

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

LCB File No. R094-12

Effective February 20, 2013

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

AUTHORITY: §§1-5, NRS 630.130 and 630.138; §§6 and 7, NRS 630.130, 630.138 and 630.275.

A REGULATION relating to medical assistants; authorizing physicians and physician assistants to delegate certain tasks to medical assistants in certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 630 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 5, inclusive, of this regulation, unless the context otherwise requires, “delegating practitioner” means a person who is licensed as a physician or physician assistant and who delegates to a medical assistant the performance of a task pursuant to the provisions of section 3 or 4 of this regulation.*

Sec. 3. 1. *A delegating practitioner may delegate to a medical assistant the performance of a task if:*

(a) The delegating practitioner knows that the medical assistant possesses the knowledge, skill and training to perform the task safely and properly;

(b) The medical assistant is not required to be certified or licensed to perform that task;
and

(c) The medical assistant is employed by the delegating practitioner or the medical assistant and the delegating practitioner are employed by the same employer.

2. Except as otherwise provided in section 4 of this regulation, if a medical assistant is delegated a task which involves an invasive procedure, the delegating practitioner must be immediately available to exercise oversight in person while the medical assistant performs the task.

Sec. 4. *1. A delegating practitioner may supervise remotely a medical assistant to whom the practitioner has delegated the performance of a task if:*

(a) The patient is located in a rural area;

(b) The delegating practitioner is physically located a significant distance from the location where the task is to be performed;

(c) The delegating practitioner determines that the exigent needs of the patient require immediate attention;

(d) The patient and the delegating practitioner previously established a practitioner-patient relationship; and

(e) The delegating practitioner is immediately available by telephone or other means of instant communication during the performance of the task by the medical assistant.

2. As used in this section, "rural area" means any area in this State other than Carson City or the City of Elko, Henderson, Reno, Sparks, Las Vegas or North Las Vegas.

Sec. 5. *A delegating practitioner retains responsibility for the safety and performance of each task which is delegated to a medical assistant. A delegating practitioner shall not:*

1. Delegate a task that is not within the authority, training, expertise or normal scope of practice of the delegating practitioner;

2. Transfer to another physician or physician assistant the responsibility of supervising a medical assistant during the performance of a task unless the physician or physician assistant knowingly accepts that responsibility;

3. Authorize or allow a medical assistant to delegate the performance of a task delegated to the medical assistant to any other person; or

4. Delegate or otherwise allow a medical assistant to administer an anesthetic agent which renders a patient unconscious or semiconscious.

Sec. 6. NAC 630.230 is hereby amended to read as follows:

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

(a) Falsify records of health care;

(b) Falsify the medical records of a hospital so as to indicate his or her presence at a time when he or she was not in attendance or falsify those records to indicate that procedures were performed by him or her which were in fact not performed by him or her;

(c) Render professional services to a patient while the physician or physician 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 assistant and performed outside his or her own office;

(g) Allow any person to act as a medical assistant in the treatment of a patient of the physician or physician assistant, unless the medical assistant has sufficient training to provide the assistance;

(h) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant ~~†~~, *including, without limitation, supervision provided in the manner described in section 3 or 4 of this regulation;*

(i) If the person is a physician, fail to provide adequate supervision of a physician assistant or an advanced practitioner of nursing;

(j) Fail to honor the advance directive of a patient without informing the patient or the 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

(k) Engage in the practice of writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that deviates from the policies set forth in the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

2. As used in this section:

(a) "Acute pain" has the meaning ascribed to it in section 3 of the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

(b) "Chronic pain" has the meaning ascribed to it in section 3 of the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

~~†(c) "Medical assistant" means any person who:~~

~~——(1) Is employed by a physician or physician assistant;~~

~~——(2) Is under the direction and supervision of the physician or physician 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.~~

Sec. 7. NAC 630.380 is hereby amended to read as follows:

630.380 1. A physician assistant is subject to disciplinary action by the Board if, after notice and hearing in accordance with this chapter, the Board finds that the physician assistant:

(a) Has willfully and intentionally made a false or fraudulent statement or submitted a forged or false document in applying for a license;

(b) Has held himself or herself out as or permitted another to represent the physician assistant to be a licensed physician;

(c) Has performed medical services otherwise than:

