

**LCB File No. R154-09**

**PROPOSED REGULATION OF THE  
STATE BOARD OF OSTEOPATHIC MEDICINE**

As of October 15, 2009

Please note: Additions to regulations are noted in *italics*.  
Items to be deleted are in noted in ~~brackets with strike through~~.

**AUTHORITY FOR RULEMAKING:** NRS 633.291 states that the Osteopathic Medicine Board “shall adopt and enforce regulations necessary to enable it to carry out its duties under this chapter . . . .”

**NAC CHAPTER 633 IS HEREBY AMENDED BY THE ADDITION OF THE  
FOLLOWING SECTIONS:**

- 1. The special volunteer license created by Senate Bill 269 is effective for one year after the date of issuance. The special volunteer license will not expire on December 31 of each year as all other licenses issued under NRS chapter 633 currently expires, but shall expire exactly twelve months to the date that it was issued by the Board.*
- 2. Medical services rendered by an osteopathic physician with a special volunteer license, created by Senate Bill 269, shall only be rendered in a licensed hospital, medical facility or clinic, surgery center, private physician office, and all such other facilities identified in NRS chapter 449.*
- 3. Osteopathic physicians receiving the special facility licenses pursuant to Senate Bill 269 may utilize physicians’ assistants if both the supervising osteopathic physician and the physician assistant has complied with NRS and NAC chapters 633.*
- 4. The physician receiving a renewal of a facility license for psychiatrists at a mental health center for the Division of Mental Health & Developmental Services of the Department of Health & Human Services shall provide proof of the exclusive employment with the Division’s facility upon each yearly renewal.*
- 5. The physician receiving a renewal of a facility license for osteopathic physicians at a facility under the supervision and control of the Nevada State Department of Corrections shall provide proof of the exclusive employment with the Department’s facility upon each yearly renewal.*
- 6. The Nevada State Department of Corrections and the Division of Mental Health & Developmental Services of the Nevada State Department of Health and Human Services shall notify the Board within thirty (30) days of the termination of a physician employed by such state agencies with a special facility license.*

7. *Notice of termination of the doctor-patient relationship provided to patients pursuant to NRS 633.511 shall be in writing to the patient at the patient's last known address. Except in exigent circumstances, reasonable notice of at least thirty (30) days must be provided to the patient so other arrangements for treatment can be completed.*

8. *(a) The malpractice reports required pursuant to NRS 633.526 and NRS 633.527 shall be in writing. (b) The term disposition includes but is not limited to dismissal of the case either by a court of law or after mediation or arbitration.*

9. *All applicants for a special license to conduct demonstrations of medical techniques and procedures at special events pursuant to SB 266 must comply with the following:*

- a. Be at least 21 years of age or older;*
- b. Has graduated from an accredited school of osteopathic medicine.*
- c. Submits all information required to complete an application for a license and paid the appropriate fees;*
- d. All requests for such a license must be requested at least sixty (60) days prior to the special event or demonstration; and*
- e. Have a sponsoring physician with an active license issued pursuant to NRS and NAC chapters 633, which sponsoring physician shall be liable for all injuries and/or damages resulting from the medical demonstration and which sponsoring physician shall maintain all records pertaining to the medical demonstration.*

10. *All special licenses to conduct demonstrations of medical techniques and procedures issued pursuant to SB 266 shall be effective for a period of six months from the date of its issuance.*

11. *Applicants for a special license pursuant to SB 266 to conduct demonstrations and the sponsoring osteopathic physician shall appear before the Board for a discussion of the type of technique or procedures being demonstrated.*

12. *Special licensees demonstrating medical techniques and procedures pursuant to SB 266 shall not receive any compensation or fees directly or indirectly from any audience participant receiving the medical technique or procedure.*

13. *All sponsoring osteopathic physicians of special demonstration licensees shall maintain accurate and legible medical records on the techniques and procedures performed on an attendee and/or patient and/or customer; and such records shall be retained by the sponsoring osteopathic physician for the time period described in NRS chapter 629.*

