

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

LCB File No. R171-20

January 31, 2022

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

AUTHORITY: §§ 1-3, NRS 630.130 and 630.139; § 4, NRS 630.130 and 630.161; § 5, NRS 630.106 and 630.130; §§ 6, 8, 9, 19 and 25, NRS 630.130; § 7, NRS 630.130, 630.269, 630.275, as amended by section 19 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 760, and NRS 630.279; § 10, NRS 630.130 and 630.298; § 11, NRS 630.130, 630.269 and 630.275; § 12, NRS 630.130, 630.269, 630.275 and 630.336; §§ 13-16, 18 and 20, NRS 630.130 and 630.275; § 17, NRS 630.130 and 630.275, as amended by section 19 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 760; §§ 21-23, NRS 630.130 and 630.279; § 24, NRS 630.130, 630.269 and 630.2691.

A REGULATION relating to medicine; revising provisions relating to an application for a license to practice medicine; removing certain requirements relating to an applicant or licensee who is not a citizen of the United States; prescribing the contents of certain notices concerning health care records; prescribing a procedure for the reinstatement of a license that has been revoked by the Board of Medical Examiners; revising provisions governing disciplinary hearings before the Board; expanding the definition of “malpractice”; requiring a physician assistant to seek consultation with another provider of health care in certain doubtful or difficult cases; deeming the voluntary surrender of a license issued by the Board under certain circumstances to be disciplinary action; prescribing the procedure for placing a license issued by the Board on retired status; requiring the Board to keep confidential certain consent or settlement agreements; revising provisions relating to the supervision of a physician assistant by a supervising physician; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the licensure and regulation of physicians, physician assistants, perfusionists and practitioners of respiratory care by the Board of Medical Examiners. (Chapter 630 of NRS) Existing regulations require an original signature on certain documents submitted to the Board by licensees or applicants for any license to practice medicine. (NAC 630.045) **Section 7** of this regulation authorizes a licensee or applicant to submit a document that bears his or her authenticated electronic signature to the Board. **Sections 8, 13, 21 and 24** of this regulation remove a requirement that an applicant for any license to practice medicine who is not a citizen of the United States must include with his or her application satisfactory evidence that

he or she is lawfully entitled to remain and work in the United States. **Section 25** of this regulation eliminates a requirement relating to the termination of a license issued to a person who is not a citizen of the United States.

Sections 14, 22 and 24 of this regulation replace a requirement that an application for licensure as a physician assistant, practitioner of respiratory care or perfusionist, respectively, be sworn to before a notary public or other officer authorized to administer oaths with a requirement that such an application must be accompanied by a signed affidavit. **Section 22** of this regulation requires an application for licensure as a practitioner of respiratory care to include the mailing address at which the applicant prefers to receive correspondence from the Board.

Existing law requires a licensee to provide certain notice to patients concerning the health care records of patients. (NRS 630.139) **Sections 2 and 3** of this regulation prescribe the required contents of this notice.

Existing law prescribes a procedure for the reinstatement of a license that has been revoked by a regulatory body. (NRS 622A.410) **Section 4** of this regulation additionally requires a person whose license has been revoked by the Board and who wishes to reinstate his or her license to apply for a license as though the person had never been licensed by the Board.

Existing law authorizes the Board to hold hearings pertaining to its duties. (NRS 630.140) Existing law also authorizes the Board to employ hearing officers necessary to the discharge of its duties. (NRS 630.106) **Section 5** of this regulation prescribes the qualifications a person must meet to be employed by the Board as a hearing officer.

Existing regulations prescribe procedures concerning prehearing conferences in proceedings relating to physicians and physician assistants. (NAC 630.465) **Section 19** of this regulation makes those requirements additionally applicable to prehearing conferences in proceedings relating to practitioners of respiratory care and perfusionists. **Section 19** also requires each party to provide to every other party any evidence that the party proposes to introduce at a hearing. **Sections 18 and 23** of this regulation increase, from 20 days to 21 days, the number of days before a disciplinary hearing certain notice is required to be served on a physician assistant and the supervising physician or practitioner of respiratory care, respectively. **Sections 20 and 25** of this regulation eliminate certain requirements relating to disciplinary hearings. **Section 20** also provides that a brief may be filed only upon the order of the Board.

Existing regulations define the term “malpractice” to mean the failure of a physician, in treating a patient, to use the reasonable care, skill or knowledge ordinarily used under similar circumstances. (NAC 630.040) **Section 6** of this regulation expands the definition of the term “malpractice” to include the failure of a physician assistant, practitioner of respiratory care or perfusionist, in treating a patient, to use the reasonable care, skill or knowledge ordinarily used under similar circumstances.

