

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

LCB File No. R096-16

Effective December 21, 2016

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

AUTHORITY: §1, NRS 630.130 and 630.138.

A REGULATION relating to medical assistants; requiring that certain information be documented in the employment record of a medical assistant; prohibiting a medical assistant from performing certain tasks; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Board of Medical Examiners to adopt regulations governing the supervision of a medical assistant. (NRS 630.138) This regulation: (1) requires the employer of a medical assistant to document in the employment record of the medical assistant that he or she has been appropriately trained and is competent to perform any task or procedure assigned to him or her; (2) provides that a delegating practitioner may delegate a task to a medical assistant only if the employer of the medical assistant has complied with the documentation requirement as it relates to the task; and (3) prohibits a medical assistant from performing certain tasks.

Section 1. NAC 630.810 is hereby amended to read as follows:

630.810 1. ~~1A~~ *Except as otherwise provided in this section, 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 ~~and~~; *and*

(d) The employer of the medical assistant has complied with the requirements of subsection 2 as they relate to the task.

2. The employer of a medical assistant shall document in the employment record of the medical assistant that he or she has been appropriately trained and is competent to perform any task or procedure assigned to him or her.

3. Except as otherwise provided in NAC 630.820, 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.

4. A medical assistant shall not make a diagnosis, initiate any treatment or prescribe any drug.

INFORMATIONAL STATEMENT

**PROPOSED REGULATION ADOPTED BY THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS
LCB File Number R096-16**

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

1. A clear and concise statement of the need for the regulation:

The impetus to amend this regulation is based upon some concerning issues being observed relative to recent Nevada State Board of Medical Examiners (Board) investigations regarding the functions of medical assistants. Medical assistants in Nevada are not licensed, but licensed medical practitioners may delegate tasks and functions to these individuals. Therefore, the accountability of the actions of medical assistants falls upon the licenses of the delegating medical practitioners.

The objective in advancing this change to NAC 630.810 is to ensure medical assistants are appropriately trained for the tasks that they will perform, as well as clarifying the functions that a medical assistant may *NOT* engage in.

The Board staff has seen evidence that indicates that medical assistants are engaging in such functions as administering injections of dangerous drugs, performing liposuction and engaging in laser skin treatments. The Board wants to ensure that these individuals are competent to do these functions and that there is documentation demonstrating that they have been adequately trained. Additionally, we want to ensure that medical assistants are not engaging in the practice of medicine, and they shall not make a diagnosis, initiate a treatment or prescribe any drugs to patients.

2. How public comment was solicited:

On June 3, 2016, at a full Board meeting, Board staff requested authorization to proceed with the regulatory adoption process for amending Nevada Administrative Code 630.810. The Board unanimously approved this request. At this June 2016 Board Meeting, there was no public comment relative to the proposed regulation.

Comments were solicited from the public regarding the potential impact of this proposed regulation change by sending the notice to the following:

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
Washoe County Library	Reno, Nevada

Attached hereto and made parts hereof, are copies of certifications of posting from many of the above named.

Additionally, the Board solicited input by the public by reaching out to various business chambers and associations. Correspondence was sent to the following organizations:

- Las Vegas Metro Chamber of Commerce
- Las Vegas Latin Chamber
- Las Vegas Asian Chamber
- Better Business Bureau of Southern Nevada, Inc.
- Reno/Sparks Chamber of Commerce
- City of Winnemucca
- Elko Great Basin College
- Better Business Bureau of Northern Nevada, Inc.
- Pahrump Rural Nevada Development Corp.
- Ely Rural Nevada Development Corp.
- Churchill County Economic Development Authority

On July 27, 2016, a public workshop was held in Board’s Las Vegas office and videoconferenced to the Reno office to gather public input on this regulation. The Board did receive testimony regarding the proposed regulation.

On October 20, 2016, a regulation hearing was held at the Board’s Reno office and videoconferenced to the Board’s Las Vegas office. The Board did receive testimony regarding the proposed regulation.

Summary of the public response:

Public Workshop

During the public workshop, the Board received testimony stating general support for proposed regulation; however, there were concerns raised regarding the requirement that the procedure that is performed by the medical assistant must be documented in the patient’s medical record.

Regulation Hearing

During the regulation hearing, the Board received testimony stating support for the new amended language.

The Board did receive an email from the President of the Nevada State Medical Association who was supportive of the final language of the proposed regulation.

How other interested persons may obtain a copy of the public response to the regulation:

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 part 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:

Sunshine Litigation Services
Reno, Nevada
(775) 323-3411

3. Public Workshop, Regulation Hearing and Written Comments:

Attended public workshop:

Catherine O'Mara
(775) 825-6788
3700 Barron Way
Reno, NV 89511
catherine@nvdoctors.org
Nevada State Medical Association

Susan Fisher
(775) 742-7080
100 West Liberty Street
Reno, NV 89501
NVOS

Jeanette Belz
(775) 329-0119
121 Washington Street
Reno, NV
Nevada Academy of Ophthalmology

Testified at public workshop:

Catherine O'Mara
Jeanette Belz

Attended regulation hearing:

Catherine O'Mara
(775) 825-6788
3700 Barron Way
Reno, NV 89511
catherine@nvdoctors.org
Nevada State Medical Association

Joelle Gutman
(775) 636-4079
4741 Caughlin Parkway
Suite 2
Reno, NV 89519
Ferrari Public Affairs

Jerad Hershewe
(775) 825-6788
3700 Barron Way
Reno, NV 89511
catherine@nvdoctors.org
Nevada State Medical Association

Testified at regulation hearing:

Catherine O'Mara

Submitted to the agency written comments:

An email from Dr. Weldon Havens was received by the Board communicating support for the amended language.

4. A description of how comment was solicited from effected businesses, a summary of their response, and an explanation how other interested parties may obtain a copy of the summary.

The Nevada State Board of Medical Examiners solicited any potential impacted businesses by reaching out to various business chambers and associations. Correspondence was sent to the following organizations:

- Las Vegas Metro Chamber of Commerce
- Las Vegas Latin Chamber
- Las Vegas Asian Chamber
- Better Business Bureau of Southern Nevada, Inc.
- Reno/Sparks Chamber of Commerce
- City of Winnemucca
- Elko Great Basin College
- Better Business Bureau of Northern Nevada, Inc.
- Pahrump Rural Nevada Development Corp.
- Ely Rural Nevada Development Corp.
- Churchill County Economic Development Authority

5. 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 proposed regulation was changed with comments that were received during the public workshop. During the regulation hearing, one of the parties who had requested changes testified to their support of the changes to R096-16.

6. The economic effect of the adopted regulation on the medical profession and on the public:

a. Both adverse and beneficial effects

The Board does not anticipate any adverse or beneficial economic effects to the medical profession by adoption of this regulation.

The Board does not anticipate any adverse or beneficial economic effects to the public by adoption of this regulation.

b. Both immediate and long-term effects

The Board does not anticipate any immediate or long-term economic effects to the medical profession by adoption of this regulation.

The Board does not anticipate any immediate or long-term economic effects to the public by adoption of this regulation.

7. 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.

8. 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 regulation duplicates.

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

There are no federal regulations that apply.

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

This regulation does not provide a new fee or increase an existing fee.