

**Chapter 630 of NAC**

**LCB File No. E005-09**

**EMERGENCY REGULATION OF THE  
BOARD OF MEDICAL EXAMINERS**

(Effective for 120 days from September 18, 2009)

**EMERGENCY REGULATION OF PHYSICIANS AND PHYSICIAN ASSISTANTS  
RELATING TO MEDICAL ASSISTANTS**

**NEVADA BOARD OF MEDICAL EXAMINERS'  
STATEMENT OF EMERGENCY**

WHEREAS, the Nevada Board of Medical Examiners (the Board) has convened this public meeting for the purpose of considering the adoption of the foregoing Emergency Regulations of physicians and physician assistants as it relates to medical assistants; and

WHEREAS, the Board finds that an emergency exists insofar as:

1. Substantial confusion in the medical community exists as to whether NRS 453.375 and 454.213 apply to medical assistants and their authority to administer prescription drugs;
2. Physicians in the state are uncertain as to whether they can allow their medical assistants to administer medications;
3. Medical assistants are being laid off from their employment because of the confusion and uncertainty;
4. Some physicians are curtailing patient services and procedures, and most physicians are uncertain how to proceed, creating considerable statewide disruption to patient care;

WHEREAS, the Board believes that the Emergency Regulations will clarify the practice boundaries for physicians, physician assistants, and medical assistants;

WHEREAS, the Board also believes that immediate clarification is needed to prevent further harm and disruption to the delivery of patient care by Nevada's physicians and physician assistants.

NOW THEREFORE, the Board hereby adopts the following Emergency Regulations which shall be effective September 18, 2009.

## **EMERGENCY REGULATIONS OF PHYSICIANS AND PHYSICIAN ASSISTANTS RELATING TO MEDICAL ASSISTANTS**

### **Sec. 1. NAC 630.230 shall be amended to read as follows:**

1. A person who is licensed as a physician or physician 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 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 assistant and performed outside his own office;
  - (g) 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;
  - (h) Allow any person to act as a medical assistant in the treatment of a patient of the physician or physician assistant, unless the medical assistant has sufficient training to provide the assistance;
  - (i) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant;
  - (j) If the person is a physician, fail to provide adequate supervision of a physician assistant or an advanced practitioner of nursing;
  - (k) 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
  - (l) Engage in the practice of writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that deviates from the guidelines set forth in the Model Guidelines for the Use of Controlled Substances for the Treatment of Pain adopted by reference in NAC 630.187.
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 NAC 630.187.
  - (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 NAC 630.187.
  - (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.

~~[(d) "Medical assistant" means any person who:~~

- ~~— (1) Is employed by a physician or physician assistant;~~
- ~~— (2) Is under the direction and supervision of the physician or physician 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 that assistance.]~~

**Sec. 2. NAC chapter 630 shall be amended to add the following new language:**

*1. A physician or physician assistant may allow a person to assist the physician or physician assistant in providing medical care or services as a medical assistant only where the medical assistant:*

*(a) Is employed by the physician or physician assistant; and*

*(b) Performs such services at the direction of and under the direct supervision of the physician or physician assistant.*

*2. A physician or physician assistant may not allow a medical assistant to:*

*(a) Except as otherwise provided in Section 3 of this regulation, perform or provide any service for which a license or registration is required by Nevada law in order to perform the service;*

*(b) Except for the administration of an immunization or vaccination, perform or provide any invasive procedure upon or injection into the body of a patient unless the physician or physician assistant:*

*(1) Has previously physically examined the patient;*

*(2) Has determined that the patient has a medical condition for which the physician or physician assistant has determined a course or plan of treatment;*

*(3) Directs and supervises the service performed or provided by the medical assistant;*

*(c) Perform or provide any discretionary or professional service; or*

*(d) Perform or provide any service upon the body of a patient independently of the physician or physician assistant.*

*3. A physician or physician assistant may allow a medical assistant to:*

*(a) Perform routine assessment tasks to assist the physician or physician assistant with the performing of a physical examination of the patient; and*

*(b) Administer a prescription drug as provided in Section 3 of this regulation.*

*4. A physician or physician assistant may allow a medical assistant to perform or provide a service upon the body of a patient only when:*

*(a) Trained by the physician or physician assistant to competently and safely perform or provide the service;*

*(b) Directed to perform or provide the service upon the body of the patient by the physician or physician assistant; and*

*(c) The physician or physician assistant can physically respond to the patient and the medical assistant within five minutes when the medical assistant provides the service.*

**Sec. 3. NAC chapter 630 shall be amended to add the following new language:**

*1. A physician or physician assistant may possess and administer a prescription drug:*

*(a) Himself;*

*(b) By directing and allowing a person authorized under NRS 453.375 or NRS 454.213 to do so; or*

*(c) By directing a medical assistant to do so.*

*2. A physician or physician assistant may not direct and may not allow a medical assistant to administer:*

*(a) Chemotherapy;*

*(b) Corticosteroids or other injected anti-inflammatory drugs unless by subcutaneous or intramuscular injection;*

*(c) Anesthetics that would render the patient unconscious or semi-conscious;*

*(d) Botulinum neurotoxin;*

*(e) Collagen and other cosmetic or dermal fillers;*

*(f) Drugs intended to interfere with or block neural function except for topical or local anesthetics used to temporarily relieve pain or to facilitate another medical procedure;*

*(g) Any other drug where the therapeutic outcome is dependent upon the placement, quantity, or technique uniquely within the discretion, training, and judgment of a physician or physician assistant.*

#### **ADOPTION BY THE BOARD**

**SIGNED this 18th day of September, 2009.**

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**Charles N. Held, M.D., Chairman  
Nevada Board of Medical Examiners**



## **INFORMATIONAL STATEMENT**

Pursuant to the provisions of NRS 233B.066, the following informational statement is submitted:

### **DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED SUMMARY OF THE PUBLIC RESPONSE EXPLANATION HOW OTHER INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY**

#### **How public comment was solicited:**

The Nevada State Board of Medical Examiners published a Public Notice of telephone conference board meeting to solicit comments on proposed changes to the regulation. The telephone conference board meeting was to be conducted on Friday, September 18, 2009, at the hour of 11:00 a.m., at the offices of the Nevada State Board of Medical Examiners, 1105 Terminal Way, Ste. 301, Reno, Nevada and teleconferenced to the conference room at the office of the Nevada State Board of Dental Examiners, 6010 S. Rainbow Boulevard, Bldg. A, Ste. 1, Las Vegas, Nevada.

