

INFORMATIONAL STATEMENT

PROPOSED REGULATION ADOPTED BY THE NEVADA STATE BOARD OF MEDICAL EXAMINERS LCB File Number R163-16

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 adopted regulation:

The impetus to promulgate this regulation is based upon Section 17 of Assembly Bill (AB) No. 474 of the 2017 Legislative Session, which mandated the Board, by regulation, to require each physician or physician assistant who is registered to dispense controlled substances pursuant to NRS 453.231 to complete at least two hours of continuing medical education relating specifically to the misuse and abuse of controlled substances, the prescribing of opioids or addiction during each period of licensure.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary:

On December 2, 2016, at a full Board Meeting, Board staff requested authorization to proceed with the regulatory adoption process for amending Nevada Administrative Code Chapter 630 relating to continuing medical education requirements for physicians and physician assistants. The Board unanimously approved this request. There was no public comment at Board Meeting relative to this 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

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

On August 30, 2017, a public workshop was held in Board's Las Vegas office and by videoconference to the Reno office to gather public input on this regulation. A public hearing was held on October 12, 2017, at the Board's Reno office and by videoconference to the Las Vegas office. The Board received testimony regarding the proposed regulation at the hearing.

Additionally, the proposed regulation was considered at the meeting of the Legislative Committee on Health Care on January 11, 2018 at the Grant Sawyer State Office Building at 555 East Washington Avenue in Las Vegas and by videoconference to Room 3137 of the Legislative Building at 401 South Carson Street in Carson City, Nevada. No public comments were made on the proposed regulation before the Legislative Committee on Health Care.

Finally, at the Board's regularly noticed meeting on December 1, 2017, the regulation was presented for adoption by the Board. There were no public comments at that time.

Summary of the public response:

Public Workshop

During the public workshop, there was no public response or testimony either in support or against the proposed regulation.

Regulation Hearing

During the regulation hearing, the Board received testimony from the Nevada State Medical Association and from the Nevada Psychiatric Association requesting that, for clarity and consistency with NRS 630.253, the proposed regulation set forth that the required continuing education credits could be substituted for ethics credits.

Further discourse with the Executive Director of the Nevada State Medical Association after the regulation hearing resulted in the conclusion that no clarifying language was necessary.

**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 9600 Gateway Drive, Reno, Nevada, is a complete transcript of the hearing conducted on the proposed regulation and a summary of responses.

Any member of the public may visit the offices of the Board and may review any part or the entire transcript or responses 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:

Litigation Services
151 Country Estates Cir. Ste 1
Reno, Nevada 89511
(775) 323-3411

3. The number of persons who:

- a. Attended each hearing:** October 12, 2017 – 2 persons
- b. Testified at each hearing:** October 12, 2017 – 2 persons
- c. Submitted to the agency written comments:** 1 person

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address and name of entity or organization represented for each person identified in Question 3, as provided to the agency:

Attended regulation hearing:

Catherine O'Mara
Executive Director
Nevada State Medical Association
5355 Kietzke Lane
Reno, NV 89511
(775) 825-6788
catherine@nvdoctors.org

Lea Cartwright
Nevada Psychiatric Association
2590 E. Russell Road
Las Vegas, Nevada 89120
(877) 493-0007
office@nvpsychiatry.org

Brandi Planet
Ferrari Public Affairs
(702) 340-9227

Testified at regulation hearing:

Catherine O'Mara
Lea Cartwright

Submitted to the agency written comments:

An email was received from J.K. Belz & Associates, on behalf of the Nevada Psychiatric Association, on October 11, 2017, requesting clarification that the continuing education required by R163-16 could be used to satisfy an equivalent requirement for continuing education in ethics.

An email from Catherine O'Mara, Executive Director of the Nevada State Medical Association, was received by Board staff on October 26, 2017, communicating a suggested amendment to the proposed language to clarify that the continuing education requirements would qualify for ethics credit. There were subsequent communications between Board staff and Ms. O'Mara regarding the interpretation of AB 474 (2017) and its continuing education mandate, in which Board staff and Ms. O'Mara concluded that clarifying language ultimately was not necessary, as the statute already allowed for the substitution of credit.

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

In addition to soliciting comments from the public, as set forth in the response to Question 2 herein, 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 of Commerce
- Las Vegas Asian Chamber of Commerce
- Better Business Bureau of Southern Nevada, Inc.
- Better Business Bureau of Northern Nevada, Inc.
- Reno/Sparks Chamber of Commerce
- City of Winnemucca
- Elko Great Basin College
- Pahrump Rural Nevada Development Corp.
- Ely Rural Nevada Development Corp.
- Churchill County Economic Development Authority
- Nevada State Medical Association
- Clark County Medical Society

There were no responses from any of the solicited organizations. Interested parties may obtain a copy of the summary in the same manner as set forth in the response to Question 2.

6. 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 not changed when adopted by the Board at the December 1, 2017 meeting, because, as a result of continuing dialogue with the participants at the regulation hearing after the hearing, it was determined that the statute allowed for the credit substitution and that no further regulatory clarification was needed to clarify that the continuing education requirement set forth in R163-16 could be substituted for continuing education requirement of ethics as set forth in NRS 630.253.

7. The economic effect of the adopted regulation on the businesses it is to regulate and on the public. These must be stated separately, and each case must include:

- a. Both adverse and beneficial effects**
- b. Both immediate and long-term effects**

(a) Both adverse and beneficial effects

There will be no economic effect to the medical profession by adoption of this regulation. While the regulation imposes, per NRS 630.2535, as amended by Section 17 of AB 474 (2017), a requirement for certain continuing medical education, NRS 630.2535 also allows the licensee to “use such training to satisfy 2 hours of any continuing education requirement established by the Board.” Thus, the regulation does not create an additional burden to licensees. It will be beneficial to licensees to obtain training in the misuse and abuse of controlled substances, if they have not done so already. It may benefit the public, who are patients of licensees, because licensees will be more informed of the misuse and abuse of controlled substances, prescribing practices regarding the same, and their consequences.

(b) Both immediate and long-term effects

The immediate effect will be to require licensees to obtain training in the misuse and abuse of controlled substances, which, in the long-term, may lead to improved prescribing practices. Both in the short and long-term, it may benefit the public, who are patients of licensees, because licensees may be more informed of the misuse and abuse of controlled substances, prescribing practices regarding the same, and their consequences.

8. The estimated cost to the Nevada State Board of Medical Examiners for enforcement of 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.

9. 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.

10. 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.

11. 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.