Existing regulations require a physician to seek consultation with another provider of health care in certain doubtful or difficult cases. (NAC 630.210) **Section 9** of this regulation additionally requires a physician assistant to seek consultation with another provider of health care under the same circumstances.

Section 10 of this regulation: (1) deems the voluntary surrender of a license to practice medicine, respiratory care or perfusion while an investigation concerning the license or any proceedings for disciplinary action are pending against the licensee to be disciplinary action; and (2) provides that the voluntary surrender of a license under such circumstances is reportable to applicable national databases. **Section 10** also prescribes the criteria and procedure for placing a license issued by the Board on retired status.

Section 11 of this regulation: (1) removes a requirement that a copy of the disciplinary findings and order of the Board must be delivered to certain hospitals; and (2) specifies that such information must be served upon the person affected by them at the last known mailing address of the person.

Existing regulations require the Board to keep confidential certain records relating to a program established by the Board to enable a licensee to correct an impairment which could result in the revocation of his or her license. (NAC 630.275) **Section 12** of this regulation requires the Board to also keep confidential a consent or settlement agreement between the Board and a licensee that provides for the licensee to enter a diversionary program for the treatment of an alcohol or other substance use disorder.

Existing law authorizes a physician assistant to perform such medical services as he or she is authorized to perform by his or her supervising physician. (NRS 630.271) Existing regulations require a supervising physician, at least once a month, to spend part of the day at any location where the physician assistant provides medical services. (NAC 630.370) **Section 17** of this regulation provides that this requirement is satisfied if the supervising physician spends part of a day at any location where the physician assistant uses telehealth to provide medical services. Existing regulations also require a supervising physician to develop and carry out a program to ensure the quality of care provided by a physician assistant. (NAC 630.370) **Section 17** revises the requirements of such a program.

Existing regulations require a physician assistant and supervising physician to immediately notify the Board of the termination of the supervision of the physician assistant by the supervising physician. (NAC 630.340) **Sections 15 and 16** of this regulation require such notice to be provided within 72 hours of the termination.

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. 1. *Each sign required to be posted by a licensee pursuant to subsection 2 of NRS 630.139 must:*

(a) Be not less than 8 1/2 inches in height and 11 inches in width, with margins not greater than 1 inch on any side;

(b) Be posted in a conspicuous place in each location at which the licensee provides health care services;

(c) Disclose to a patient that the Board may access the health care records of the patient pursuant to subsection 1 of NRS 630.139;

(d) Be written using a single typeface in not less than 20-point type; and

(e) Be titled “Notice to Patients Regarding Access to Health Care Records.”

2. If two or more licensees share a location at which the licensees provide health care services, the licensees may post one sign at the location which complies with the requirements of this section.

Sec. 3. *Each written statement required by subsection 3 of NRS 630.139 must:*

1. Disclose to the patient that the health care records of the patient may be accessed by the Board in accordance with NRS 630.139; and

2. Be titled “Notice to Patients Regarding Access to Health Care Records.”

Sec. 4. *In addition to any other requirements set forth in chapter 630 of NRS, to reinstate a license that has been revoked by the Board pursuant to NRS 622A.410, a person must apply for a new license and submit to the examination required pursuant to NRS 630.2692 as though the person had never been licensed under chapter 630 of NRS.*

Sec. 5. *A hearing officer employed by the Board pursuant to NRS 630.106 must:*

1. Be an attorney in good standing licensed to practice law in this State; and

2. Have at least 5 years of experience as an attorney licensed to practice law in this State in administrative law, including, without limitation, administrative hearings.

Sec. 6. NAC 630.040 is hereby amended to read as follows:

630.040 For the purposes of *this chapter and* chapter 630 of NRS, “malpractice” means the failure of a physician, *physician assistant, practitioner of respiratory care or perfusionist*, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

Sec. 7. NAC 630.045 is hereby amended to read as follows:

630.045 1. Any document submitted to the Board by a licensee or an applicant for a license to practice medicine, to practice as a physician assistant, to practice as a practitioner of respiratory care or to practice as a perfusionist must bear the original signature *or an authenticated electronic signature* of the licensee or applicant.

