



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Adoption/Amendment of Regulation of the
Nevada State Board of Medical Examiners

The Nevada State Board of Medical Examiners will hold a public hearing on **Thursday, February 8, 2018, at 11:00 a.m.**, at the offices of the Nevada State Board of Medical Examiners located at 1105 Terminal Way, Suite 301, Reno, Nevada 89502, and video conferenced to the Nevada State Board of Dental Examiners located at 6010 S. Rainbow Blvd., Bldg. A, Suite 1, Las Vegas, Nevada 89118. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a regulation that pertains to Chapter 630 of the Nevada Administrative Code.

R100-17 - A Regulation relating to prescriptions for controlled substances; establishing the disciplinary action to be imposed upon a licensee for the issuance of a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV; and providing other matters properly relating thereto.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The proposed amendment is necessary to update the regulation to comply with recent statutory changes.
2. A copy of this notice and the regulation to be adopted will be on file at the Nevada State Library and Archives, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the office of the Nevada State Board of Medical Examiners, at 1105 Terminal Way, Suite 301, Reno, Nevada 89502, and in all counties in which an office of the agency is not maintained, at the main public library or county office, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation is also available 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> and www.medboard.nv.gov. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.
3. The Board does not believe that the proposed amendment will have a direct economic effect on the business of the practice of medicine or the public.

4. Enforcement of the proposed amendment will not result in an increased cost to the Board.
5. To the Board's knowledge, the proposed amendment does not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.
6. The proposed regulation does not establish new fees or increase existing fees.

Persons wishing to comment upon the proposed regulation of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada State Board of Medical Examiners, 1105 Terminal Way, Suite 301, Reno, Nevada 89502.

Written submissions must be received by the Nevada State Board of Medical Examiners on or before **February 7, 2018**.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

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|-------------------------------------|-------------------------|
| Washoe County Courthouse | Reno, Nevada |
| Carson City Library | Carson City, Nevada |
| Churchill County Library | Fallon, Nevada |
| Clark County District Library | Las Vegas, Nevada |
| Douglas County Library | Minden, Nevada |
| Elko County Library | Elko, Nevada |
| Esmeralda County Library | Goldfield, Nevada |
| Humboldt County Library | Winnemucca, Nevada |
| Lander County Library | Battle Mountain, Nevada |
| Lincoln County Library | Pioche, Nevada |
| Lyon County Library | Yerington, Nevada |
| Mineral County Library | Hawthorne, Nevada |
| Pershing County Library | Lovelock, Nevada |
| Storey County Commissioners Office | Virginia City, Nevada |
| Tonopah Public Library (Nye County) | Tonopah, Nevada |
| White Pine County Library | Ely, Nevada |

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

LCB File No. R100-17

October 19, 2017

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

AUTHORITY: §§1-3, section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410, NRS 630.3062, as amended by section 18 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4411, and NRS 630.352; §4, section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410.

A REGULATION relating to prescriptions for controlled substances; establishing the disciplinary action to be imposed upon a licensee for the issuance of a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Medical Examiners to: (1) impose appropriate disciplinary action against a licensee if the Board determines that the licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV; and (2) adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or for violating certain other provisions of law relating to the prescribing of such a controlled substance or related regulations adopted by the State Board of Pharmacy. (Section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410) Existing law also establishes the disciplinary actions that the Board of Medical Examiners can impose against a licensee who prescribed, administered or dispensed a controlled substance listed in schedule II, III or IV fraudulently, illegally, without authority or otherwise inappropriately, including: (1) administering a written public reprimand to the licensee; (2) suspending or revoking the license of the licensee; and (3) imposing a fine of not more than \$5,000 for each violation committed. (NRS 630.3062, as amended by section 18 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4411, NRS 630.352)

NEW FIRST
PARALLEL
SECTION

Sections 1-3 of this regulation establish the disciplinary action to be imposed upon a licensee who issues a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV depending on the number of times the licensee has previously committed such a violation. **Section 4** of this regulation establishes the dates on which the provisions of **sections 1-3** become effective.

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

1. In accordance with section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410, if the Board determines that a licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board will impose the following disciplinary action:

(a) For a first violation, the Board will require the licensee to complete at least 2 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV.

(b) For a second violation, the Board will require the licensee to:

(1) Complete at least 2 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(2) Pay a fine of not less than \$500.

(c) For a third violation, the Board will:

(1) Require the licensee to:

(I) Complete at least 4 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(II) Pay a fine of not less than \$1,000; and

(2) Administer a written public reprimand.

(d) For a fourth violation, the Board will:

(1) Require the licensee to:

(I) Complete at least 8 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(II) Pay a fine of not less than \$2,500;

(2) Administer a written public reprimand; and

(3) Suspend the license of the licensee for a period of 30 days.

(e) For a fifth violation, for the purpose of protecting the public from imminent harm, the Board will revoke the license of the licensee until further order of the Board.

