

LCB File No. T002-00

**ADOPTED TEMPORARY REGULATION  
OF THE BOARD OF MEDICAL EXAMINERS**  
(Effective August 30, 2000)

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

AUTHORITY: NRS 630.020, 630.130(2)

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

*1. A licensee shall not practice medicine by utilizing any means or instrumentality that has a risk for a patient that is unreasonably greater than the means or instrumentality ordinarily utilized by physicians in good standing practicing in the same specialty or field or that is provided as a substitute for conventional treatment that has proven to be of substantial benefit to the patient.*

*2. Subject to the conditions hereinafter set forth, a licensee may practice medicine by utilizing any means or instrumentality that is not prohibited by this section. Failure to practice by such means or instrumentality in conformity with the following conditions is grounds for disciplinary action:*

*(a) Prior to offering advice about the means or instrumentality of treatment, the licensee shall undertake an assessment of the patient. This assessment should include but not be limited to, conventional methods of diagnosis ordinarily utilized by physicians in good standing practicing in the same specialty or field, and may include non-conventional methods of diagnosis which shall be documented in the patient's chart. Such assessment shall include the following:*

*(1) An adequate medical record;*

*(2) Documentation as to whether such conventional treatment options ordinarily utilized by physicians in good standing practicing in the same specialty or field have been discussed with the patient and shall include referral input, if necessary;*

*(3) Documentation as to whether such conventional treatment options have been tried, and if so, with what results, or a statement as to whether conventional treatment has been refused by the patient;*

*(4) If a treatment is offered which is not considered to be conventional, documentation of informed consent for each treatment plan must be included (including documentation that the risks and benefits of the use of both the conventional and the other means or instrumentality of treatment were discussed with the patient or guardian);*

*(5) A review of the current diagnosis and conventional treatment and documentation as to whether the other means or instrumentality of treatment could interfere with any other ongoing conventional treatment;*

*(b) The licensee may offer the patient other means or instrumentality of treatment other than conventional treatment pursuant to a documented treatment plan tailored for the individual needs of the patient by which treatment progress or success can be evaluated with stated objectives such as pain relief and/or improved physical and/or psychosocial function. Such a documented treatment plan shall consider pertinent medical history, previous medical records and physical examination, as well as the need for further testing, consultations, referrals, or the use of other treatment modalities.*

*(c) The licensee may use the means or instrumentalities of treatment other than conventional treatment subject to documented periodic review of the patient's care by the licensee at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the treatment prescribed, ordered or administered, as well as any new information about the etiology of the complaint.*

*(d) Complete and accurate records of the care provided including the elements addressed in paragraphs (2)(a)(1) through (2)(a)(5) of this section shall be kept.*

*3. For purposes of this section, conventional treatment means those health care methods of diagnosis, treatments, or interventions that are offered by most licensed physicians as generally accepted methods of routine practice, based upon medical training, experience and review of the peer reviewed scientific literature, and which are ordinarily utilized by physicians in good standing practicing in the same specialty or field.*

Section 2. NAC 630.230, is hereby amended as follows:

630.230 1. A person who is licensed as a physician or physician's assistant shall not:

- (a) Falsify records of health care;
- (b) Falsify the medical records of a hospital so as to indicate his presence at a time when he was not in attendance or falsify those records to indicate that procedures were performed by him which were in fact not performed by him;
- (c) Render professional services to a patient while the physician or physician's assistant is under the influence of alcohol or any controlled substance or is in any impaired mental or physical condition;

(d) Acquire any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge;

(e) Prescribe anabolic steroids for any person to increase muscle mass for competitive or athletic purposes;

(f) Make an unreasonable additional charge for tests in a laboratory, radiological services or other services for testing which are ordered by the physician or physician's assistant and performed outside his own office;

~~[(g) Treat any patient in a manner not recognized scientifically as being beneficial;]~~

~~[(h)] (g)~~ Prescribe controlled substances listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530, controlled substance analogs, chorionic gonadotrophic hormones, thyroid preparations or thyroid synthetics for the control of weight;

~~[(i)] (h)~~ Allow any person to act as a medical assistant in the treatment of a patient of the physician or physician's assistant, unless the medical assistant has sufficient training to provide the assistance;

~~[(j)] (i)~~ Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician's assistant;

~~[(k)] (j)~~ If the person is a physician, fail to provide adequate supervision of a physician's assistant or an advanced practitioner of nursing;

~~[(l)] (k)~~ Fail to honor the advance directive of a patient without informing the patient or surrogate or guardian of the patient, and without documenting in the patient's records the reasons for failing to honor the advance directive of the patient contained therein; or,

~~(m)~~ (l) Engage in the practice of writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that deviates from the guidelines set forth in the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.

