

AGENDA ITEM 7(a)

Review of Public Comments on, and Possible Adoption of,
Proposed Amendment to NAC Chapter 630 as Contained in
LCB File No. T006-22

PROPOSED REGULATION

Authority: NRS 629A, Article 7, Section f

New Provision#1: *For physicians licensed pursuant NRS 629A, information required for biennial registration pursuant NRS 630.267(1)(c) includes any outstanding application documents requested by the Board at initial licensure. Failure to provide these documents may result in the renewal application being denied.*

PUBLIC NOTICES

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director



❖ **PUBLIC NOTICE** ❖

**NEVADA STATE BOARD OF MEDICAL EXAMINERS
REGULATION WORKSHOP**

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

December 14, 2022 – 3:30 p.m.

*** AGENDA ***

Please Note:

- Persons wishing to attend this meeting may do so at either of the above-listed locations.
- Agenda items, other than those items posted with a specific time, may be taken out of sequence or may be combined for consideration by the Deputy Executive Director to accommodate persons appearing at the workshop and/or to aid in the effectiveness of the meeting.
- Items may be pulled or removed from the Agenda at any time.
- Certain Agenda items, or portions thereof, may be conducted in closed session, in accordance with NRS 241.030.
- Public comment is scheduled under Agenda Item 2, at the beginning of the meeting, and again under Agenda Item 6, at the end of the meeting, and may also be called for at other times throughout the meeting by the Deputy Executive Director. When these Agenda items are called, members of the general public may bring matters not appearing on this Agenda to the attention of the Deputy Executive Director. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than four (4) minutes.
- Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

1. Call to Order and Introductions
2. Public Comment
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
3. Presentation and Discussion of Proposed Temporary Regulation T006-22
Staff of the Nevada State Board of Medical Examiners (Board) will provide background on the purpose and the need for the proposed temporary revisions to Nevada Administrative Code (NAC) Chapter 630.
4. Question & Answer Period for Proposed Temporary Regulation T006-22
Members of the public are invited to ask questions about these proposed temporary regulations.
5. Public Comment for Proposed Temporary Regulation T006-22
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
6. Public Comment
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
7. Adjournment (for possible action)

NOTICES POSTED AT THE FOLLOWING:

| | |
|--|---|
| Washoe County Courthouse | Reno, NV |
| Elko County Courthouse | Elko, NV |
| Nevada State Board of Medical Examiners | Reno, NV |
| Nevada State Board of Medical Examiners | Las Vegas, NV |
| Office of the Attorney General | Carson City |
| Office of the Attorney General | Las Vegas, NV |
| Storey County Comm. | Virginia City, NV |
| White Pine County Courthouse | Ely, NV |
| Nevada Public Notice Website | www.notice.nv.gov |
| Nevada State Board of Medical Examiners: | https://medboard.nv.gov/ |

PLEASE NOTE:

- 1) Persons/facilities desiring copies of the Board's agenda must submit their request in writing every twelve (12) months. Check the address label for this agenda for expiration date.
- 2) With regard to any Board meeting, it is possible that an amended notice will be published adding new items to the original agenda. Amended notices will be posted in accordance with the Open Meeting Law.
- 3) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Board office in writing at 9600 Gateway Drive, Reno, NV 89521, or by calling (775) 324-9380, prior to the date of the meeting.
- 4) Anyone desiring supporting material for the meeting is invited to call or email Mercedes Fuentes at fuentesm@medboard.nv.gov or 775-324-9380. Supporting material for the meeting is available at the Board's office at 9600 Gateway Drive, Reno, Nevada.



Nevada State Board of Medical Examiners

Notice of Workshop to Solicit Comments on Proposed Regulations

The Nevada State Board of Medical Examiners (Board), located at 9600 Gateway Drive, Reno, Nevada 89521, (775) 688-2559, is proposing a regulation pertaining to Chapter 630 of the Nevada Administrative Code (NAC). The public workshop has been set for 3:30 p.m., on Wednesday, December 14, 2022, at the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, and video-conferenced to the Board's Reno office. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

- T006-22** This temporary regulation requires for physicians licensed pursuant NRS 629A, information required for biennial registration pursuant NRS 630.267(1)(c) includes any outstanding application documents requested by the Board at initial licensure. Failure to provide these documents may result in the renewal application being denied.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Board at 9600 Gateway Drive, Reno, Nevada 89521, and by telephone at (775) 688-2559. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on the Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Washoe County Courthouse - Reno, NV

Nevada State Board of Medical Examiners - Reno, NV

Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse - Ely, NV

Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive

Reno, NV 89521

Aury Nagy, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

❖ **PUBLIC NOTICE** ❖

**NEVADA STATE BOARD OF MEDICAL EXAMINERS
REGULATION PUBLIC HEARING**

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

January 4, 2023 – 1:30 p.m.