2. Any continuing education required pursuant to this section:

(a) Must be completed:

(1) If the continuing education is required pursuant to paragraph (a), (b) or (c) of subsection 1, not later than 6 months after the Board orders the licensee to complete the continuing education; and

(2) If the continuing education is required pursuant to paragraph (d) of subsection 1, not later than 3 months after the Board orders the licensee to complete the continuing education; and

(b) Is in addition to any continuing education required for the renewal of a license.

3. Any fine imposed pursuant to this section must be paid not later than 30 days after the Board orders the licensee to pay the fine.

4. This section must not be construed to prevent the Board or any investigative committee of the Board from taking any other action that is authorized by law or regulation.

Sec. 2. Section 1 of this regulation is hereby amended to read as follows:

1. In accordance with section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410, if the Board determines that a licensee issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board will impose the following disciplinary action:

(a) For a first violation, ~~the Board will require the licensee to complete at least 2 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV.~~

~~(b) For a second violation,~~ the Board will require the licensee to:

(1) Complete at least 2 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(2) Pay a fine of not less than \$500.

~~(e)~~ (b) For a ~~third~~ *second* violation, the Board will:

(1) Require the licensee to:

(I) Complete at least 4 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(II) Pay a fine of not less than \$1,000; and

(2) Administer a written public reprimand.

~~(d)~~ (c) For a ~~fourth~~ *third* violation, the Board will:

(1) Require the licensee to:

(I) Complete at least 8 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

- (II) Pay a fine of not less than \$2,500;
- (2) Administer a written public reprimand; and
- (3) Suspend the license of the licensee for a period of 30 days.

~~(e)~~ (d) For a ~~fifth~~ *fourth or subsequent* violation, for the purpose of protecting the public from imminent harm, the Board will revoke the license of the licensee until further order of the Board.

2. Any continuing education required pursuant to this section:

(a) Must be completed:

(1) If the continuing education is required pursuant to paragraph (a) ~~(b)~~ *or* (b) ~~(c)~~ of subsection 1, not later than 6 months after the Board orders the licensee to complete the continuing education; and

(2) If the continuing education is required pursuant to paragraph ~~(d)~~ (c) of subsection 1, not later than 3 months after the Board orders the licensee to complete the continuing education; and

(b) Is in addition to any continuing education required for the renewal of a license.

3. Any fine imposed pursuant to this section must be paid not later than 30 days after the Board orders the licensee to pay the fine.

4. This section must not be construed to prevent the Board or any investigative committee of the Board from taking any other action that is authorized by law or regulation.

Sec. 3. Section 2 of this regulation is hereby amended to read as follows:

1. In accordance with section 15 of Assembly Bill No. 474, chapter 605, Statutes of Nevada 2017, at page 4410, if the Board determines that a licensee issued a fraudulent, illegal,

unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV, the Board will impose the following disciplinary action:

(a) For a first violation, ~~the Board will require the licensee to:~~

~~(1) Complete at least 2 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and~~

~~(2) Pay a fine of not less than \$500.~~

~~(b) For a second violation,]~~ the Board will:

(1) Require the licensee to:

(I) Complete at least 4 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(II) Pay a fine of not less than \$1,000; and

(2) Administer a written public reprimand.

~~(c)]~~ (b) For a ~~third]~~ **second** violation, the Board will:

(1) Require the licensee to:

(I) Complete at least 8 hours of continuing education concerning prescribing controlled substances listed in schedules II, III and IV, addiction and pain management; and

(II) Pay a fine of not less than \$2,500;

(2) Administer a written public reprimand; and

(3) Suspend the license of the licensee for a period of 30 days.

~~(d)]~~ (c) For a ~~fourth]~~ **third** or subsequent violation, for the purpose of protecting the public from imminent harm, the Board will revoke the license of the licensee until further order of the Board.

2. Any continuing education required pursuant to this section:

(a) Must be completed:

(1) If the continuing education is required pursuant to paragraph (a) ~~{or (b)}~~ of subsection 1, not later than 6 months after the Board orders the licensee to complete the continuing education; and

(2) If the continuing education is required pursuant to paragraph ~~{(e)}~~ (b) of subsection 1, not later than 3 months after the Board orders the licensee to complete the continuing education; and

(b) Is in addition to any continuing education required for the renewal of a license.

3. Any fine imposed pursuant to this section must be paid not later than 30 days after the Board orders the licensee to pay the fine.

4. This section must not be construed to prevent the Board or any investigative committee of the Board from taking any other action that is authorized by law or regulation.

Sec. 4. 1. This section and section 1 of this regulation become effective on January 1, 2018.

2. Section 2 of this regulation becomes effective on January 1, 2019.

3. Section 3 of this regulation becomes effective on January 1, 2020.

Section 4 of LCB File No. R100-17 is hereby replaced with the following:

- Sec. 4.** 1. This section becomes effective on January 1, 2018.
2. Section 1 of this regulation becomes effective on January 1, 2018, and expires by limitation on December 31, 2018.
3. Section 2 of this regulation becomes effective on January 1, 2019, and expires by limitation on December 31, 2019.
4. Section 3 of this regulation becomes effective on January 1, 2020.