2. As used in this section:

(a) “Acute pain” has the meaning ascribed to it in section 3 of the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.

(b) “Chronic pain” has the meaning ascribed to it in section 3 of the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.

(c) “Controlled substance analog” means:

(1) A substance whose chemical structure is substantially similar to the chemical structure of a controlled substance listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530; or

(2) A substance which has, is represented as having or is intended to have a stimulant, depressant or hallucinogenic effect on the central nervous system of a person that is substantially similar to, or greater than, the stimulant, depressant or hallucinogenic effect on the central nervous system of a person of a controlled substance, listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530.

(d) “Medical assistant” means any person who:

(1) Is employed by a physician or physician’s assistant;

- (2) Is under the direction and supervision of the physician or physician's assistant;
- (3) Assists in the care of a patient; and
- (4) Is not required to be certified or licensed by an administrative agency to provide that assistance.

Section 3. NAC 630.280 is hereby amended to read as follows:

630.280 1. Except as otherwise provided in subsection 2, an applicant for licensure as a physician's assistant must have the following qualifications:

- (a) If he has not practiced as a physician's assistant for 12 months or more before applying for licensure in this state, he must, at the order of the board, have taken and passed the same examination to test medical competency as that given to applicants for initial licensure.
- (b) Be able to communicate adequately orally and in writing in the English language.
- (c) Be of good moral character and reputation.
- (d) Have attended and completed a course of training in residence as a physician's assistant approved by the Committee on Allied Health Education and Accreditation, *the Commission on Accreditation of Allied Health Education Programs, or the Accreditation Review Committee on Education for the Physician Assistant*, which ~~is~~ are affiliated with the American Medical Association.
- (e) Be certified by the National Commission on Certification of Physicians' Assistants.
- (f) Possess a high school diploma.

2. An applicant who was certified as a physician's assistant in this state before July 1, 1985, and who otherwise satisfied the requirements for licensure set forth in NAC 630.280 to 630.415, inclusive, may practice as a physician's assistant within the scope of practice in which he was certified before July 1, 1985, whether or not he is certified by the National Commission on Certification of Physicians' Assistants.

Sec. 4. NAC 630.470 is hereby amended to read as follows:

630.470 1. The president of the board shall determine whether a hearing will be held before the board, a hearing officer or a panel of members of the board. Any hearing before the board must be held before a majority of the members of the board.

2. If a licensee fails to appear at a scheduled hearing and no continuance has been requested and granted, the evidence may be heard and the matter may be considered and disposed of on the basis of the evidence before the board, panel or hearing officer in the manner required by this section.

3. The presiding member of the board or panel, or the hearing officer will call the hearing to order and proceed to take the appearances on behalf of the board, panel or hearing officer and the licensee, and other party and their counsel. The board, panel or hearing officer will act upon any pending motions, stipulations and preliminary matters. The notice of hearing, complaint, petition, answer, response or written stipulation becomes a part of the record without being read unless a party requests that the document be read verbatim into the record. The board will present its evidence first and then the licensee will submit his evidence. Closing statements by the parties may be allowed by the board, panel or hearing officer.