2. The Board may refuse to accept any document submitted by a licensee or an applicant for a license that does not ~~bear the original signature of the licensee or applicant.~~ *comply with the requirements of subsection 1.*

3. As used in this section, “document” means any written submission, notification or communication, including, without limitation:

- (a) An application for a license;
- (b) A request for renewal of a license;
- (c) A request for a change of status; or
- (d) A notification of a change of address.

Sec. 8. NAC 630.050 is hereby amended to read as follows:

630.050 1. The Board will not accept any application for any type of license to practice medicine in this State if the Board cannot substantiate that the medical school from which the applicant graduated provided the applicant with a resident course of professional instruction equivalent to that provided in the United States or a Canadian medical school approved by either the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges or by the Committee on Accreditation of Canadian Medical Schools.

2. Except as otherwise provided in NAC 630.130, an applicant for any license to practice medicine must file his or her sworn application with the Board. The application must : ~~include or indicate the following:~~

(a) ~~If the applicant is not a citizen of the United States, satisfactory evidence from the United States Citizenship and Immigration Services of the Department of Homeland Security that he or she is lawfully entitled to remain and work in the United States.~~

~~—(b) All~~ **Include all** documentation required by the application ~~†~~

~~(c) Complete~~ ;

(b) Include complete answers to all questions on the form ~~†~~

~~3. The application must be~~ ; **and**

(c) Be accompanied by the applicable fee.

~~†~~ **3.** If the Board denies an application for any type of license to practice medicine in this State, the Board may prohibit the person whose application was denied from reapplying for a period of 1 year to 3 years after the date of the denial.

Sec. 9. NAC 630.210 is hereby amended to read as follows:

630.210 A physician **or physician assistant** shall seek consultation with another provider of health care in doubtful or difficult cases whenever it appears that consultation may enhance the quality of medical services.

Sec. 10. NAC 630.240 is hereby amended to read as follows:

630.240 1. If a licensee desires to surrender his or her license to practice medicine, **respiratory care or perfusion while an investigation concerning his or her license or any proceedings for disciplinary action are pending against the licensee**, the licensee shall submit to the Board a sworn written statement of surrender of the license accompanied by delivery to the

Board of the actual license issued to him or her. The Board will accept or reject the surrender of the license. If the Board accepts the surrender of the license ~~to the~~ :

(a) *The* surrender is absolute and irrevocable and the Board will notify any agency or person of the surrender and the conditions under which the surrender occurred, as the Board considers advisable.

(b) *The action of the Board shall be deemed disciplinary action against the licensee and shall be reportable to applicable national databases.*

2. *A licensee may apply to the Board to change the status of his or her license to retired by filing with the Board a notice in writing that states the intention of the licensee to retire from active practice. Upon the provision of such notice, the Board will change the status of the license to retired if:*

(a) *The licensee is otherwise in good standing;*

(b) *There are no complaints or investigations pending against the licensee; and*

(c) *No disciplinary action is pending against the licensee.*

3. The voluntary surrender of a license , ~~or~~ the failure to renew a license *or the placement of a license on retired status* does not preclude the Board from hearing a complaint for disciplinary action made against the licensee.

Sec. 11. NAC 630.270 is hereby amended to read as follows:

630.270 A copy of the disciplinary findings and order of the Board:

1. Will be served by personal service or by certified mail upon the person affected by them at the *last known mailing* address of the person on file with the Board and his or her attorney of record; *and*

2. ~~{Will be delivered by first-class mail or electronic mail to each hospital in the geographical area in which the physician, physician assistant, perfusionist or practitioner of respiratory care practices; and~~

~~—3.}~~ May be delivered by first-class mail or electronic mail to members of the media.

Sec. 12. NAC 630.275 is hereby amended to read as follows:

630.275 **1.** The Board will, pursuant to subsection 3 of NRS 630.336, keep confidential all records relating to a program established by the Board to enable a physician, physician assistant, practitioner of respiratory care or perfusionist to correct:

~~{1.}~~ **(a)** A dependence upon alcohol or a controlled substance; or

~~{2.}~~ **(b)** Any other impairment which could result in the revocation of his or her license.

2. *The Board will, pursuant to subsection 4 of NRS 622.330, keep confidential a consent or settlement agreement between the Board and a licensee that provides for the licensee to enter a diversionary program for the treatment of an alcohol or other substance use disorder.*

Sec. 13. NAC 630.280 is hereby amended to read as follows:

630.280 An applicant for licensure as a physician assistant must have the following qualifications:

1. If the applicant has not practiced as a physician assistant for 12 months or more before applying for licensure in this State, he or she must, at the order of the Board, have taken and passed the same examination to test medical competency as that given to applicants for initial licensure.