*** AGENDA ***

Please Note:

- Persons wishing to attend this public hearing may do so at either of the above-listed locations.
- Agenda items, other than those items posted with a specific time, may be taken out of sequence or may be combined for consideration by the Deputy Executive Director to accommodate persons appearing at the public hearing and/or to aid in the effectiveness of the hearing.
- Items may be pulled or removed from the Agenda at any time.
- Certain Agenda items, or portions thereof, may be conducted in closed session, in accordance with NRS 241.030.
- Public comment is scheduled under Agenda Item 2, at the beginning of the meeting, and again under Agenda Item 4, at the end of the meeting, and may also be called for at other times throughout the meeting by the Deputy Executive Director. When these Agenda items are called, members of the general public may bring matters not appearing on this Agenda to the attention of the Deputy Executive Director. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than four (4) minutes.
- Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

1. Call to Order and Introductions

2. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

3. Public hearing on LCB File No. T006-22(for discussion only)

Public comment regarding LCB File No. T006-22 is welcomed and will be accepted. Any written comment received by 1:30 p.m. on January 4, 2023, will be read into the record.

4. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

5. Adjournment (for possible action)

NOTICES POSTED AT THE FOLLOWING:

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|--|---|
| Washoe County Courthouse | Reno, NV |
| Elko County Courthouse | Elko, NV |
| Nevada State Board of Medical Examiners | Reno, NV |
| Nevada State Board of Medical Examiners | Las Vegas, NV |
| Office of the Attorney General | Carson City |
| Office of the Attorney General | Las Vegas, NV |
| Storey County Comm. | Virginia City, NV |
| White Pine County Courthouse | Ely, NV |
| Nevada Public Notice Website | www.notice.nv.gov |
| Nevada State Board of Medical Examiners: | https://medboard.nv.gov/ |

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- 2) With regard to any Board meeting, it is possible that an amended notice will be published adding new items to the original agenda. Amended notices will be posted in accordance with the Open Meeting Law.
- 3) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Board office in writing at 9600 Gateway Drive, Reno, NV 89521, or by calling (775) 324-9380, prior to the date of the meeting.
- 4) Anyone desiring supporting material for the meeting is invited to call or email Mercedes Fuentes at fuentesm@medboard.nv.gov or 775-324-9380. Supporting material for the meeting is available at the Board's office at 9600 Gateway Drive, Reno, Nevada 89521.



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

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

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 1:30 p.m., on Wednesday, January 4, 2023, at the Board's Reno office located at 9600 Gateway Drive, Reno, Nevada 89521, with video-conferencing to the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of a temporary regulation that pertains to Chapter 630 of the Nevada Administrative Code.

T006-22 This temporary regulation requires for physicians licensed pursuant NRS 629A, information required for biennial registration pursuant NRS 630.267(1)(c) includes any outstanding application documents requested by the Board at initial licensure. Failure to provide these documents may result in the renewal application being denied.

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

1. The need for and the purpose of the proposed regulation or amendment:

The proposed regulation clarifies the requirements needed for renewal of a license issued pursuant to NRS Chapter 629A and aids the Board in receiving outstanding applications documents prior to processing a licensee's renewal application.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:

The proposed regulation is temporary and clarifies the requirements needed for renewal of a license issued pursuant to NRS Chapter 629A and the requirement that the Board receive outstanding applications documents before the renewal may be completed.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:

A copy of this Notice and the proposed regulations to be amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this Notice and the

proposed regulations to be amended will be available at the offices of the Board at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours and on the Board's website, <https://medboard.nv.gov/>. This Notice and the text of the proposed regulations 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 available on the Internet at <https://www.leg.state.nv.us/register/>. Copies of this Notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

a. Both adverse and beneficial effects:

The Board does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. The documents at issue are already required by Nevada law.

b. Both immediate and long-term effects:

The Board does not believe that the proposed regulation will have an immediate or long-term direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. The documents at issue are already required by Nevada law.

