

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

**LCB File No. R089-00**

May 11, 2000

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

AUTHORITY: §§1 and 2, NRS 630.130; §§3-5, NRS 630.130 and 630.275.

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

*1. The board hereby adopts by reference the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain, May 1998, published by the Federation of State Medical Boards of the United States, Inc., and any subsequent revision of the publication that has been approved by the executive director of the board for use in this state. Each revision of the publication shall be deemed approved by the executive director of the board unless he disapproves of the revision within 60 days after the date of publication of the revision.*

*2. The most recent publication of the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain that has been approved by the executive director of the board will be available for inspection at the office of the Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada 89502 or may be obtained, free of charge, from the Federation of State Medical Boards of the United States, Inc., Federation Place, 400 Fuller Wisner Road, Suite 300, Euless, Texas 76039-3855 or from the Federation of State Medical Boards of the United States, Inc., at the Internet address <<http://www.fsmb.org/pubform.htm>>. The executive director of the board shall:*

- (a) Review each revision of the publication to ensure its suitability for this state; and*
- (b) File a copy of each revision of the publication he approves with the secretary of state and the state library and archives administrator.*

**Sec. 2.** NAC 630.010 is hereby amended to read as follows:

630.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.010 to 630.025, inclusive, and NAC ~~[630.015 to 630.030, inclusive,]~~ **630.025** have the meanings ascribed to them in those sections.

**Sec. 3.** NAC 630.230 is hereby amended to read as follows:

- 630.230 1. A person who is licensed as a physician or physician's assistant shall not:
- (a) Falsify records of health care;
  - (b) Falsify the medical records of a hospital so as to indicate his presence at a time when he was not in attendance or falsify those records to indicate that procedures were performed by him which were in fact not performed by him;
  - (c) Render professional services to a patient while the physician or physician's assistant is under the influence of alcohol or any controlled substance or is in any impaired mental or physical condition;
  - (d) Acquire any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge;
  - (e) Prescribe anabolic steroids for any person to increase muscle mass for competitive or athletic purposes;
  - (f) Make an unreasonable additional charge for tests in a laboratory, radiological services or other services for testing which are ordered by the physician or physician's assistant and performed outside his own office;

- (g) Treat any patient in a manner not recognized scientifically as being beneficial;
- (h) Prescribe controlled substances listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530, controlled substance analogs, chorionic gonadotrophic hormones, thyroid preparations or thyroid synthetics for the control of weight;
- (i) Allow any person to act as a medical assistant in the treatment of a patient of the physician or physician's assistant, unless the medical assistant has sufficient training to provide the assistance;
- (j) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician's assistant;
- (k) If the person is a physician, fail to provide adequate supervision of a physician's assistant or an advanced practitioner of nursing;
- (l) Fail to honor the advance directive of a patient without informing the patient or the surrogate or guardian of the patient, and without documenting in the patient's records the reasons for failing to honor the advance directive of the patient contained therein; *or*
- (m) ~~[Fail to adequately prescribe controlled substances for the control of pain in accordance with prevailing standards of acceptable practice of medicine as described in NAC 630.193; or~~  
~~—(n)]~~ Engage in the practice of writing prescriptions for controlled substances to treat acute *pain* or chronic pain in a manner that deviates from the ~~[prevailing standards of acceptable practice of medicine as described in NAC 630.193.]~~ *guidelines set forth in the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.*

2. As used in this section:

(a) *“Acute pain” has the meaning ascribed to it in section 3 of the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.*

(b) *“Chronic pain” has the meaning ascribed to it in section 3 of the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in section 1 of this regulation.*

(c) “Controlled substance analog” means:

(1) A substance whose chemical structure is substantially similar to the chemical structure of a controlled substance listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530; or

(2) A substance which has, is represented as having or is intended to have a stimulant, depressant or hallucinogenic effect on the central nervous system of a person that is substantially similar to, or greater than, the stimulant, depressant or hallucinogenic effect on the central nervous system of a person of a controlled substance listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530.

