2008; June 26, 2008: 15
 - (b) **Testified at each hearing:** May 15, 2008; June 26, 2008: 10
 - (c) **Submitted to the agency written comments:** No written comments were submitted.
3. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted on June 26, 2008 and included one of the three changes suggested at the workshop and Regulation Board Meeting held on June 26, 2008.

“Chiropractic physician” was added to **Section 17**, paragraph 2, subparagraph (l) in accordance with a request from the Chiropractic Board (NAC 630A.320).

The Nursing Board requested that the term, “A **registered nurse**,” be removed from **Section 20**, paragraph 2, subparagraph (a), sub-subparagraph (2). The Nursing Board representative attending the Regulation Board Meeting stated a registered nurse is not allowed to perform a “medical diagnosis” or prescribe any treatment or therapy. A registered nurse certified as an advanced practitioner of homeopathy would be diagnosing and treating patients, and would be in violation of the law. (NRS 632). The Board referred the Nursing Board to a January 31, 2000, LCB Opinion rendered to Senator O’Connell as to the legality of an individual having a license under two Boards: “the Medical Board may not regulate the practices of a person who is licensed to practice both allopathic and homeopathic medicine while that person is actually practicing homeopathy within the scope of chapter 630A of NRS” (http://www.nvbhme.com/opinion_Re_99-06.html). Upon further examination of chapter 632 of NRS, the following language did not support the Nursing Board concerns and reads as follows:

NRS 632.0169 “Practice of nursing” defined. “Practice of nursing” means the general observation, diagnosis and treatment of changes in a person’s health. The term does not include acts of medical diagnosis or prescription of therapeutic or corrective measures, **except as authorized by specific statute.** (Emphasis added)

A registered nurse who is also certified to practice as an advanced practitioner of homeopathy would be allowed to make a “diagnosis and prescribe therapeutic or corrective measures” as allowed under chapter 630A of NRS and approved by the Board. Therefore, the term, “A **registered nurse**,” remains in the regulation.

During the May 15, 2008 workshop, 2 members of the public suggested the following terms be removed from **Section 20**, paragraph 2, subparagraph (a): “(7) **A master of social work;** (10) **A medical technician;** (11) **A music therapist;** (12) **A massage therapist;** (13) **An athletic trainer, kinesiologist, or exercise physiologist;** (13) **A midwife;** and (15) **A yoga instructor;** (Workshop Minutes)”

During the June 26, 2008 Regulation Board Meeting, 2 members asked the Board to leave **Section 20** in the regulation, stating “. . . psychologists, graduates in kinesiology from UNLV, physical therapists, marriage and family counselors, social workers, and others in the health care field that would like to use certain of the therapies and homeopathic medicine listed in NRS 630A.040, practicing under a specific protocol and supervision of a homeopathic physician. . . . (and) explained that the protocol controls the level of practice. The Board has the final decision as to the qualifications of the applicant and controls the practice of an advanced practitioner of homeopathy by examining and approving a specific protocol as to his level of practice (Regulation Board Meeting Minutes).”

After reviewing and hearing comments from the public, the Board approved **Section 20** as written to protect the public by regulating the practices of qualified practitioners using homeopathy and the therapies in chapter 630A.040 of NRS.

New language in the regulation to be added to chapter 630A of NAC was originally approved by the LCB. This language was removed in the finalized regulation by the LCB legal counsel on Friday, June 20, 2008. The legal counsel failed to contact the Board or the Board’s representative to discuss the removal, which is required in NRS 233B.063, paragraph 1. The LCB counsel approving the finalized regulation could not be reached through the LCB prior to the June 26, 2008, Board meeting. Therefore, the Board voted to reinstate the new language, **Section 26**.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Both adverse and beneficial effects; and

(b) Both immediate and long-term effects.

(a) There will be no adverse effects on the businesses or public. There will be beneficial effects by enabling the Board to regulate the practice of homeopathic medicine and complementary integrative therapies, protecting the public from harm, and providing the public with qualified practitioners and professionals trained to use specific therapies and homeopathy.

(b) Both immediate and long-term effects.

See Item # 5(a)

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

N/A

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The total increase for the agency is \$3,255.00 for a total of \$32,075.00. (Based on existing renewals)

The increased income will be used to cover basic office expenditures, purchase supplies, travel costs of members and staff, and will be used to pay for legal services

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Board has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination the Board considered the fact that the proposed regulation only applies to licensees and certificate holders under chapter 630A and imposes no direct requirements on any private businesses.