c. The methods used by the agency in determining the impact on small business:

The Board sent letters regarding the proposed regulations and requesting information regarding whether the proposed regulations would impact small businesses to the Better Business Bureau of Northern Nevada, the Better Business Bureau of Southern Nevada, multiple chambers of commerce offices in the State of Nevada, the Nevada State Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that these proposed regulations will impact small businesses.

d. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the proposed regulations will not result in an increased cost to the Board.

e. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

To the Board's knowledge, the proposed regulations do not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.

f. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The proposed regulations are not required pursuant to federal law.

g. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

To the Board's knowledge, the proposed regulations do not regulate the same activity addressed in a federal regulation.

h. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed regulations do not establish new fees or increase existing fees.

i. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied:

The proposed regulations are temporary. The text of the proposed regulations will be available for inspection or copying at the Board's offices located at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, during business hours. The text of the proposed regulations is also available on the Board's website, <https://medboard.nv.gov/>.

Persons wishing to comment upon the proposed regulations of the Nevada State Board of Medical Examiners 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, 9600 Gateway Drive, Reno, Nevada 89521. Written submissions must be received by the Nevada State Board of Medical Examiners on or before 3:30 p.m. on Wednesday, January 4, 2023. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Medical Examiners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the Nevada State Library, Archives and Public Records, 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 Nevada State Board of Medical Examiners office located at 9600 Gateway Drive, Reno, Nevada 89521, and the Nevada State Board of Medical Examiners office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours, and on the Board's website, <https://medboard.nv.gov/>. 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 available on the Internet at <https://www.leg.state.nv.us/>.

Copies of this Notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) days thereafter, shall 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:

Washoe County Courthouse - Reno, NV

Nevada State Board of Medical Examiners - Reno, NV

Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse – Ely, NV

Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>

MINUTES OF WORKSHOP

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director



*** * * MINUTES * * ***

REGULATION WORKSHOP ON T006-22

Held in the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

and Video conferenced to

The Conference Room at the Offices of the
Nevada State Board of Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

WEDNESDAY, DECEMBER 14, 2022 – 3:30 p.m.

Staff Present

Sarah A. Bradley, J.D., MBA, Deputy Executive Director
Mercedes Fuentes, Legal Assistant

Public Present

Jeanette Belz, Belz & Case

Agenda Item 1

CALL TO ORDER AND INTRODUCTIONS

The meeting was called to order by Sarah A. Bradley, J.D., MBA, Deputy Executive Director, at 3:35 p.m. Ms. Bradley stated that this was the time and place for the regulation workshop for T006-22.

Agenda Item 2

PUBLIC COMMENT

Ms. Bradley stated there was no one present in the Las Vegas Board Office and one member of the public present in the Reno Office, Jeanette Belz. Ms. Belz stated for the record that she had no public comment to give.

Agenda Item 3

PRESENTATION AND DISCUSSION OF PROPOSED TEMPORARY REGULATION T006-22

Ms. Bradley stated that this regulation references NRS 629A, which is the Interstate Medical Licensure Compact which allows individuals that are licensed through the Compact to get licensed quickly. Once the Nevada Board receives a letter from the physician's state of principal licensure, the individual is licensed the next business day. One of the issues that the Board has identified is that even though the individual is licensed, there are still items that are required by Nevada law for the applicant to provide to the Board; Board staff refers to these items as the "attestations and affirmations." These items include stating whether or not they have a child support order and whether or not the applicant is in compliance with the order, and also an affirmation that they understand they have to report child abuse or neglect as a healthcare provider, and that the applicant understands safe injections practices. Another item required is a photograph of the individual such as a passport photo that goes in the licensing file, as well as identity documents that provides some proof of the applicant's legal name. These identifying documents are pursuant to the Board's licensing statutes. The last item that is required is specified continuing education that must be completed within the first two years of licensure by all physicians. NRS 630 requires four hours of continuing education in bioterrorism, two hours in clinically based suicide prevention and awareness, two hours in screening, brief intervention and referral to treatment (SBIRT) in the first two years of licensure. These items are required by Nevada law for all physicians newly licensed in Nevada and physicians licensed by the compact are not exempt.

