

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

LCB File No. R118-21

March 15, 2022

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

AUTHORITY: §§ 1, 6 and 9, NRS 630.130; § 2, NRS 630.130 and 630.161; § 3, NRS 630.130 and 630.298; § 4, NRS 630.130, 630.269 and 630.275; § 5, NRS 630.130 and 630.275; § 7, NRS 630.130 and 630.279; § 8, NRS 630.130 and 630.269.

A REGULATION relating to medical professions; providing for the placement of a license to practice medicine, perfusion or respiratory care on retired status; revising the definition of “gross medical negligence” for certain purposes; revising the procedure for the voluntary surrender of a license to practice medicine, perfusion or respiratory care; amending various provisions relating to disciplinary proceedings against certain medical professionals; revising the qualifications for licensure as a physician assistant; revising provisions governing certain advisory committees; repealing obsolete language; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Board of Medical Examiners to adopt such regulations as are necessary to govern the practices of medicine, perfusion and respiratory care. (NRS 630.130) **Section 1** of this regulation prescribes the criteria and procedure for placing a license to practice medicine, perfusion or respiratory care on retired status. **Section 3** of this regulation provides that the placement of such a license on retired status does not preclude the Board from hearing a complaint for disciplinary action made against the licensee.

Existing law: (1) prohibits the Board from issuing a license to practice medicine to an applicant whose license was revoked for gross medical negligence in another jurisdiction; (2) authorizes the Board to revoke the license of a licensee whose license was revoked for gross medical negligence in another jurisdiction; and (3) requires the Board to adopt a definition of gross medical negligence for those purposes. (NRS 630.161) **Section 2** of this regulation revises the definition of “gross medical negligence” to include an act or omission that demonstrates a conscious indifference to or disregard for the safety or welfare of a patient. **Section 2** also makes other minor revisions to that definition. **Section 9** of this regulation repeals an obsolete interpretation of the term “gross malpractice.”

Existing regulations authorize the holder of a license to practice medicine to submit to the Board a statement of voluntarily surrender of that license. (NAC 630.240) **Section 3:** (1) provides that a license may be voluntarily surrendered only while an investigation concerning the license or disciplinary proceedings concerning the licensee are pending; and (2) authorizes the

holder of a license to practice perfusion or respiratory care to voluntarily surrender such a license under similar circumstances. **Section 3** removes the authority of the Board to accept or reject the surrender of the license. **Section 3** also makes a voluntary surrender effective only after it is accepted by the Board in a public meeting. **Section 3** requires an order accepting the surrender to prescribe a period during which the holder of the surrendered license is prohibited from applying for the reinstatement of the license. **Section 3** provides that the Board will: (1) make the voluntary surrender of a license public; (2) deem the voluntary surrender of a license to be disciplinary action; and (3) report the voluntary surrender of a license to applicable national databases.

Existing regulations provide that the Board: (1) will deliver a copy of the findings and order from a disciplinary proceeding to the affected medical professional, his or her attorney of record and each hospital in the geographical area in which that medical professional practices; and (2) may deliver a copy of the findings and order to members of the media. (NAC 630.270) **Section 4** of this regulation removes these provisions and instead provides that a copy of the findings and order will be posted on the Internet website of the Board.

Existing law requires the Board to adopt regulations regarding the licensure of physician assistants, including, without limitation, qualifications of applicants for licensure as a physician assistant. (NRS 630.275) Existing regulations require an applicant for licensure as a physician assistant to possess a high school diploma, general equivalency diploma or postsecondary degree to qualify for licensure. (NAC 630.280) **Section 5** of this regulation revises this requirement to require such an applicant to possess a postsecondary degree.

Existing regulations establish advisory committees to assist the Board with the oversight of physician assistants, perfusionists and practitioners of respiratory care. (NAC 630.415, 630.560, 630.790) **Sections 6-8** of this regulation establish terms for appointees to the advisory committees and provide that such appointees serve without compensation. **Section 7** of this regulation additionally reduces the number of members on an advisory committee for practitioners of respiratory care from five to three.