~~(b)~~ (d) “Medical assistant” means any person who:

(1) Is employed by a physician or physician’s assistant;

(2) Is under the direction and supervision of the physician or physician’s assistant;

(3) Assists in the care of a patient; and

(4) Is not required to be certified or licensed *by an administrative agency* to provide ~~[such assistance by any administrative agency.]~~ *that assistance.*

**Sec. 4.** NAC 630.380 is hereby amended to read as follows:

630.380 1. A physician's assistant is subject to disciplinary action by the board if, after notice and hearing in accordance with this chapter, the board finds that the physician's assistant:

(a) Has willfully and intentionally made a false or fraudulent statement or submitted a forged or false document in applying for a license;

(b) Has held himself out or permitted another to represent him to be a licensed physician;

(c) Has performed medical services otherwise than at the direction or under the supervision of the supervising physician;

(d) Has performed medical services which have not been approved by his supervising physician;

(e) Is guilty of gross or repeated malpractice in the performance of medical services for acts committed before October 1, 1997;

(f) Is guilty of malpractice in the performance of medical services for acts committed on or after October 1, 1997;

(g) Is guilty of disobedience of any order of the board or an investigative committee of the board, provision in the regulations of the state board of health or the state board of pharmacy or provision of this chapter;

(h) Is guilty of administering, dispensing or possessing any controlled substance otherwise than in the course of legitimate medical services or as authorized by law and his supervising physician;

(i) Has been convicted of a violation of any federal or state law regulating the prescribing, possession, distribution or use of a controlled substance;

(j) Is not competent to provide medical services;

(k) Failed to notify the board of loss of certification by the National Commission on Certification of Physicians' Assistants;

(l) Is guilty of violating a provision of NAC 630.230; or

(m) Is guilty of violating a provision of NRS 630.301 to 630.3065, inclusive.

2. To institute disciplinary action against a physician's assistant, a written complaint, specifying the charges, must be filed with the board by the investigative committee of the board.

3. A physician's assistant is not subject to disciplinary action solely for prescribing or administering to a patient under his care a controlled substance which is listed in schedule II, III, IV or V by the state board of pharmacy pursuant to NRS 453.146 . ~~[, if the controlled substance is lawfully prescribed or administered for the treatment of intractable pain in accordance with NAC 630.193.]~~

**Sec. 5.** NAC 630.015, 630.020, 630.030, 630.193, 630.195 and 630.197 are hereby repealed.

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### TEXT OF REPEALED SECTIONS

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**630.015 "Acute pain" defined. (NRS 630.130)** "Acute pain" means the normal, predicted physiological response to an adverse chemical, thermal or mechanical stimulus and is associated with surgery, trauma or acute illness. Acute pain is generally limited in duration and is responsive to therapies such as the use of opioids.

**630.020 “Chronic pain” defined. (NRS 630.130)** “Chronic pain” means pain which is persistent and the cause of which cannot be removed or otherwise treated. Chronic pain may be associated with a long-term incurable or intractable medical condition or disease.

**630.030 “Substance abuse” defined. (NRS 630.130)** “Substance abuse” means the use of a controlled substance for a nontherapeutic purpose or the use of medication for a purpose other than that for which it was prescribed.

**630.193 Controlled substances for acute or chronic pain: Procedure for prescribing. (NRS 630.130, 630.275)**

1. A physician and a physician’s assistant shall control any acute or chronic pain of a patient for the duration of the pain by prescribing controlled substances in accordance with the prevailing standards of acceptable practice of medicine as described in subsection 2.

2. To comply with the prevailing standards of acceptable practice of medicine, the physician or physician’s assistant shall:

(a) Before prescribing the controlled substance:

(1) Conduct an assessment and evaluation of the patient that includes, without limitation:

(I) A physical examination;

(II) Investigation and documentation of the medical history of the patient; and

(III) Investigation of whether the patient has a history of substance abuse;

(2) Establish a plan for treating the patient that includes, without limitation:

(I) Objectives that will be used to determine the success of the treatment, including, without limitation, the objectives of pain relief and improved physical and psychosocial function;

(II) A list and timetable for diagnostic evaluations and other treatments that are planned for the patient; and

(III) An agreement between the physician or physician's assistant and the patient that the patient will obtain his prescription for the controlled substance only from that physician or physician's assistant and fill or refill the prescription at only one specified pharmacy;

(3) Discuss the risks and benefits of using the controlled substance with the patient, with the legal guardian or surrogate of the patient or with any other person at the patient's request;

(4) After discussing the risks and benefits pursuant to subparagraph (3), receive written consent from the patient or the legal guardian or surrogate of the patient to use the controlled substance;

(5) If the patient is a high risk for substance abuse, enter into an agreement with the patient pursuant to NAC 630.195; and

(6) Document the requirements of subparagraphs (1) to (5), inclusive, in medical records of the patient that comply with the requirements of NAC 630.197.