Ms. Bradley stated that many times these attestations and affirmations are not being provided by the applicant before the license is issued, and it can be challenging to receive these items from the applicant after he or she is licensed. The intent of this regulation is to give a timeline of two years to provide these documents to the Board. The Board must have them before the applicant's license renewal, and if they are not received the applicant's renewal application can be denied. It is really just a way so the Board can enforce receipt of all of the documentation that the law requires be submitted by all physicians.

Ms. Bradley said that the applicants that tend to not respond and provide these documents are generally only licensed for two years and do not later renew their licenses, so the number of physicians licensed through the Interstate Medical Licensure Compact that later renew after not providing these documents is rather small. The intent of this regulation is to give the Board a mechanism to ensure that the Board receives the documentation that the law requires.

Applicants generally receive at least two letters requesting these items prior to the issuance of a license. They then usually receive an additional letter afterward saying that the license has been issued and these items are still needed to complete the applicant's licensing file. Under this regulation, before the Board would deny the applicant's renewal application, the Board would send a letter to the applicant reminding him or her that the items asked for two years ago are still needed and if these items are not received then the license renewal application will be denied. There will be lots of notice to the applicant regarding what is needed before denial of a license renewal occurs.

Ms. Bradley also stated that it has been a struggle to figure out how to proceed with these applications. Arguably failure to provide these documents when required by Nevada law and after being requested by the Board could result in a disciplinary matter. However, Licensing Division staff suggested this as the fairest and best way to handle this issue.

Agenda Item 4

QUESTION AND ANSWER PERIOD FOR PROPOSED TEMPORARY REGULATION T006-22

Ms. Bradley asked if Ms. Belz had any questions. Ms. Belz asked if it is possible to see on the Board's website who is licensed under NRS 629A versus NRS 630, essentially to see who is licensed under the Interstate Medical Licensure Compact versus via traditional means. Ms. Bradley replied that to her knowledge there is not a way to distinguish that information on the Board's website, applicants through the Compact receive a full unrestricted license, and there is not a distinction noted on the Board's website. The Licensing Division does have this information available internally.

Ms. Belz stated she was just curious.

Ms. Bradley asked Ms. Belz if she had any further questions and Ms. Belz said that she did not.

Agenda Item 5

PUBLIC COMMENT FOR PROPOSED TEMPORARY REGULATION T006-22

Ms. Bradley stated that this portion of the agenda was now the time for members of the public to provide public comment on this regulation. Ms. Bradley stated for the record that she has not received any written public comment and that this regulation was sent to multiple Chambers of Commerce in Nevada and the medical societies in the State of Nevada. This same text is also included in a proposed permanent regulation that is being worked on, this is just a temporary regulation so this section can become effective more quickly, given that LCB will most likely not provide the Board with a draft of the permanent regulation until after the 2023 legislative session. The text of this regulation, therefore, has been sent twice to the Chambers of Commerce and the medical societies.

Ms. Bradley asked for any public comment in Reno, Ms. Belz stated she had no public comment.

Agenda Item 6

PUBLIC COMMENT

Ms. Bradley stated that there was no public present in Las Vegas. Ms. Belz stated she had no public comment to provide.

Agenda Item 7
ADJOURNMENT

Ms. Bradley adjourned the meeting at 3:47 p.m.

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TRANSCRIPT OF PUBLIC HEARING

In the Matter Of:

Nevada State Board of Medical Examiners

REGULATION PUBLIC HEARING

January 04, 2023

Job Number: 941075

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NEVADA STATE BOARD OF MEDICAL EXAMINERS

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REGULATION PUBLIC HEARING

Wednesday, January 4, 2023
Reno, Nevada

REPORTED BY:

TINA M. DALPINO
CCR #641 (Nevada)
CSR #11883 (California)

JOB NO: 941075

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A P P E A R A N C E S

FOR MEDICAL BOARD:

Deonne Contine, General Counsel

1 BE IT REMEMBERED that on Wednesday, January 4,
2 2023, commencing at 1:30 p.m. of said day, at Nevada
3 State Board of Medical Examiners, 9600 Gateway
4 Drive, Reno, Nevada 89521, before me, TINA M.
5 DALPINO, a Certified Shorthand Reporter, the
6 following proceedings were had:

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1 Wednesday 1/4/23 -- Reno Nevada

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3 MS. CONTINE: hi. For the record I'm
4 Deonne Contine, the general counsel for the Nevada
5 State Board of Medical Examiners.