In the notices the public was notified that a copy of the proposed regulation was on file at the State Library, 100 Stewart St., Carson City, Nevada; available at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada; in all counties in the state of Nevada in which the Board does not maintain an office; at the main public library; and on the Internet at <http://www.leg.state.nv.us>, as well as posted at the following locations:

- Washoe County Courthouse – Reno, Nevada
- Elko County Courthouse – Elko, Nevada
- White Pine County Courthouse – Ely, Nevada
- Clark County Health Department – Las Vegas, Nevada
- Carson City Office of the State Attorney General
- Las Vegas Office of the State Attorney General
- Reno Office of the Nevada State Board of Medical Examiners
- Carson City Public Library – Carson City, Nevada
- Churchill County Public Library – Fallon, Nevada
- Las Vegas Public Library – Las Vegas, Nevada
- Douglas County Public Library – Minden, Nevada
- Elko County Public Library – Elko, Nevada
- Goldfield Public Library – Goldfield, Nevada
- Eureka Branch Public Library – Eureka, Nevada
- Humboldt County Public Library – Winnemucca, Nevada
- Lincoln County Public Library – Pioche, Nevada
- Lyon County Public Library – Yerington, Nevada
- Mineral County Public Library – Hawthorne, Nevada
- Tonopah Public Library – Tonopah, Nevada
- Pershing County Public Library – Lovelock, Nevada

Storey County Public Library – Virginia City, Nevada  
White Pine County Public Library – Ely, Nevada  
Battle Mountain Branch Public Library – Battle Mountain, Nevada

Attached hereto, and made a part hereof, are copies of certifications of posting from many of the above named.

**Summary of the public response:**

Public comment was received from twelve different speakers during the telephone conference board meeting held on September 18, 2009. Additionally, the board has received numerous phone calls and e-mails concerning this regulation.

**How other interested persons may obtain a copy of the public response to the regulations:**

On file with the Board at the offices of the Board at 1105 Terminal Way, Suite 301, Reno, Nevada, is a complete transcript of the hearing conducted on the regulation change, and documentation of the public comment offered at the workshops.

Any member of the public may visit the offices of the Board and may review any or all of transcript referred to above. Also, any member of the public may request copies of the entire transcript of all the public by contacting the court reporter and requesting the preparation of a transcript.

The court reporter may be contacted at:

Bonanza Reporting  
1111 Forest Street  
Reno, Nevada 89509  
(775) 786-7655

**Persons who attended the workshop and hearing:**

Over 30 people attended the telephone conference board meeting, Friday, September 18, 2009, at the offices of the Board of Medical Examiners located at 1105 Terminal Way, Suite 301, Reno, Nevada, and at the offices of the Nevada State Board of Dental Examiners located at 6010 S. Rainbow Blvd., Bldg. A, Ste. 1, Las Vegas, Nevada and many comments were received.

**The number of persons who submitted written statements:**

No written comment was received by the Nevada State Board of Medical Examiners.

**HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES,  
A SUMMARY OF THEIR RESPONSE, AND  
HOW INTERESTED PERSONS MAY OBTAIN A COPY OF THE SUMMARY**

The comments, conclusions, and information set out above and all information contained thereunder applies to this portion of the informational statement as well.

**THE REGULATION WAS ADOPTED IN ITS ORIGINALLY PROPOSED FORM.**

The proposed regulation was adopted with three amendments and attached is the final form of the regulation.

**THE ESTIMATED ECONOMIC EFFECT OF THE REGULATION ON THE  
BUSINESS WHICH THE BOARD REGULATES AND ON THE PUBLIC**

**The economic effect of the regulations on the medical profession:**

The regulation would have a negative economic effect on a small number of businesses that provide cosmetic procedures (Botox and cosmetic fillers) through medical assistants rather than through physicians, physician assistants or nurses.

**The economic effect of the regulations on the general public:**

It is unknowable how the regulation might economically affect the general public, but it is possible that a small number of people who receive their cosmetic procedures through some businesses who were using medical assistants to provide procedures might experience an increase in the cost of their cosmetic procedures.

**THE ESTIMATED COST TO THE NEVADA STATE BOARD OF MEDICAL  
EXAMINERS TO ENFORCE THE PROPOSED REGULATION**

The Nevada State Board of Medical Examiners estimates that there will be no additional cost to itself to enforce the proposed regulation.

**THE REGULATION OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS  
DOES NOT OVERLAP OR DUPLICATE ANY REGULATIONS OF ANY OTHER  
STATE OR GOVERNMENTAL AGENCIES, INCLUDING THE FEDERAL  
GOVERNMENT.**

**THE REGULATION OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS  
DOES NOT INCLUDE PROVISIONS, WHICH ARE MORE STRINGENT THAN A  
FEDERAL REGULATION, WHICH REGULATES THE SAME ACTIVITY.**

**THE NEW REGULATION DOES NOT PROVIDE OR INVOLVE A NEW FEE.**