Section 1. Chapter 630 of NAC is hereby amended by adding thereto a new section to read as follows:

A licensee may apply to the Board to change the status of his or her license to practice medicine, perfusion or respiratory care 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:

- 1. The licensee is otherwise in good standing;*
- 2. There are no complaints or investigations pending against the licensee; and*
- 3. No disciplinary action is pending against the licensee.*

Sec. 2. NAC 630.165 is hereby amended to read as follows:

630.165 For the purposes of NRS 630.161, “gross medical negligence” ~~has the meaning:~~

means an act or omission that:

1. ~~Ascribed to it by~~ *Demonstrates a conscious indifference to or disregard for the safety or welfare of a patient; or*

2. *Constitutes gross medical negligence in* the jurisdiction in which ~~the~~ a license was revoked. ~~;~~

~~2. Ascribed to a term which the Board determines to be substantially similar to “gross medical negligence” by the jurisdiction in which the license was revoked.~~

Sec. 3. 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, *perfusion or respiratory care while an investigation concerning the license or disciplinary proceedings concerning the licensee are pending*, 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.

2. *The voluntary surrender of a license is not effective until it is accepted by the Board in a public meeting. An order accepting such a surrender must prescribe a period of at least 1 year but not more than 10 years during which the holder of the surrendered license is prohibited from applying for reinstatement of the license.*

3. The Board will ~~accept or reject the surrender of the license. If the Board accepts the surrender of the license, 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.~~

~~2.1~~ :

(a) *Make the voluntary surrender of a license public; and*

(b) *Deem the voluntary surrender of a license to be disciplinary action and report the surrender to applicable national databases.*

4. The voluntary surrender of a license , ~~or~~ the failure to renew a license *or the placement of a license on retired status pursuant to section 1 of this regulation* does not preclude the Board from hearing a complaint for disciplinary action made against the licensee.

Sec. 4. 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.~~
published on the Internet website maintained by the Board pursuant to NRS 630.144.

Sec. 5. 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.

4. Be of good moral character and reputation.

5. 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.

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

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

Sec. 6. NAC 630.415 is hereby amended to read as follows:

630.415 1. The Board will appoint three licensed physician assistants to an advisory committee. These physician assistants must have lived in and actively and continuously practiced in this State as licensed physician assistants for at least 3 years before their appointment.

2. The Board will give appointees to the advisory committee written notice of their appointment and terms of office . ~~and a written summary of any projects pending before the committee.~~ *The term of each appointee to the advisory committee must not exceed 4 years, except that a member of the advisory committee must continue to serve until the Board appoints a replacement as his or her successor.*

3. At the request of the Board, the advisory committee shall review and make recommendations to the Board concerning any matters relating to licensed physician assistants.

4. The members of the advisory committee serve without compensation.

Sec. 7. NAC 630.560 is hereby amended to read as follows:

630.560 1. The Board will appoint ~~five~~ *three* licensed practitioners of respiratory care to an advisory committee. These practitioners of respiratory care must have lived in and actively and continuously practiced in this State as practitioners of respiratory care for at least 3 years before their appointment.

2. The Board will give appointees to the advisory committee written notice of their appointment and terms of office . ~~and a written summary of any projects pending before the committee.~~ *The term of each appointee to the advisory committee must not exceed 4 years, except that a member of the advisory committee must continue to serve until the Board appoints a replacement as his or her successor.*

3. At the request of the Board, the advisory committee shall review and make recommendations to the Board concerning any matters relating to licensed practitioners of respiratory care.

4. The members of the advisory committee serve without compensation.

Sec. 8. NAC 630.790 is hereby amended to read as follows:

630.790 1. The Board will appoint three perfusionists to an advisory committee. To the extent practicable, each appointee must have lived in and actively and continuously practiced perfusion in this State for at least 3 years before his or her appointment.

2. The Board will give each appointee written notice of his or her appointment and term of office . ~~and a written summary of any projects pending before the advisory committee.~~ *The term of each appointee to the advisory committee must not exceed 4 years, except that a member of the advisory committee must continue to serve until the Board appoints a replacement as his or her successor.*

3. At the request of the Board, the advisory committee shall review and make recommendations to the Board concerning any matter relating to perfusionists.

4. The members of the advisory committee serve without compensation.

Sec. 9. NAC 630.251 is hereby repealed.

TEXT OF REPEALED SECTION

630.251 Grounds: “Gross malpractice” interpreted. (NRS 630.130, 630.301) For the purposes of NRS 630.301, as that section existed before October 1, 1997, a physician shall be deemed to have committed gross malpractice if, before October 1, 1997, the physician has failed to exercise the required degree of care, skill or knowledge and such failure amounts to:

1. A conscious indifference to the consequences which may result from the malpractice; and

2. A disregard for and indifference to the safety and welfare of a patient.