

**ADOPTED REGULATION OF THE
STATE BOARD OF PODIATRY**

LCB File No. R180-08

Effective February 11, 2009

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

AUTHORITY: §§1, 2, 5, 15 and 16, NRS 635.030; §3, NRS 239B.010, 635.030 and 635.050; §§4 and 10, NRS 635.030, 635.050 and 635.082; §§6-9, NRS 635.030 and 635.082; §11, NRS 635.030, 635.075, 635.082 and 635.130; §§12 and 14, NRS 635.030, 635.075 and 635.082; §13, NRS 635.030, 635.110 and 635.115.

A REGULATION relating to podiatry; providing for the adoption by the State Board of Podiatry of certain publications by reference; revising provisions governing provisional licenses and limited licenses to practice podiatry; eliminating certain obsolete provisions concerning examinations for licensure; and providing other matters properly relating thereto.

Section 1. Chapter 635 of NAC is hereby amended by adding thereto a new section to read as follows:

The Board hereby adopts by reference the Code of Ethics, April 2005, adopted by the American Podiatric Medical Association, except that the Association Ethics rules AE1.0 Conflict of Interest, AE2.0 Confidentiality and AE3.0 Commercial Relationships are deleted. A copy of this publication may be obtained, free of charge, by mail from the American Podiatric Medical Association, Inc., 9312 Old Georgetown Road, Bethesda, Maryland 20814-1621, or by telephone at (301) 581-9200.

Sec. 2. NAC 635.001 is hereby amended to read as follows:

635.001 As used in this chapter, unless the context otherwise requires:

1. “Board” means the State Board of Podiatry.

2. “Presiding officer” means a member of the Board who presides at a hearing.
3. ~~["Temporary"]~~ ***Provisional*** licensee” means a person who is licensed by the Board to practice podiatry pursuant to NRS 635.082.

Sec. 3. NAC 635.023 is hereby amended to read as follows:

635.023 1. An applicant for ~~[examination]~~ ***licensure*** must provide two photographs of himself in full face which were taken within the previous 6 months. Each photograph must measure 2 inches by 2 inches.

2. An applicant for ~~[examination]~~ ***licensure*** must provide ~~[a]~~ ***to the Board:***

(a) A complete set of fingerprints ~~[and written]~~ ;

(b) A fee for the processing of the fingerprints of the applicant that is equal to the actual costs charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints of the applicant; and

(c) Written permission authorizing the Board to forward those fingerprints to the ***Central Repository for submission to the*** Federal Bureau of Investigation for its report. The Board may exchange with the Federal Bureau of Investigation any information relating to the fingerprints of an applicant pursuant to this section.

Sec. 4. NAC 635.025 is hereby amended to read as follows:

635.025 The fee required for:

1. An application for a license to practice as a podiatrist is \$600;
2. ~~[An examination for a license to practice as a podiatrist is \$200;~~
- ~~—3.]~~ An application for a license to practice as a podiatry hygienist is \$100; and
- ~~[4.]~~ **3.** An application for a license to practice as a ~~[temporary]~~ ***provisional*** licensee is \$400.

Sec. 5. NAC 635.030 is hereby amended to read as follows:

635.030 The Board will refund to an unqualified applicant for ~~[examination]~~ *licensure* as a podiatrist ~~[who is not examined by the Board]~~ all of the fees paid in connection with his application except \$100.

Sec. 6. NAC 635.065 is hereby amended to read as follows:

635.065 In addition to the requirements set forth in NRS 635.082, an applicant for a ~~[temporary]~~ *provisional* license to practice podiatry must submit to the Board satisfactory proof that he has been accepted into a residency program which has been approved or provisionally approved by the Board and is located within the State of Nevada.

Sec. 7. NAC 635.075 is hereby amended to read as follows:

635.075 1. A ~~[temporary]~~ *provisional* licensee who participates in a residency program which has been approved or provisionally approved by the Board may perform any duty, task or function that his supervising podiatrist determines to be appropriate for his educational advancement.

2. A ~~[temporary]~~ *provisional* licensee shall not practice podiatry in a manner not specifically authorized by the residency program in which he participates.

Sec. 8. NAC 635.080 is hereby amended to read as follows:

635.080 1. The Board will ~~[provisionally]~~ *conditionally* approve a residency program if the director of the residency program submits to the Board, not later than 3 months before the projected date of commencement of the residency program:

(a) Proof that the residency program has received the preliminary approval of the Council on Podiatric Medical Education of the American Podiatric Medical Association.