2. ~~{Be a citizen of the United States or be lawfully entitled to remain and work in the United States.~~

~~—3.}~~ Be able to communicate adequately orally and in writing in the English language.

~~14.1~~ 3. Be of good moral character and reputation.

~~15.1~~ 4. Have attended and completed a course of training in residence as a physician assistant approved by one of the following entities affiliated with the American Medical Association or its successor organization:

(a) The Committee on Allied Health Education and Accreditation or its successor organization;

(b) The Commission on Accreditation of Allied Health Education Programs or its successor organization; or

(c) The Accreditation Review Commission on Education for the Physician Assistant or its successor organization.

~~16.1~~ 5. Be certified by the National Commission on Certification of Physician Assistants or its successor organization.

~~17.1~~ 6. Possess a high school diploma, general equivalency diploma or postsecondary degree.

Sec. 14. NAC 630.290 is hereby amended to read as follows:

630.290 1. An application for licensure as a physician assistant must be made on a form supplied by the Board. The application must state:

(a) The date and place of the applicant's birth and his or her sex;

(b) The applicant's education, including, without limitation, high schools and postsecondary institutions attended, the length of time in attendance at each and whether he or she is a graduate of those schools and institutions;

(c) Whether the applicant has ever applied for a license or certificate as a physician assistant in another state and, if so, when and where and the results of his or her application;

(d) The applicant's training and experience as a physician assistant;

(e) Whether the applicant has ever been investigated for misconduct as a physician assistant or had a license or certificate as a physician assistant revoked, modified, limited or suspended or whether any disciplinary action or proceedings have ever been instituted against the applicant by a licensing body in any jurisdiction;

(f) Whether the applicant has ever been convicted of a felony or an offense involving moral turpitude;

(g) Whether the applicant has ever been investigated for, charged with or convicted of the use or illegal sale or dispensing of controlled substances; and

(h) The various places of his or her residence from the date of:

(1) Graduation from high school;

(2) Receipt of a high school general equivalency diploma; or

(3) Receipt of a postsecondary degree,

↳ whichever occurred most recently.

2. An applicant must submit to the Board:

(a) Proof of completion of an educational program as a physician assistant:

(1) If the applicant completed the educational program on or before December 31, 2001, which was approved by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs; or

(2) If the applicant completed the educational program on or after January 1, 2002, which is accredited by the Accreditation Review Commission on Education for the Physician Assistant or approved by the Commission on Accreditation of Allied Health Education Programs;

(b) Proof of passage of the examination given by the National Commission on Certification of Physician Assistants; and

(c) Such further evidence and other documents or proof of qualifications as required by the Board.

3. Each application must be signed by the applicant and ~~sworn to before a notary public or other officer authorized to administer oaths.~~ *accompanied by a signed affidavit indicating that:*

(a) The applicant is the person named in the proof of completion of an educational program as a physician assistant required by subsection 2;

(b) The proof of completion of the educational program required by subsection 2 was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

(c) All the information contained in the application and any accompanying material is complete and correct.

4. The application must be accompanied by the applicable fee.

5. An applicant shall pay the reasonable costs of any examination required for licensure.

Sec. 15. NAC 630.340 is hereby amended to read as follows:

630.340 1. The license of a physician assistant is valid for 2 years.

2. Before providing medical services, a physician assistant, on a form prescribed by the Board, shall notify the Board of the name and location of the practice of the physician assistant, the name of the supervising physician and the portion of the practice of the physician assistant that the supervising physician supervises. The notice must contain the signatures of the physician assistant and the supervising physician of the physician assistant.

3. The physician assistant and the supervising physician shall ~~immediately~~, *within 72 hours after the termination of the supervision of the physician assistant by the supervising physician*, notify the Board of the termination of the supervision of the physician assistant by the supervising physician. For any portion of the practice of the physician assistant that the supervising physician terminating supervision of the physician assistant supervised, the physician assistant shall not provide medical services until the physician assistant and a supervising physician submit notice to the Board pursuant to subsection 2.

4. A physician assistant who has been licensed by the Board but is not currently licensed, has surrendered his or her license or has failed to renew his or her license will be disciplined by the Board, if the Board deems it necessary, upon hearing a complaint for disciplinary action against the physician assistant.

5. If the Board determines that the conduct of a physician assistant when he or she was on inactive status in another jurisdiction would have resulted in the denial of an application for licensure in this State, the Board will, if appropriate, refuse to license the physician assistant.