4. Prehearing depositions of witnesses and parties may not be taken and no formal discovery of evidence, except as otherwise provided in NAC 630.465, will be allowed.
5. The board, panel or hearing officer will hear the evidence presented, make appropriate rulings, on the admissibility of evidence, and maintain procedure and order during the hearing. The board, panel or hearing officer may not dismiss the complaint.
6. The presiding member of the board or panel or the hearing officer may, upon his motion or the motion of a party, order a witness, other than the licensee, to be excluded from the hearing to prevent that witness from hearing the testimony of another witness at the hearing.
7. Briefs must be filed upon the order of the board, panel or hearing officer. The time for filing briefs will be set by the board, panel or hearing officer.
8. *The hearing officer conducting a hearing shall submit to the board a synopsis of the testimony taken at the hearing, and the hearing officer or panel of members of the board conducting the hearing shall make a recommendation to the board on veracity of witnesses where there is conflicting evidence or credibility is a determining factor.* A case shall be deemed submitted for decision by the board after the taking of evidence, the filing of briefs or the presentation of such oral arguments as may be permitted, *the filing of the transcript of the hearing, and the filing of the synopsis of the testimony taken at the hearing.* The board will issue its order or render its decision within 90 days after the hearing or the submission of the case, whichever is later.



# **INFORMATIONAL STATEMENT**

## **TEMPORARY REGULATIONS ADOPTED BY THE NEVADA STATE BOARD OF MEDICAL EXAMINERS LCB FILE No. T002-00 INFORMATIONAL STATEMENT**

Pursuant to the provisions of NRS 233B.066, the following informational statement is submitted:

### **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 petitions for the amendment of regulations of the Nevada State Board of Medical Examiners, to be conducted on Thursday, July 27, 2000, at the hour of 10:00 o'clock a.m., or as soon thereafter as it may be conducted on that date, at the Sawyer State Office Building, 555 E. Washington Avenue, Room #4412E, Las Vegas, Nevada; and, on Friday, July 28, 2000, at the hour of 10:00 o'clock a.m., or as soon thereafter as it may be conducted on that date, at the offices of the Board at 1105 Terminal Way, Suite 310, Reno, Nevada.

The Nevada State Board of Medical Examiners published Notice of Intent to act on proposed regulations of the Nevada State Board of Medical Examiners, noticing a public hearing at 10:00 o'clock p.m., on Saturday, August 26, 2000, or as soon thereafter as it may be heard on that date, at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada, and at the Sawyer State Office Building, 555 E. Washington Avenue, Room 4406, Las Vegas, Nevada.

The Nevada State Board of Medical Examiners adopted temporary regulations at its regularly scheduled meeting, on Saturday, August 26, 2000, at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada.

In the notices the public were notified that a copy of the proposed changes in the regulations were on file at the State Library, 100 Stewart St., Carson City, Nevada; available at the offices of the Board at 1105 Terminal Way, 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 Court House - Reno, Nevada  
Reno City Hall - Reno, Nevada  
Elko County Court House - Elko, Nevada  
White Pine County Court House - Ely, Nevada  
Clark County Health Department - Las Vegas, Nevada  
Las Vegas Office of the State Attorney General  
Carson City Office of the State Attorney General  
Reno Office of the Nevada State Board of Medical Examiners  
Carson City Public Library - Carson City, Nevada  
Churchill County Public Library - Fallon, Nevada  
Clark County Public Library - Las Vegas, Nevada  
Douglas County Public Library - Minden, Nevada  
Elko County Public Library - Elko, Nevada  
Esmeralda County Public Library - Goldfield, Nevada  
Eureka County Public Library - Eureka, Nevada  
Humboldt County Public Library - Winnemucca, Nevada  
Lander County Public Library - Battle Mountain, Nevada  
Lincoln County Public Library - Pioche, Nevada  
Lyon County Public Library - Yerington, Nevada  
Mineral County Public Library - Hawthorne, Nevada  
Nye County Public Library - Tonopah, Nevada  
Pershing County Public Library - Lovelock, Nevada  
Storey County Public Library - Virginia City, Nevada  
White Pine County Public Library - Ely, Nevada

Additionally, a complete set of the Notices of the Workshops and Intent to Adopt the regulations, with a copy of the proposed regulations was sent to all persons requesting notice from the Board pursuant to statutes of the state of Nevada.

#### **Summary of the public response:**

Eighteen (18) members of the general public of the state of Nevada appeared at the workshop in Las Vegas, Nevada on July 27, 2000, and all testified against the Board adopting the proposed regulations.