(1) Pursuant to NAC 630.375; or

(2) At the direction or under the supervision of the supervising physician of the physician assistant;

(d) Has performed medical services which have not been approved by the supervising physician of the physician assistant, unless the medical services were performed pursuant to NAC 630.375;

(e) Is guilty of gross or repeated malpractice in the performance of medical services for acts committed before October 1, 1997;

(f) Is guilty of malpractice in the performance of medical services for acts committed on or after October 1, 1997;

(g) Is guilty of disobedience of any order of the Board or an investigative committee of the Board, *any* provision in the regulations of the State Board of Health or the State Board of Pharmacy or *any* provision of this chapter;

(h) Is guilty of administering, dispensing or possessing any controlled substance otherwise than in the course of legitimate medical services or as authorized by law and the supervising physician of the physician assistant;

(i) Has been convicted of a violation of any federal or state law regulating the prescribing, possession, distribution or use of a controlled substance;

(j) Is not competent to provide medical services;

(k) Failed to notify the Board of an involuntary loss of certification by the National Commission on Certification of Physician Assistants within 30 days after the involuntary loss of certification;

(l) Is guilty of violating a provision of NAC 630.230 ~~§~~ *or section 3, 4 or 5 of this regulation;*

(m) Is guilty of violating a provision of NRS 630.301 to 630.3065, inclusive; or

(n) Is guilty of violating a provision of subsection 2 or 3 of NAC 630.340.

2. To institute disciplinary action against a physician assistant, a written complaint, specifying the charges, must be filed with the Board by the investigative committee of the Board.

3. A physician assistant is not subject to disciplinary action solely for prescribing or administering to a patient under the care of the physician assistant a controlled substance which is listed in schedule II, III, IV or V by the State Board of Pharmacy pursuant to NRS 453.146.

**REGULATION ADOPTED BY THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS
LCB File No. R094-12**

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 (Board) published a Notice of Intent to Act Upon Regulation to solicit comments on proposed changes to the regulation. The hearing was to be conducted in Las Vegas on Monday, October 29, 2012, at the hour of 10:00 o'clock a.m., at the Las Vegas Board office located at 6010 S. Rainbow Blvd., Bldg. A., Suite 1, Las Vegas, Nevada and videoconferenced to the Board office located at 1105 Terminal Way, Suite 301, Reno, Nevada.

In the notice the public was 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
Carson City Library	Carson City, Nevada
Clark County District Library	Las Vegas, Nevada
Churchill County Library	Fallon, Nevada
Douglas County Library	Minden, Nevada
Elko County Library	Elko, Nevada
Esmeralda County Library	Goldfield, Nevada
Humboldt County Library	Winnemucca, Nevada
Lander County Library	White Pine, Nevada
Lincoln County Library	Pioche, Nevada
Lyon County Library	Yerington, Nevada
Mineral County Library	Hawthorne, Nevada
Tonopah Library	Tonopah, Nevada
Pershing County Library	Lovelock, Nevada
Storey County Library	Virginia City, Nevada
White Pine County Library	Ely, 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:

Four written statements were received by the Board, all of which were supportive of the proposed regulatory language, excepting United Allergy, who requested that the Board eliminate the requirement that a medical assistant be an employee of the delegating practitioner.

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.

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

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:

Workshop: Amber Joiner from the Nevada State Medical Association (Reno)
Louis Ling, from the Osteopathic Board (Reno)
Heidi Parker from Immunize Nevada (Reno)
Jeanette Belz from Nevada Academy of Ophthalmology (Reno)
Barbara Longo from the Osteopathic Board (Las Vegas)

Hearing: Amber Joiner, from the Nevada State Medical Association
Larry Matheis, from the Nevada State Medical Association
Louis Ling, from the Osteopathic Board
Jeanette Belz, from the Nevada Academy of Ophthalmology

Persons who testified at the workshop or public hearing:

Larry Matheis made references to his written statements on behalf of the Nevada State Medical Association.

The number of persons who submitted written statements:

Four entities submitted written statements to the Board; the Nevada State Medical Association, Immunize Nevada, American Medical Technologists and United Allergy.

**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 REGULATION WAS ADOPTED IN ENCLOSED FORM.

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

The economic effect of the regulation on the medical profession:

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

The economic effect of the regulation on the general public:

There will be no economic effect to the general public by adoption of this 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.