Sec. 16. NAC 630.360 is hereby amended to read as follows:

630.360 1. The medical services which a physician assistant is authorized to perform must be:

(a) Commensurate with the education, training, experience and level of competence of the physician assistant; and

(b) Within the scope of the practice of the supervising physician of the physician assistant.

2. The physician assistant shall wear at all times while on duty a placard, plate or insigne which identifies him or her as a physician assistant.

3. No physician assistant may represent himself or herself in any manner which would tend to mislead the general public or the patients of the supervising physician.

~~{4. Except as otherwise provided in subsection 3 of NAC 630.340, a physician assistant shall notify the Board in writing within 72 hours after any change in the supervision of the physician assistant by a supervising physician.}~~

Sec. 17. NAC 630.370 is hereby amended to read as follows:

630.370 1. Except as otherwise provided in NAC 630.375, the supervising physician is responsible for all the medical activities of his or her physician assistant and shall ensure that:

(a) The physician assistant is clearly identified to the patients as a physician assistant;

(b) The physician assistant performs only those medical services which have been approved by his or her supervising physician;

(c) The physician assistant does not represent himself or herself in any manner which would tend to mislead the general public, the patients of the supervising physician or any other health professional; and

(d) There is strict compliance with:

(1) The provisions of the certificate of registration issued to his or her physician assistant by the State Board of Pharmacy pursuant to NRS 639.1373; and

(2) The regulations of the State Board of Pharmacy regarding controlled substances, poisons, dangerous drugs or devices.

2. Except as otherwise required in subsection 3 or 4, the supervising physician shall review and initial selected charts of the patients of the physician assistant. Unless the physician assistant is performing medical services pursuant to NAC 630.375, the supervising physician must be available at all times that his or her physician assistant is performing medical services to consult

with his or her assistant. Those consultations may be indirect, including, without limitation, by telephone.

3. At least once a month, the supervising physician shall spend part of a day at any location where the physician assistant provides medical services to act as a consultant to the physician assistant and to monitor the quality of care provided by the physician assistant. *The requirements of this subsection are satisfied if the supervising physician spends part of a day at any location where the physician assistant uses telehealth to provide medical services.*

4. Except as otherwise provided in this subsection, if the supervising physician is unable to supervise the physician assistant as required by this section, the supervising physician shall designate a qualified substitute physician, who practices medicine in the same specialty as the supervising physician, to supervise the assistant. If the physician assistant is performing medical services pursuant to NAC 630.375, the supervising physician is not required to comply with this subsection.

5. A physician who supervises a physician assistant shall develop and carry out a program to ensure the quality of care provided by a physician assistant. The program must include, without limitation:

- (a) An assessment of the medical competency of the physician assistant . ~~§~~
- (b) A review and initialing of selected charts ~~§~~, *which may include, without limitation, electronic medical records.*
- (c) An assessment of a representative sample of the referrals or consultations made by the physician assistant with other health professionals as required by the condition of the patient . ~~§~~
- (d) Direct observation of the ability of the physician assistant to take a medical history from and perform an examination of patients representative of those cared for by the physician

assistant . ~~and~~ *The requirements of this paragraph are satisfied if a program includes direct observation of a physician assistant while the physician assistant uses telehealth to provide such services.*

(e) Maintenance by the supervising physician of accurate records and documentation regarding the program for each physician assistant supervised.

6. Except as otherwise provided in subsection 7, a physician may supervise a physician assistant if the physician:

- (a) Holds an active license in good standing to practice medicine issued by the Board;
- (b) Actually practices medicine in this State; and
- (c) Has not been specifically prohibited by the Board from acting as a supervising physician.

7. If the Board has disciplined a physician assistant pursuant to NAC 630.410, a physician shall not supervise that physician assistant unless the physician has been specifically approved by the Board to act as the supervising physician of that physician assistant.

Sec. 18. NAC 630.390 is hereby amended to read as follows:

630.390 Before the Board takes disciplinary action against a physician assistant, the Board will give to the physician assistant and to his or her supervising physician a written notice specifying the charges made against the physician assistant and stating that the charges will be heard at the time and place indicated in the notice. The notice will be served on the physician assistant and the supervising physician at least ~~20~~ *21 business* days before the date fixed for the hearing. Service of the notice will be made and any investigation and subsequent disciplinary proceedings will be conducted in the same manner as provided by law for disciplinary actions against physicians.