(b) After prescribing the controlled substance:

(1) Review the progress of the patient towards the goals outlined in the plan for treatment and any new information about the etiology of the pain at periodic intervals based on the individual circumstances of the patient;

(2) Refer the patient, as necessary, for additional evaluation and treatment to achieve the objectives of the plan for treatment;

(3) Monitor the patient's compliance with instructions relating to use of the controlled substance and the plan for treatment;

(4) Adjust the medication therapy, as necessary, to meet the individual needs of the patient;



(5) Discontinue treatment if the physician or physician's assistant determines that the treatment is not effective; and

(6) Maintain medical records for the patient that comply with the requirements of NAC 630.197.

**630.195 Controlled substances for acute or chronic pain: Determination of patient as high risk for substance abuse; agreement outlining patient responsibilities if patient determined high risk. (NRS 630.130, 630.275)**

1. Before prescribing a controlled substance to a patient for the treatment of acute or chronic pain, a physician or physician's assistant shall determine whether the patient is a high risk for substance abuse. In making such a determination, a physician or physician's assistant shall consider such factors as are medically reasonable. Regardless of the absence of other factors, a patient who has a history of substance abuse must be determined to be a high risk for substance abuse.

2. If a physician or physician's assistant determines that a patient is a high risk for substance abuse, he shall, before prescribing the controlled substance, enter into a written agreement with the patient which outlines the patient's responsibilities with respect to the controlled substance and which must include, without limitation:

(a) An agreement by the patient to submit, upon request of the physician or physician's assistant, to testing of the patient's blood or urine to determine the level of controlled substance being used by the patient;

(b) The number and frequency of refills of the prescription; and

(c) The reasons that the prescription for the controlled substance may be discontinued, including, without limitation, a violation of the terms of the agreement.

**630.197 Controlled substances for acute or chronic pain: Requirements for maintenance and contents of records of patients. (NRS 630.130)**

1. A physician and physician's assistant shall maintain or cause to be maintained in an accurate, complete and current manner the medical records of each patient to whom he has prescribed a controlled substance to treat acute or chronic pain. Such records must be kept at the office in which the physician or physician's assistant practices and in a place that is easily accessible.

2. Medical records for a patient to whom a controlled substance has been prescribed to treat acute or chronic pain must include, without limitation:

(a) The medical history and physical examination of the patient, including, without limitation:

- (1) The nature and intensity of the pain;
- (2) Current and past treatments that the patient has received for the pain;
- (3) Diseases and other medical conditions that the patient has that may cause or contribute to the pain;

(4) The effect of the pain upon the physical and psychological functioning of the patient;

(5) Any history of substance abuse; and

(6) At least one recognized medical indication for the use of a controlled substance;

(b) Notable assessments of the patient, as applicable, including, without limitation:

(1) Whether the patient is a high risk for substance abuse;

(2) Tolerance;

(3) Analgesic tolerance;

(4) Physical dependence;

- (5) Addiction; or
- (6) Pseudo addiction;
- (c) Diagnostic, therapeutic and laboratory results;
- (d) Notes from each assessment, evaluation and consultation with the patient;
- (e) Treatment objectives;
- (f) Discussion of risks and benefits;
- (g) Suggested, prescribed and proposed treatments;
- (h) Date, type, dosage and quantity of medications prescribed;
- (i) Instructions and agreements; and
- (j) Notes from periodic reviews.

3. As used in this section:

(a) “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of medications for their psychic effects and is characterized by compulsive use despite harm. The term does not include physiological dependence, analgesic tolerance and tolerance.

(b) “Analgesic tolerance” means the need to increase the dose of an opioid to achieve the same level of analgesia.

(c) “Physical dependence” means a physiological state of neuroadaptation which is an expected result of the use of opioids and is characterized by the emergence of a withdrawal syndrome if medication use is stopped or decreased abruptly, or if an antagonist is administered.

(d) “Pseudo addiction” means a pattern of behavior, which can be mistaken for addiction, in which a patient who is receiving inadequate treatment for pain seeks additional medication to alleviate the pain.

(e) “Tolerance” means a physiological state resulting from regular use of a medication in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dosage.