(b) An outline of the residency program which includes, without limitation:

(1) The name of the director of the residency program;

(2) The name of each medical facility associated with the residency program;

(3) The name of each provider of health care associated with the residency program;

(4) The projected number of times that a resident will provide to a patient each of the medical services set forth in subsection 1 of NRS 635.085; and

(5) A description of the rotations required of each resident in the residency program, including, without limitation, the location of each rotation and the length of time that a resident must spend in each rotation.

2. After the first ~~temporary~~ *provisional* licensee completes his residency in a residency program which has received ~~provisional~~ *conditional* approval from the Board, the Board will review the program to ensure that the program is being operated in accordance with the outline of the program submitted pursuant to subsection 1. In reviewing the program, the Board will emphasize the number of times a resident provides to a patient each of the medical services set forth in subsection 1 of NRS 635.085.

Sec. 9. NAC 635.085 is hereby amended to read as follows:

635.085 The Board will give final approval of a residency program which:

1. Is conducted in a medical facility which conforms to the minimum standards for residency training established and approved by the Board;
2. Is offered by a medical facility within the State of Nevada which is accredited by the American Podiatric Medical Association;
3. Is given ~~provisional~~ *conditional* approval and is operated in accordance with the outline of the program established pursuant to NAC 635.080; and
4. Is approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

Sec. 10. NAC 635.092 is hereby amended to read as follows:

635.092 For the purposes of NRS 635.050, the Board will interpret a “residency approved by the Board” to include a program which has received ~~[provisional]~~ *conditional* approval pursuant to NAC 635.080 only after the Board approves the program pursuant to NAC 635.085.

Sec. 11. NAC 635.095 is hereby amended to read as follows:

635.095 For the purposes of NRS 635.130, the Board will interpret “licensee” to include a ~~[temporary licensee.]~~ *provisional licensee and a holder of a limited license to practice podiatry.*

Sec. 12. NAC 635.360 is hereby amended to read as follows:

635.360 A podiatrist, podiatry hygienist, ~~[temporary]~~ *provisional* licensee or ~~[the president or chief executive officer of any podiatric medical association or society within this state]~~ *holder of a limited license to practice podiatry* shall promptly report to the Board any violation of NRS 635.130, by a podiatrist, podiatry hygienist ~~[or temporary licensee.]~~ *, provisional licensee or holder of a limited license to practice podiatry*, which may be harmful to the public.

Sec. 13. NAC 635.365 is hereby amended to read as follows:

635.365 A podiatrist shall:

1. Retain a certificate of completion received for completing a course of study or training to satisfy the requirement of continuing education pursuant to NRS 635.115 for not less than 4 years after he completes the course or training; and
2. ~~[Submit]~~ *Except as otherwise provided in NRS 635.115, submit* a copy of the certificate to the Board ~~[upon request to verify completion of the course of study or training.]~~ *as the proof of completion of the hours of continuing education required for renewal of a license pursuant to NRS 635.110.*

Sec. 14. NAC 635.385 is hereby amended to read as follows:

635.385 1. An applicant for a license to practice as a podiatrist, podiatry hygienist ~~for temporary~~, *provisional* licensee *or holder of a limited license to practice podiatry* shall file with the Board the current address of his place of residence and place of business or proposed place of business and shall notify the Board within ~~30~~ *15* days of a change in such information. *Failure to comply with the provisions of this subsection shall be deemed unprofessional conduct and is grounds for disciplinary action pursuant to NRS 635.130.*

2. If the Board is required by law or by the provisions of this chapter to deliver notice by mail to a podiatrist, podiatry hygienist ~~for temporary licensee,~~ *provisional licensee or holder of a limited license to practice podiatry*, the notice will be mailed to the address of his place of residence which he last filed with the Board.

Sec. 15. NAC 635.390 is hereby amended to read as follows:

635.390 The Board will interpret the following conduct by a podiatrist to be unprofessional conduct:

1. The falsification of any record involving health care, including records of his attendance on the patient and of any medical procedures.

2. The writing of prescriptions for controlled substances in amounts which constitute a departure from the prevailing standards of acceptable medical practice.

3. Incompetent or negligent performance of services which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.

4. Consistent use of medical procedures, services or treatments which constitute a departure from the prevailing standards of acceptable medical practice but which do not constitute malpractice or gross malpractice.

5. The rendering of professional services to a patient while the podiatrist or podiatry hygienist is under the influence of alcohol or any controlled substance or while his mental or physical condition is impaired.