Sec. 19. NAC 630.465 is hereby amended to read as follows:

630.465 1. At least 30 days before a hearing but not earlier than 30 days after the date of service upon the physician , ~~or~~ physician assistant , *practitioner of respiratory care or perfusionist* of a formal complaint that has been filed with the Board pursuant to NRS 630.311, unless a different time is agreed to by the parties, the presiding member of the Board or panel of members of the Board or the hearing officer shall conduct a prehearing conference with the parties and their attorneys. All documents presented at the prehearing conference are not evidence, are not part of the record and may not be filed with the Board.

2. Each party shall provide to every other party a copy of the list of proposed witnesses and their qualifications and a summary of the testimony of each proposed witness. A witness whose name does not appear on the list of proposed witnesses may not testify at the hearing unless good cause is shown.

3. *In addition to the requirements of NRS 622A.330, each party shall provide to every other party any evidence that the party proposes to introduce at a hearing.* All evidence, except rebuttal evidence, which is not provided to each party at the prehearing conference may not be introduced or admitted at the hearing unless good cause is shown.

4. Each party shall submit to the presiding member of the Board or panel or to the hearing officer conducting the conference each issue which has been resolved by negotiation or stipulation and an estimate, to the nearest hour, of the time required for presentation of its oral argument.

Sec. 20. NAC 630.470 is hereby amended to read as follows:

630.470 1. The President of the Board shall determine whether a hearing will be held before the Board, a hearing officer or a panel of members of the Board. Any hearing before the Board must be held before a majority of the members of the Board.

~~2. If a licensee fails to appear at a scheduled hearing and no continuance has been requested and granted, the evidence may be heard and the matter may be considered and disposed of on the basis of the evidence before the Board, panel or hearing officer in the manner required by this section.~~

~~3. The presiding member of the Board or panel, or the hearing officer will call the hearing to order and proceed to take the appearances on behalf of the Board, panel or hearing officer and the licensee, any other party and their counsel. The Board, panel or hearing officer will act upon any pending motions, stipulations and preliminary matters. The notice of hearing, complaint, petition, answer, response or written stipulation becomes a part of the record without being read unless a party requests that the document be read verbatim into the record. The Board will present its evidence first and then the licensee will submit his or her evidence. Closing statements by the parties may be allowed by the Board, panel or hearing officer.~~

~~4. Prehearing depositions of witnesses and parties may not be taken and no formal discovery of evidence, except as otherwise provided in NAC 630.465, will be allowed.~~

~~5. The Board, panel or hearing officer will hear the evidence presented, make appropriate rulings on the admissibility of evidence, and maintain procedure and order during the hearing. The Board, panel or hearing officer may not dismiss the complaint.~~

~~6. The presiding member of the Board or panel or the hearing officer may, upon his or her motion or the motion of a party, order a witness, other than the licensee, to be excluded from the hearing to prevent that witness from hearing the testimony of another witness at the hearing.~~

~~7.] Briefs ~~must~~ *may* be filed *only* upon the order of the Board, panel or hearing officer.~~

The time for filing briefs will be set by the Board, panel or hearing officer.

~~8.]~~ **3.** The hearing officer or panel of members of the Board conducting a hearing shall:

- (a) Submit to the Board a synopsis of the testimony taken at the hearing; and
- (b) Make a recommendation to the Board on the veracity of witnesses if there is conflicting evidence or the credibility of witnesses is a determining factor.

~~19.1~~ 4. A case shall be deemed submitted for decision by the Board after the taking of evidence, the filing of briefs or the presentation of such oral arguments as may have been permitted, the filing of the transcript of the hearing and the filing of the synopsis of the testimony taken at the hearing. The Board will issue its order or render its decision within 90 days after the hearing or the submission of the case, whichever is later.

Sec. 21. NAC 630.500 is hereby amended to read as follows:

630.500 An applicant for licensure as a practitioner of respiratory care must have the following qualifications:

1. If he or she has not practiced as a practitioner of respiratory care for 12 months or more immediately preceding his or her application for licensure in this State, the applicant must, except as otherwise provided in subsections 2 and 3, at the order of the Board, take and pass any examination that the Board deems appropriate to test the professional competency of the practitioner.

2. If he or she has not practiced as a practitioner of respiratory care for 12 months or more but less than 5 years immediately preceding his or her application for licensure in this State, the applicant may provide proof that he or she has successfully completed 10 units of continuing education for each year or portion thereof he or she has not practiced respiratory care. If he or she provides proof of successfully completing at least 10 units of continuing education for each year or portion thereof he or she has not practiced respiratory care, the applicant is exempt from the examination required pursuant to subsection 1.