14. *The term "gross negligence" is defined as (a) the intentional failure to perform a duty in reckless disregard of the consequences as affecting the life of another, (b) has the meaning ascribed to it by the jurisdiction in which the license was revoked if outside of the State of Nevada, or (c) has a meaning that the Board had determined is substantially similar to the term used by the jurisdiction in which the revocation has occurred.*

*15. (a) For physicians seeking special licensure under NRS 633.415, the physician must provide fingerprints and the appropriate processing fees. (b) Physicians with the special license identified in NRS 633.415 shall not hire and/or supervise physicians assistants. (c) In addition to providing all information necessary to for licensure, the physician shall provide a copy of an updated curriculum vitae evidencing his recognition as an expert in osteopathic medicine. (d) The medical research facility and/or school of osteopathic medicine shall report to the Board that the physician is no longer employed within thirty (30) days after the termination of the employment relationship.*

*16. Medical assistant is defined as a person (a) employed by an osteopathic physician licensed pursuant to NRS and NAC chapters 633, (b) is under the direction and close supervision of that osteopathic physician, which osteopathic physician has assumed the responsibility and liability for such a medical assistant, (c) who assists the osteopathic physician in the care of a patient as is customary and/or within the standard for the community, and (d) has received sufficient training for the performance of each specific procedure delegated the osteopathic physician.*

NAC 633.100 is hereby amended as follows:

NAC 633.100 Compensation and expenses of members. (NRS 633.241, 633.291)

1. Except as otherwise provided in subsection 2, the compensation of the members of the Board is ~~[\$80]~~ \$150 for each day spent in the discharge of official duties. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

2. The Board will, after notifying each of its members, reduce the amount of the compensation, per diem allowance and travel expenses authorized for payment to the members of the Board, if the financial resources of the Board warrant the reduction.

NAC 633.130 is hereby amended as follows:

NAC 633.130 Meetings (NRS 633.231, 633.291).

1. The Board will hold at least three meetings per year at a time and place to be determined by the Board.

2. The Executive Director shall give each member written notice of each meeting, containing an agenda of the meeting, not later than ~~[10]~~ 7 days before the meeting, and shall post and mail copies in the manner prescribed by *chapter 241* of NRS. Any proper business may be conducted at a regular meeting if it is provided for in the published agenda.

3. The President may call and, at the request of a majority of the members, shall call a special meeting on ~~[5]~~ 3 days' written notice ~~[by certified mail to all other members]~~ at any place where or time when a regular meeting could have been convened. The President, in calling a special meeting, shall post and mail the notice containing an agenda pursuant to chapter 241 of NRS.

NAC 633.140 is deleted in its entirety.

~~[NAC 633.140 Communications. (NRS 633.291) Each communication to a member of the Board which relates to the affairs of the Board and a copy of the member's reply will immediately be placed in the records of the Board.]~~

NAC 633.160 is amended as follows:

NAC 633.160 Applications. (NRS 633.291, 633.321)

1. Each applicant for a license to practice osteopathic medicine must apply on forms prepared and furnished by the Board.

2. On or after January 1, 2003, each application must be accompanied by:

(a) A physician information profile prepared by the Federation Credentials Verification Service of the Federation of State Medical Boards of the United States; and

(b) An affidavit affirming that:

(1) The applicant is the person named in the application and accompanying material; and

(2) To the best knowledge or belief of the applicant, the application and all accompanying material is complete, correct and consistent, and was obtained without fraud, misrepresentation or mistake.

3. No application will be accepted unless it is accompanied by the appropriate fee prescribed in NRS 633.501. All fees are nonrefundable.

