

**ADOPTED REGULATION OF THE
BOARD OF MEDICAL EXAMINERS**

LCB File No. R059-11

Effective May 30, 2012

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

AUTHORITY: §§1 and 2, NRS 630.130 and 630.275.

A REGULATION relating to standards for the provision of health care; updating the title of certain guidelines for pain control adopted by the Board of Medical Examiners; and providing other matters properly relating thereto.

Section 1. NAC 630.187 is hereby amended to read as follows:

630.187 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., *titled the Model Policy for the Use of Controlled Substances for the Treatment of Pain for revisions published after April 2003*, and any subsequent revision of the publication that has been approved by the Board for use in this State. Each revision of the publication shall be deemed approved by the Board unless it disapproves of the revision within 60 days after the date of publication of the revision.

2. The most recent publication of the *Model ~~[Guidelines]~~ Policy for the Use of Controlled Substances for the Treatment of Pain* that has been approved by 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 Wiser Road, Suite 300,

Eules, Texas 76039-3855, or from the Federation of State Medical Boards of the United States, Inc., at the Internet address <http://www.fsmb.org>. 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 it approves with the Secretary of State and the State Library and Archives Administrator.

Sec. 2. NAC 630.230 is hereby amended to read as follows:

630.230 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) 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;

(h) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant;

(i) If the person is a physician, fail to provide adequate supervision of a physician assistant or an advanced practitioner of nursing;

(j) 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

(k) 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]~~ *policies* set forth in the *Model ~~[Guidelines]~~ Policy 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]~~ Policy 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]~~ Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

(c) "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.

**REGULATION ADOPTED BY THE
NEVADA STATE BOARD OF MEDICAL EXAMINERS
LCB File No. R059-11**

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 (Board) published a Notice of Intent to Act Upon Regulation to solicit comments on proposed changes to the regulation. The hearing was to be conducted in Reno on Wednesday, December 21, 2011, at the hour of 11:00 o'clock a.m., at the Board office located at 1105 Terminal Way, Suite 301, Reno, Nevada, and videoconferenced to the Las Vegas Board office located at 6010 S. Rainbow Blvd., Bldg. A., Suite 1, Las Vegas, Nevada.

In the notice 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; in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653; and on the Internet at <http://www.leg.state.nv.us>., as well as posted at the following locations:

Washoe County Courthouse	Reno, Nevada
Carson City Library	Carson City, Nevada
Clark County District Library	Las Vegas, Nevada
Churchill County Library	Fallon, Nevada
Douglas County Library	Minden, Nevada
Elko County Library	Elko, Nevada
Esmeralda County Library	Goldfield, Nevada
Humboldt County Library	Winnemucca, Nevada
Lander County Library	White Pine, Nevada
Lincoln County Library	Pioche, Nevada
Lyon County Library	Yerington, Nevada
Mineral County Library	Hawthorne, Nevada
Tonopah Library	Tonopah, Nevada
Pershing County Library	Lovelock, Nevada
Storey County Library	Virginia City, Nevada
White Pine County Library	Ely, Nevada
Washoe County Library	Reno, 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:

Only oral comment from Mr. Larry Matheis, as discussed below, was offered.

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.

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

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:

Larry Matheis from the Nevada State Medical Association attended the workshop.

Amber Joiner from the Nevada State Medical Association attended the hearing.

Persons who testified at the workshop or public hearing:

Mr. Larry Matheis offered limited testimony at the workshop, where he indicated agreement with all of the proposed regulations. He did ask that the Board attempt to ensure that in regards to R062-11, protocols are put in place by the Board to ensure that the proper parties within the entities being served receive the disciplinary finding or orders.

The number of persons who submitted written statements:

No written comment was received by the Board.

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

The economic effect of the regulation on the medical profession:

There will be no economic effect to the medical profession by adoption of this regulation.

The economic effect of the regulation on the general public:

There will be no economic effect to the general public by adoption of this regulation.

**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.