3. If he or she has not practiced as a practitioner of respiratory care for 5 years or more immediately preceding his or her application for licensure in this State, the applicant must retake and pass the examination required to be certified as a practitioner of respiratory care administered by the National Board for Respiratory Care or its successor organization.

4. ~~Be a citizen of the United States or be lawfully entitled to remain and work in the United States.~~

~~5.~~ Be able to communicate adequately orally and in writing in the English language.

~~6.~~ 5. Be of good moral character and reputation.

~~7.~~ 6. Be in compliance with the provisions of NRS 630.277.

Sec. 22. NAC 630.505 is hereby amended to read as follows:

630.505 1. An application for licensure as a practitioner of respiratory care must be made on a form supplied by the Board. The application must include:

(a) The date of birth and the birthplace of the applicant, his or her sex and the various places of his or her residence after reaching 18 years of age;

(b) The education of the applicant, including, without limitation, all high schools, postsecondary institutions and professional institutions attended, the length of time in attendance at each high school or institution and whether he or she is a graduate of those schools and institutions;

(c) Whether the applicant has ever applied for a license or certificate as a practitioner of respiratory care in another state and, if so, when and where and the results of his or her application;

(d) The professional training and experience of the applicant;

(e) Whether the applicant has ever been investigated for misconduct as a practitioner of respiratory care or had a license or certificate as a practitioner of respiratory care revoked, modified, limited or suspended or whether any disciplinary action or proceedings have ever been instituted against him or her by a licensing body in any jurisdiction;

(f) Whether the applicant has ever been convicted of a felony or an offense involving moral turpitude;

(g) Whether the applicant has ever been investigated for, charged with or convicted of the use, illegal sale or distribution of controlled substances; and

(h) A public address ~~{where the applicant may be contacted by}~~ *and the mailing address at which the applicant prefers to receive correspondence from* the Board.

2. An applicant must submit to the Board:

(a) Proof of completion of an educational program as a practitioner of respiratory care that is approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Commission on Accreditation for Respiratory Care or its successor organization;

(b) Proof of passage of the examinations required by NRS 630.277 and NAC 630.500 and 630.515; and

(c) Such further evidence and other documents or proof of qualifications as required by the Board.

3. Each application must be signed by the applicant and ~~{sworn to before a notary public or other officer authorized to administer oaths.}~~ *accompanied by a signed affidavit indicating that:*

(a) The applicant is the person named in the proof of completion of an educational program as a practitioner of respiratory care required by subsection 2;

(b) The proof of completion of the educational program required by subsection 2 was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

(c) All the information contained in the application and any accompanying material is complete and correct.

4. The application must be accompanied by the applicable fees for the application for licensure and biennial registration.

5. An applicant shall pay the reasonable costs of any examination required for licensure.

Sec. 23. NAC 630.545 is hereby amended to read as follows:

630.545 Before the Board takes disciplinary action against a practitioner of respiratory care, the Board will give to the practitioner of respiratory care a written notice specifying the charges made against the practitioner of respiratory care and stating that the charges will be heard at the time and place indicated in the notice. The notice will be served on the practitioner of respiratory care at least ~~20~~ **21 business** days before the date fixed for the hearing. Service of the notice will be made, and any investigation and subsequent proceedings will be conducted in the same manner as provided by law for disciplinary actions against physicians.

Sec. 24. NAC 630.700 is hereby amended to read as follows:

630.700 1. An application for licensure as a perfusionist must be made on a form provided by the Board. The application must set forth:

(a) The date and place of birth of the applicant;

(b) The gender of the applicant;

(c) The education of the applicant, including, without limitation, each high school and postsecondary institution attended by the applicant, the dates of attendance and whether the applicant is a graduate of those schools and institutions;

(d) If the applicant has ever applied for a license or certificate to practice perfusion in another state or jurisdiction, the date and disposition of the application;

(e) The training and experience of the applicant in the practice of perfusion;

(f) If the applicant has ever been investigated for misconduct in the practice of perfusion, had a license or certificate to practice perfusion revoked, modified, limited or suspended or had any disciplinary action or proceeding instituted against the applicant by a licensing body in another state or jurisdiction, the dates, circumstances and disposition of each such occurrence;

(g) If the applicant has ever been convicted of a felony or any offense involving moral turpitude, the dates, circumstances and disposition of each such occurrence;

(h) If the applicant has ever been investigated for, charged with or convicted of the use or illegal sale or dispensing of a controlled substance, the dates, circumstances and disposition of each such occurrence; and

(i) Each place of residence of the applicant after the date of graduation of the applicant from high school or the receipt by the applicant of a high school general equivalency diploma, whichever occurred most recently.