6. The use of misrepresentation, fraud, deception or subterfuge to obtain controlled substances.

7. Writing a prescription for a controlled substance for any person without an examination which confirms the medical necessity for the controlled substance.

8. Receipt of remuneration of any kind, directly or indirectly, from any:

(a) Hospital for admitting a patient to the hospital; or

(b) Person furnishing medical services to a patient, including services of a laboratory, radiology and physiotherapy services, services of a pharmacy or services of a company which supplies surgical and medical merchandise.

9. Charging an unreasonable additional fee for tests by a laboratory, radiology services or other ~~testing~~ tests which are ordered by the podiatrist and not performed in his office.

10. Violating a provision of the Code of Ethics adopted by reference pursuant to section 1 of this regulation.

Sec. 16. NAC 635.020, 635.035, 635.040 and 635.090 are hereby repealed.

TEXT OF REPEALED SECTIONS

635.020 No admission to practice without examination. The Board will not admit any person to practice without examination.

635.035 Examination: Designation; passage; eligibility. (NRS 635.030, 635.060)

1. The Board designates the podiatry licensing examination prepared under the sponsorship of the National Board of Podiatric Medical Examiners as the licensing examination for podiatrists in this state.

2. Each applicant must take and pass the examination conducted by the Board in Nevada.

3. To pass the examination, an applicant must receive a scaled score of at least 75 as established by the National Board of Podiatric Medical Examiners.

4. To become eligible to take the examination in Nevada, the applicant must file a completed application and provide proof satisfactory to the Board that he meets all of the qualifications for licensure other than passage of the examination.

635.040 Time of examination. (NRS 635.030, 635.060) The examination for licensure as a podiatrist or a podiatry hygienist will be held at least once each year on a date set by the Board. The applications must be delivered to the Secretary no later than 75 days before the date of the examination.

635.090 Time limit for reinstatement of delinquent license. When a license issued by the Board is delinquent pursuant to NRS 635.110, the Board will not reinstate the license more than 6 months after it expires.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R-180-08**

The State Board of Podiatry adopted regulations assigned LCB File No. R-180-08 which pertain to chapter 635 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.**

We held a public workshop on June 26, 2008, the notice for this workshop was posted on June 4, 2008 in various locations throughout the state including our office. A copy of this notice was also sent to interested parties. At this workshop we had two members of the public present and they did not dispute any of the changes made to NAC 635 or the adoption of the American Podiatric Medical Association's Code of Ethics. There were no members of the public present at the public hearing. Other interested parties may obtain a copy of the summary simply by contacting our office.

- 2. The number of persons who:**

- (a) Attended each hearing: June 26, 2008 5 attended; October 28, 2008 3 attended
- (b) Testified at each hearing: 0
- (c) Submitted written comments: 0

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

See Answer to question 1 above.

- 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 Board adopted the regulations with the changes made by the Legislative Council Bureau. There were no changes suggested by either the general public or the regulated community.

- 5. The estimated economic effect of the regulation on the business 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.

The estimated economic effect of the regulation changes on the regulated community is de minimus. The estimated economic effect on the public is also de minimus. The changes

made were to remove administrative codes which conflicted with NRS 635, have become obsolete or changes in language from conditional to provisional and vice versa to avoid confusion and keep the language consistent. The change in NAC 635.385 requiring podiatrists to report a change of address in 15 days instead of 30 will help the Board in reaching podiatrists in a timely manner and to ensure that the podiatrists receive all news, information and updates that the Board may send out. This is also helpful to the public should someone need to file a complaint so we may reach the podiatrist immediately to resolve the complaint. The Code of Ethics will set a greater standard of care and morals to our podiatrists in Nevada this will ensure to the public that all podiatrists treat them in the most professional manner. The Code of Ethics will also strengthen professional business relationships between podiatrists ensuring professional conduct. The adverse effects of the adoption of the code of ethics would be to podiatrists who fail to comply with the code and resulted in the Board taking disciplinary action for non-compliance.

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

None at this point. There may be additional costs incurred if it becomes necessary to institute disciplinary actions against a licensee for failure to adhere to the new regulations, but it is not possible to estimate this cost at this time.

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

None.

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

None.

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.

NAC 635.023 requires a fee for processing fingerprints which is equal to the actual costs charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints of the applicant.

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 proposed regulation will not impose a direct or significant economic burden upon a small business. The proposed regulation will not restrict the formation, operation or

expansion of a small business. This is based on the fact that the new regulations place no new direct requirements on the regulated community.