

LCB File No. R168-05

**PROPOSED REGULATION OF THE
BOARD OF MEDICAL EXAMINERS**

**NOTICE OF WORKSHOPS
TO SOLICIT COMMENTS ON A PROPOSED REGULATION AND
NOTICE OF HEARING
FOR ADOPTION OF A REGULATION OF THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS**

Workshop Notice: The Nevada State Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada 89502, is proposing the amendment of regulations pertaining to Chapter 630 of the Nevada Administrative Code. Two (2) Workshops have been set for the purpose of soliciting comments from interested persons on the adoption of the amendment to the regulation.

The first workshop will be conducted **Monday, November 7, 2005, at the hour of 3:30 o'clock p.m.**, or as soon thereafter as it may be conducted on that date, at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada.

The second workshop will be conducted **Tuesday, November 8, 2005, at the hour of 1:00 o'clock p.m.**, or as soon thereafter as it may be conducted on that date, in the conference room of the Colorado River Commission, Grant Sawyer State Office Building, 555 E. Washington Avenue, Suite 3100, Las Vegas, Nevada.

Action – Proposed amendment to NAC Regulations

Amendment to NAC 630.__(237?), to adopt a Code of Professional Ethics for physician licensees.

Public Hearing Notice: The Nevada State Board of Medical Examiners will hold a **public hearing at 10:00 o'clock a.m., on Monday, November 21, 2005**, 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. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of Nevada Administrative Code Section 630.__(237?). If no interested person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

The proposed amendment is necessary to insure the competency of physicians licensed by the Board.

The proposed change to Chapter 630 of the Nevada Administrative Code is set out hereinafter.

- The proposed amendment is needed to ensure the competency of physicians licensed to practice medicine in the State.
- The proposed amendment will not have a direct economic effect on the business of the practice of medicine or any other business or on the public.
- Enforcement of the proposed amendment will not result in an increased cost to the Nevada State Board of Medical Examiners.
- To the Board's knowledge, the proposed amendment does not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.
- The proposed amendment does not establish any new fees or increases to existing fees.
- The proposed amendment does not affect small businesses in any way.

Persons wishing to comment on the proposed action may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Nevada State Board of Medical Examiners, 1105 Terminal Way, Suite 301, P.O. Box 7238, Reno, Nevada 89510-7238. **Written submissions must be received by the Board on or before five (5) days prior to the date set for the public hearing.**

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the offices of the Nevada State Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada, and in all counties in which an office of the Board is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the regulation to be amended are also available 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>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against adoption.

This notice of hearing has been 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
Reno Office of the Nevada State Board of Medical Examiners
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

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NAC CHAPTER 630

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

AUTHORITY: NRS 630.003, 630.130, 630.275 and 233B.040

NAC 630.____ (237?) is hereby added to read as follows:

NAC 630.____ (237?) Code of Professional Ethics. (NRS 630.130, 630.301(9))

Pursuant to legislative directive, the Board adopts the following Code of Professional Ethics for its physician licensees:

CODE OF PROFESSIONAL ETHICS

Preamble

Society has conferred professional prerogatives on physicians with the expectation that they will use their position for the benefit of patients. As members of the medical profession, physicians have ethical responsibilities not only to patients, but also to society, to other health professionals, and to themselves.

The complexities of modern medicine and the associated ethical challenges require a continuing analysis of societal values as they relate to the practice of medicine. This code is not intended to be all inclusive but should serve as a framework. Although the specifics of the code of conduct may evolve, the ethical foundations of medicine presented are fundamental and can provide a guide as new concepts and new problems arise.

Ethical Foundations

The welfare of the patient should always be the physician's foremost consideration in the formation of medical judgments and decisions (primum non nocere). This always involves the duty to act in the best interest of the patient (beneficence).

The physician has an obligation to avoid harming the patient (non-maleficence).

The physician has an obligation to respect the dignity, rights and autonomy of the patient.

