

# **INFORMATIONAL STATEMENT**

## **PROPOSED REGULATION ADOPTED BY THE NEVADA STATE BOARD OF MEDICAL EXAMINERS LCB File Number R145-18**

*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 15 of Assembly Bill (AB) No. 474 of the 2017 Legislative Session, which mandated the Board, by regulation, to adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of Section 52 to 58, inclusive, of AB 474.

### **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 September 8, 2017, 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 disciplinary actions for violations of AB 474. The Board unanimously approved this request. There was no public comment at Board Meeting relative to this proposed regulation. The regulation was assigned Legislative Counsel Bureau No. R100-17.

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

<b>Washoe County Courthouse</b>	<b>Reno, Nevada</b>
<b>Carson City Library</b>	<b>Carson City, Nevada</b>
<b>Clark County District Library</b>	<b>Las Vegas, Nevada</b>
<b>Churchill County Library</b>	<b>Fallon, Nevada</b>
<b>Douglas County Library</b>	<b>Minden, Nevada</b>
<b>Elko County Library</b>	<b>Elko, Nevada</b>
<b>Esmeralda County Library</b>	<b>Goldfield, Nevada</b>
<b>Humboldt County Library</b>	<b>Winnemucca, Nevada</b>
<b>Lander County Library</b>	<b>White Pine, Nevada</b>
<b>Lincoln County Library</b>	<b>Pioche, Nevada</b>
<b>Lyon County Library</b>	<b>Yerington, Nevada</b>
<b>Mineral County Library</b>	<b>Hawthorne, Nevada</b>
<b>Tonopah Library</b>	<b>Tonopah, Nevada</b>
<b>Pershing County Library</b>	<b>Lovelock, Nevada</b>
<b>Storey County Library</b>	<b>Virginia City, Nevada</b>
<b>White Pine County Library</b>	<b>Ely, Nevada</b>

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 January 3, 2018, a public workshop was held in Board's Las Vegas office and by video-conference to the Reno office to gather public input on this regulation. Based on the input received, Board staff requested at a full Board meeting on February 7, 2018, that the Board authorize formation of a subcommittee to make recommendations regarding the disciplinary regulation. The Board unanimously approved this request.

A Subcommittee composed of 17 stakeholders, including licensees, attorneys, Nevada State Board of Medical Examiners Board members, Nevada Pharmacy Board staff, members of the State Legislature, and industry representatives met on February 15, 2018, February 28, 2018, March 14, 2018, March 21, 2018, April 11, 2018, and May 2, 2018. The Subcommittee provided recommendations to the Board, which were approved unanimously at the June 1, 2018 Board meeting. As a result, R100-17 was withdrawn, and Board staff obtained a new number for the proposed language recommended by the Subcommittee: R145-18.

A workshop to solicit comments on R145-18 was held in Las Vegas and transmitted via video-conference to Reno, Nevada on October 23, 2018. A public hearing was held in Las Vegas and transmitted via video-conference to Reno on December 11, 2018. Comments in favor of the proposed regulation were received. There were no comments disfavoring the regulation.

Finally, at the Board's regularly noticed meeting on March 1, 2019, the regulation was presented for adoption by the Board. There were no public comments at that time, and the Board voted unanimously to adopt the regulation.

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

#### Public Workshop

During the public workshop, one person spoke in support of the proposed regulation. There was one public comment, who also provided written comment, regarding the danger of over-regulating opioids at the risk of denying pain medication to those who need it.

## Regulation Hearing

During the regulation hearing, the Board received testimony from Brian Evans on behalf of the Nevada State Medical Association, in support 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 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:** December 11, 2018 – 3 persons
- b. Testified at each hearing:** December 11, 2018 – 1 persons
- c. Submitted to the agency written comments:** 0 persons

### **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:**

Brian Evans  
The Perkins Company  
531 North Stephanie Street, Suite 202  
Henderson, Nevada 89014  
775.636.0051  
brian@theperkinsco.com  
(on behalf of)  
Nevada State Medical Association  
5355 Kietzke Lane  
Reno, NV 89511  
(775) 825-6788

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Valerie Padovan  
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Reno, Nevada 89503  
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**Testified at regulation hearing:**

Brian Evans  
The Perkins Company  
531 North Stephanie Street, Suite 202  
Henderson, Nevada 89014  
775.636.0051  
brian@theperkinsco.com  
(on behalf of)  
Nevada State Medical Association  
5355 Kietzke Lane  
Reno, NV 89511  
(775) 825-6788

**Submitted to the agency written comments:**

No written comments were received at the public hearing.

**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 was one response from one of the solicited organizations, indicating that they did not anticipate any economic impact from the regulation. 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 March 1, 2019 meeting, because, the proposed regulation was the result of a series of stakeholder meetings resulting in a consensus.

**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. It does not change the Board's existing disciplinary process. Instead, it allows the Board to take into consideration a licensee's good faith attempts to comply with the requirements of AB 474.

(b) Both immediate and long-term effects

The immediate effect will be to require the State Board of Medical Examiners to consider a provider's good faith efforts in complying with the new law in determining whether a disciplinary violation has occurred and in determining what discipline to provide. As time goes on and licensees become more educated about the requirements of the new law and implementing regulations, it is expected that disciplinary measures may become less lenient.

**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.