F. Fuller Royal, M.D., H.M.D., appeared in opposition to the regulations and stated he represented the Nevada State Board of Homeopathic Physicians, but in a later letter to the Board retracted that representation and stated he represented himself. The gist of Dr. Royal's objections were that the terms such as alternative, integrative and complementary were not defined to his satisfaction, and also that he was concerned that the Nevada State Board of Medical Examiners had not established a liaison with other boards, and that the Nevada State Board of Medical Examiners and its licensees were not qualified to regulate or practice alternative, integrative and complementary medicine. The remainder of Dr. Royal's comments is available for review by interested persons at the offices of the Board.

Reflexologists, chiropractors and oriental acupuncturists testified that they were afraid that the regulations would apply to them. All parties were assured that the Nevada State Board of Medical Examiners can only regulate its own licensees and no others.

Citizens testified that they felt the Nevada State Board of Medical Examiners was adopting the regulations for monetary purposes, and many citizens testified they were against the regulations because they felt the regulations would limit their choices.

Many citizens wrote the Board and objected as they felt the regulations required that vitamins be obtained only after a prescription is written rather than be bought over the counter.

Many letters were received from chiropractors and oriental medicine licensees who were concerned that the regulations of the Nevada State Board of Medical Examiners would apply to them, and all were publicly assured that the law of the state of Nevada is clear that regulations of the Nevada State Board of Medical Examiners only apply to their licensees.

Three (3) licensed homeopathic physicians in the state of Nevada testified at the meeting of the Board in favor of the adoption of the regulations, both the originally proposed regulations and the amended adopted temporary regulations.

The American College for the Advancement of Medicine filed an objection to the regulations, which consisted mainly of the use of the terms, integrative, complementary, invalidated, nonvalidated, validated, and other definitions and terms which were not adopted by the Board in the amended adopted temporary regulations.

**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 both workshops and hearings conducted on the regulations, as well as all written comments received by the board from chiropractors, oriental medicine practitioners and citizens as well as the American College for the Advancement of Medicine.

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 proceedings by contacting the court reporter and requesting the preparation of a transcript.

The court reporter may be contacted at:  
Discovery Reporting  
935 Jones St., Second Floor  
Reno, Nevada 89503

(775) 329-3500

**The number of persons who attended each hearing:**

Workshop, Thursday, July 27, 2000, Sawyer State  
Office Building, 555 E. Washington Avenue, Room #4412E,  
Las Vegas, Nevada

Eighteen (18) persons

Workshop, Friday, July 28, 2000, offices of the  
Board, 1105 Terminal Way, Suite 301, Reno, Nevada:

Twelve (12) persons

Board meeting, Saturday, August 26, 2000, offices of the  
Board, 1105 Terminal Way, Suite 301, Reno, Nevada:

Five (5) persons

**The number of persons who testified at each hearing:**

Workshop, Thursday, July 27, 2000, Sawyer State  
Office Building, 555 E. Washington Avenue, Room #4412E,  
Las Vegas, Nevada

Fifteen (15)

Workshop, Friday, July 28, 2000, offices of the Board,  
1105 Terminal Way, Suite 301, Reno, Nevada

Fourteen (14) persons

Board meeting, Saturday, August 26, 2000, offices of the  
Board, 1105 Terminal Way, Suite 301, Reno, Nevada:

Five (5) persons

**The number of persons who submitted written statements:**

Approximately Fifty-five (55) to Sixty-Five (65) chiropractors that submitted the same form written statement being concerned that the regulations of the Nevada State Board of Medical Examiners would apply to them.

Approximately Twenty (20) oriental medicine practitioners who submitted the same form written statement as the chiropractors being concerned that the regulations of the Nevada State Board of Medical Examiners would apply to them.

Approximately thirty (30) citizens who felt that the regulations required prescriptions for vitamins.

Dr. F. Fuller Royal and the American College for the Advancement of Medicine.

**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 thereunder applies to this portion of the informational statement as well.

**THE REGULATIONS WERE AMENDED AND ADOPTED WITH CHANGES TO THE LANGUAGE BY REMOVING ALL REFERENCES TO THE OBJECTED LANGUAGE AND WORDS**

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

**The economic effect of the regulations on the medical profession:**

None

**The economic effect of the regulations on the general public:**

Same as above

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

None

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

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

**THE NEW REGULATIONS DO NOT PROVIDE FOR A NEW FEE**