2. An applicant must submit to the Board:

(a) ~~Proof that the applicant is a citizen of the United States or that the applicant is lawfully entitled to remain and work in the United States.~~

~~—(b)~~ Proof of completion of a perfusion education program that satisfies the requirements of NRS 630.2691. For the purpose of that section, the following perfusion education programs shall be deemed approved by the Board:

(1) Any perfusion education program completed by the applicant on or before June 1, 1994, which was approved by the Committee on Allied Health Education and Accreditation of the American Medical Association;

(2) Any perfusion education program completed by the applicant after June 1, 1994, which was accredited by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor; or

(3) Any other perfusion education program completed by the applicant, the educational standards of which the Board determines are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor.

~~[(e)]~~ (b) Except as otherwise provided in NRS 630.2693, proof of passage of the certification examination given by the American Board of Cardiovascular Perfusion or its successor, as required by NRS 630.2692.

~~[(d)]~~ (c) Such further evidence and other documents or proof of qualifications as are required by the Board.

3. Each application must be signed by the applicant and ~~{sworn to before a notary public or other officer authorized to administer oaths.}~~ *accompanied by a signed affidavit indicating that:*

(a) The applicant is the person named in the proof of completion of a perfusion education program required by subsection 2;

(b) The proof of completion of the education program required by subsection 2 was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

(c) All the information contained in the application and any accompanying material is complete and correct.

4. The application must be accompanied by the applicable fee.

5. An applicant shall pay the reasonable costs of any examination required for licensure.

Sec. 25. NAC 630.170, 630.260 and 630.460 are hereby repealed.

TEXT OF REPEALED SECTIONS

630.170 Termination of license issued to alien. (NRS 630.130) A license issued to an alien automatically terminates if the alien loses his or her entitlement to remain and work in the United States. A license issued to an alien after March 15, 1999, must state in a conspicuous manner:

This license is issued subject to any limitations imposed by the United States Citizenship and Immigration Services of the Department of Homeland Security. This license becomes void

immediately upon the termination of the right of the person named hereon to remain and work in the United States lawfully.

630.260 Notice of technical or scientific facts. (NRS 630.130) Parties to a disciplinary hearing before the Board will be notified, either before or during the hearing, of supposed technical or scientific facts of which the Board may take notice, and the parties will be afforded an opportunity to contest those facts. The Board's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

630.460 Hearings: Appearance; pleadings; motions; documents. (NRS 630.130)

1. Each party shall enter his or her appearance at the beginning of a hearing or at a time designated by the presiding officer by giving the party's name and address and stating his or her position or interest to the presiding officer. The information will be entered in the record of the hearing.

2. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders to be served on that party must be served upon the attorney, and that service is valid for all purposes upon the party represented.

3. All pleadings must be verified.

4. A party may respond to a complaint by filing an answer within 20 working days after receiving the complaint. If a party fails to file an answer within the time prescribed, he or she shall be deemed to have denied generally the allegations of the complaint.

5. All motions, unless they are made during a hearing, must be in writing. All written motions must set forth the nature of relief sought, the grounds therefor and the points and authorities relied upon in support of the motion. A party desiring to oppose a motion may serve

and file a written response to the motion within 10 working days after service of the motion. The moving party may serve and file a written reply within 5 working days after service of the opposition to the motion. All motions made during a hearing must be based upon matters arising during the hearing. A decision on the motion will be rendered without oral argument unless oral argument is ordered by the Board, a panel of members of the Board or the hearing officer in which event the Board, panel or hearing officer will set a date and time for hearing.

6. The original and two copies of each pleading, motion or other paper must be filed with the Board. A copy of each pleading or motion must be made available by the party filing it to any other person whom the Board determines may be affected by the proceeding and who desires the copy.

7. Any document required to be served by a party, other than a notice of hearing, complaint, adverse decision, or order of the Board, may be served by mail, and the service shall be deemed complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail.

8. There must appear on, or be attached to, each document required to be served:

- (a) Proof of service by a certificate of an attorney or his or her employee;
- (b) Proof of personal service;
- (c) A written admission of service; or
- (d) An affidavit of mailing.