

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

LCB File No. R190-12

June 25, 2013

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

AUTHORITY: §§1-5, NRS 633.291 and 633.522; §6, NRS 633.131, 633.291 and 633.522.

A REGULATION relating to osteopathic medicine; authorizing osteopathic physicians and physician assistants to delegate certain tasks to medical assistants in certain circumstances; and providing other matters properly relating thereto.

Section 1. Chapter 633 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 5, inclusive, of this regulation, unless the context otherwise requires, “delegating practitioner” means a person who is licensed as an osteopathic physician or physician assistant and who delegates to a medical assistant the performance of a task pursuant to the provisions of section 3 or 4 of this regulation.*

Sec. 3. 1. *A delegating practitioner may delegate to a medical assistant the performance of a task if:*

(a) The delegating practitioner knows that the medical assistant possesses the knowledge, skill and training to perform the task safely and properly;

(b) The medical assistant is not required to be certified or licensed to perform the task; and

(c) The medical assistant is employed by the delegating practitioner or the medical assistant and the delegating practitioner are employed by the same employer.

2. Except as otherwise provided in section 4 of this regulation, if a medical assistant is delegated a task which involves an invasive procedure, the delegating practitioner must be immediately available to provide oversight in person while the medical assistant performs the task.

Sec. 4. 1. A delegating practitioner may supervise remotely a medical assistant to whom the practitioner has delegated the performance of a task if:

- (a) The patient is located in a rural area;*
- (b) The delegating practitioner is physically located a significant distance from the location where the task is to be performed;*
- (c) The delegating practitioner determines that the exigent needs of the patient require immediate attention;*
- (d) The patient and the delegating practitioner previously established a practitioner-patient relationship; and*
- (e) The delegating practitioner is immediately available by telephone or other means of instant communication during the performance of the task by the medical assistant.*

2. As used in this section, "rural area" means any area in this State other than Carson City or the Cities of Elko, Henderson, Las Vegas, North Las Vegas, Reno or Sparks.

Sec. 5. A delegating practitioner retains responsibility for the safety and performance of each task which is delegated to a medical assistant. A delegating practitioner shall not:

- 1. Delegate a task that is not within the authority, training, expertise or normal scope of practice of the delegating practitioner;*

2. Transfer to another osteopathic physician or physician assistant the responsibility of supervising a medical assistant during the performance of a task unless the osteopathic physician or physician assistant knowingly accepts that responsibility;

3. Authorize or allow a medical assistant to delegate the performance of a task delegated to the medical assistant to any other person; or

4. Delegate or otherwise allow a medical assistant to administer, for the purpose of sedation, an anesthetic agent which renders a patient unconscious or semiconscious.

Sec. 6. NAC 633.350 is hereby amended to read as follows:

633.350 1. For the purposes of this chapter and chapter 633 of NRS, an osteopathic physician engages in unethical conduct if he or she:

- (a) Engages in sexual misconduct with a patient;
- (b) Abandons a patient;
- (c) Willfully makes and files false reports, records or claims in the osteopathic physician's practice;
- (d) 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;
- (e) Fails to generate or create medical records relating to the diagnosis, treatment and care of a patient;
- (f) Prescribes a controlled substance in a manner or an amount that the Board determines is excessive;
- (g) Fails to comply with the terms of an agreement with a diversion program approved by the Board;

(h) Fails to comply with an order of the Board;

(i) Violates the provisions of NRS 633.505 concerning retaliation or discrimination against an employee;

(j) Violates the provisions of NRS 629.061 concerning making the health care records of a patient available for physical inspection and furnishing a copy of the health care records;

(k) Fails to provide adequate supervision of a medical assistant who is employed or supervised by the osteopathic physician ~~†~~, *including, without limitation, supervision provided in the manner described in section 3 or 4 of this regulation;* or

(l) Engages in any other conduct that the Board determines constitutes unfitness to practice osteopathic medicine.

2. For the purposes of this chapter and chapter 633 of NRS, a physician assistant engages in unethical conduct if the physician assistant engages in any conduct which constitutes unethical conduct by an osteopathic physician pursuant to paragraphs (a) to (i), inclusive, of subsection 1.

~~3. As used in this section, “medical assistant” means any person who:~~

~~—(a) Is employed by an osteopathic physician;~~

~~—(b) Is under the direction and supervision of the osteopathic physician;~~

~~—(c) Assists in the care of a patient; and~~

~~—(d) Is not required to be certified or licensed by an administrative agency to provide that assistance.†~~