The patient-physician relationship entails special fiduciary obligations on the physician because of the specialized knowledge that the physician holds and the imbalance of power between the physician and the patient.

The physician has an obligation to consider issues of justice. The proper care of the individual patient is the physician's primary commitment. Fairness is required in that relationship. The physician also has a broader obligation. This involves stewardship, the commitment to the health of the populations and the need to recognize that how resources are allocated may affect other patients and members of society.

Code of Conduct

I. The Physician-Patient Relationship

1. A physician is free to choose whom to serve, except in an emergency. Once a physician-patient relationship has been established, there is an obligation to provide care as long as that relationship exists.

2. A physician has a duty to ensure that patients (or their surrogates) have received and understand the necessary information to make an informed decision. This should include an assurance that the patient has been presented with appropriate and understandable information on the goal, risks, benefits, possible complications, prognosis and alternatives. Patients (or their surrogates) have the right to refuse treatment.

3. The physician must respect both the rights and privacy of patients. Confidentiality is a fundamental tenet that facilitates patient freedom and discussion. Confidentiality will always be respected by the physician and only overridden when required by law or when the risk of harm to an identifiable third party outweighs the duty to the patient.

4. It is unethical to receive compensation for, provide, or prescribe therapies that are known to be of no benefit or are unnecessary.

5. The physician has an obligation to inform patients, or their surrogates, about their medical condition truthfully and in clear and understandable language.

6. The physician shall acknowledge that the patient has a right to the information in the patient's medical record and will provide the patient access to the information.

7. The physician, as the patient's advocate, should serve and exercise all reasonable means to ensure that the most appropriate care is provided to the patient.

8. Sexual relationships between a health professional and a patient involve an abuse of professional power and a violation of patient trust and are prohibited.

9. *The physician should always be respectful of differences in values and priorities and must not discriminate against patients based on race, color, national origin, gender, sexual orientation or religion.*

10. *Physicians must respect a competent patient's right to accept or reject a physician's recommendation for treatment, including the foregoing of life-sustaining treatment. A physician, however, is not required to follow a course of therapy that is contrary to the physician's informed medical judgment or involves action that violates the physician's moral principles. In such a situation the physician should inform the patient (or his/her surrogate) of the conflict and facilitate the care of the patient to a physician of his/her choice.*

II. Physician Conduct and Practice

1. *The physician should respect all laws, uphold the dignity and honor of the profession and accept the discipline of the profession.*

2. *Physicians will treat their medical colleagues and other health care professionals and workers with respect, integrity and honesty. They will do so regardless of the race, religion, ethnicity, nationality, gender, sexual orientation, age or disability of the individuals.*

3. *Physicians should communicate and cooperate with their medical colleagues and other health care professionals with the goal of meeting the primary commitment to the patient's welfare and best interest.*

4. *Physicians should recognize the boundaries of their practice and must provide only those services and use only those techniques for which he or she is qualified by education, training and experience.*

5. *Physicians will remain current in the scientific and professional knowledge relevant to the medical services they provide.*

6. *Appropriate consultations will be obtained when medically appropriate or when requested by the patient.*

7. *Physicians should not publicize or represent themselves to patients, colleagues or the public with unsubstantiated, untruthful, misleading or deceptive statements.*

8. *Physicians should not practice medicine while impaired by alcohol or drugs. If they are physically or mentally disabled, they should refrain from assuming patient responsibilities that they cannot discharge safely or effectively.*

9. *Physicians must be conscious of all potential conflicts of interest and not engage in practices that either influence, or appear to influence, the care of patients and result, or potentially result, in personal financial gain. Financial interests that might conflict with appropriate medical care should be disclosed to the patient.*

10. A physician is ethically obligated to report fraud, professional misconduct, incompetence or abandonment of a patient by another physician.

III. Societal Responsibilities

1. The physician has a responsibility to society as a whole, should support activities that enhance the community and should respect the laws of society.

2. The medical profession has a collective responsibility to work to see that suitable medical care is available for those in need.