***4. All applications for licensure under NRS chapter 633 are not complete until all supporting documents and information have been provided to or obtained by the Board.***

NAC 633.260 is hereby amended as follows:

NAC 633.260 Licensees to file addresses with Board. (NRS 633.291)

***1. Each person who holds a license to practice osteopathic medicine in this State shall file with the Board his proper and current mailing address and ~~report immediately to the Board any change of address, giving both his old and his new address~~ and shall report to the Board within thirty (30) days any change of address, providing both the old and the new addresses. Such reports must be in writing.***

***2. Each person who holds a license to practice osteopathic medicine in this State shall provide the Board with thirty days written notice that such person intends to close his osteopathic medical practice and identify in writing the person or facility maintaining possession of the records for the period of time prescribed in NRS chapter 629.***

***3. Failure to timely comply with this regulation is unethical conduct.***

NAC 633.350 is hereby amended as follows:

NAC 633.350 Unethical conduct. (NRS 633.131, 633.291) For the purposes of this chapter and chapter 633 of NRS, a licensee engages in unethical conduct if he:

1. Engages in sexual misconduct with a patient;

2. Abandons a patient;

3. Willfully makes and files false reports, records or claims in the licensee's practice;

4. Willfully fails to file or record a medical report required by law, willfully impedes or obstructs the filing or recording of such a report, or willfully induces another person to fail to file or record such a report;

5. Fails to generate or create medical records relating to the diagnosis, treatment and care of a patient;

6. Prescribes a controlled substance in a manner or an amount that the Board determines is excessive;

7. Fails to comply with the terms of an agreement with a diversion program approved by the Board;

8. Fails to comply with an order of the Board;

9. *Fails to comply with a remediation agreement;*
10. *Violates NRS 633.505 regarding discrimination and/or retaliation against an employee;*
11. *Violates NRS 629.061(1) pertaining to the inspection and the providing of medical records,*
12. *Fails to obtain a special license for the demonstration of medical techniques and procedures pursuant to SB 266;*
13. *Fails to properly supervise and/or train medical assistants;* or
14. Engages in any other conduct that the Board determines constitutes unfitness to practice osteopathic medicine.

NAC 633.450 is amended as follows:

NAC 633.450 Summary suspension of license by Board. (NRS 633.291, 633.651)

1. If a complaint has been filed against a licensee pursuant to NRS 633.531, the Board may order the summary suspension of the license of the licensee pending disciplinary proceedings.
2. The Board will issue such an order if it determines that:
  - (a) The licensee has violated a provision of this chapter or chapter 633 of NRS;
  - (b) The summary suspension of the license is necessary to prevent a further violation of this chapter or chapter 633 of NRS; and
  - (c) The public health, safety or general welfare imperatively requires the summary suspension of the license.
3. An order summarily suspending a license:
  - (a) Must:
    - (1) Comply with the applicable provisions of NRS 233B.127; and
    - (2) Set forth the grounds upon which the order is issued, including a statement of facts;
  - (b) Is effective upon service on the licensee of the order and complaint; and
  - (c) Remains in effect until the Board:
    - (1) Modifies or rescinds the order; or
    - (2) Issues its final order or decision on the underlying complaint.
4. A hearing on the complaint must be held within ~~60~~ 45 days after the effective date of the suspension.

NAC 633.490 is amended as follows:

NAC 633.490 Removal of limitation on or restoration of license. (NRS 633.291, 633.681)

1. If a person whose practice of osteopathic medicine has been limited, or whose license to practice osteopathic medicine has been suspended or revoked applies to the Board pursuant to NRS 633.681 for the removal of the limitation or for the restoration of his license, *or whose license has expired or gone inactive*, the Board may require the person to submit to an examination testing his competence to practice osteopathic medicine.
2. The Board will not remove a limitation or restore a license unless:
  - (a) The applicant proves by clear and convincing evidence that the requirements for the removal of the limitation or for the restoration of the license have been met; and
  - (b) The applicant proves by evidence satisfactory to the Board that he:
    - (1) Has complied with all the terms and conditions set forth in the final order of the Board limiting his practice or suspending or revoking his license; and
    - (2) Is capable of practicing osteopathic medicine in a safe manner.