6 This is the time and place for the hearing
7 on LCB File Number T006-22.

8 For the record, there are no members of the
9 public in Reno and there are no members of the
10 public wishing to speak in Las Vegas either, so
11 we'll close the hearing.

12 (End of proceedings at 1:36 p.m.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

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5 I, TINA M. DALPINO, a Certified Court Reporter
6 in and for the states of Nevada and California, do
7 hereby certify:

8 That I was present for the purpose of acting as
9 Certified Court Reporter in the matter entitled
10 herein;

11 That said transcript which appears hereinbefore
12 was taken in verbatim stenotype notes by me and
13 thereafter transcribed into typewriting as herein
14 appears to the best of my knowledge, skill, and
15 ability and is a true record thereof.

16
17 DATED: At Reno, Nevada, this 4th day of January
18 2023.

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21 Tina M. DalPino, CCR #641

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1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE
2 Litigation Services is committed to compliance with applicable federal
3 and state laws and regulations ("Privacy Laws") governing the
4 protection and security of patient health information. Notice is
5 hereby given to all parties that transcripts of depositions and legal
6 proceedings, and transcript exhibits, may contain patient health
7 information that is protected from unauthorized access, use and
8 disclosure by Privacy Laws. Litigation Services requires that access,
9 maintenance, use, and disclosure (including but not limited to
10 electronic database maintenance and access, storage, distribution/
11 dissemination and communication) of transcripts/exhibits containing
12 patient information be performed in compliance with Privacy Laws.
13 No transcript or exhibit containing protected patient health
14 information may be further disclosed except as permitted by Privacy
15 Laws. Litigation Services expects that all parties, parties'
16 attorneys, and their HIPAA Business Associates and Subcontractors will
17 make every reasonable effort to protect and secure patient health
18 information, and to comply with applicable Privacy Law mandates,
19 including but not limited to restrictions on access, storage, use, and
20 disclosure (sharing) of transcripts and transcript exhibits, and
21 applying "minimum necessary" standards where appropriate. It is
22 recommended that your office review its policies regarding sharing of
23 transcripts and exhibits - including access, storage, use, and
24 disclosure - for compliance with Privacy Laws.

25 © All Rights Reserved. Litigation Services (rev. 6/1/2019)

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|---------------|--------------------------|--------------------------|---|-------------------------|
| # | 9600 3:3 | 1:20 3:5 | H | Number 4:7 |
| #11883 1:21 | B | day 3:2 | hearing 1:9 4:6,11 | P |
| #641 1:20 | before 3:4 | Deonne 2:4 4:4 | J | p.m. 3:2 4:12 |
| 1 | Board 1:1 2:3 3:3 4:5 | Drive 3:4 | January 1:11 3:1 | place 4:6 |
| 1/4/23 4:1 | C | E | JOB 1:22 | proceedings 3:6 4:12 |
| 1:30 3:2 | California 1:21 | either 4:10 | L | public 1:9 4:9,10 |
| 1:36 4:12 | CCR 1:20 | end 4:12 | Las 4:10 | R |
| 2 | Certified 3:5 | Examiners 1:1 3:3 4:5 | LCB 4:7 | record 4:3,8 |
| 2023 1:11 3:2 | close 4:11 | F | M | REGULATION 1:9 |
| 4 | commencing 3:2 | File 4:7 | Medical 1:1 2:3 3:3 4:5 | REMEMBERE D 3:1 |
| 4 1:11 3:1 | Contine 2:4 4:3,4 | following 3:6 | members 4:8, 9 | Reno 1:11 3:4 4:1,9 |
| 8 | counsel 2:4 4:4 | G | N | REPORTED 1:20 |
| 89521 3:4 | CSR 1:21 | Gateway 3:3 | Nevada 1:1, 11,20 3:2,4 4:1,4 5:1 | Reporter 3:5 |
| 9 | D | general 2:4 4:4 | | |
| 941075 1:22 | DALPINO | | | |

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**WRITTEN COMMENTS
RECEIVED**

No written comments were received regarding this proposed regulation.

AGENDA ITEMS 7(b) and 7(c)

Review of Public Comments on, and Possible Adoption of, Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R177-22

Discussion and Possible Action Regarding Proposed Amendment to NAC Chapter 630 as Contained in LCB File No. R028-22

**PROPOSED
REGULATION R177-22**

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

LCB File No. R177-22

September 6, 2022

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

AUTHORITY: §§ 1, 2 and 5, NRS 630.130 and 630.275; § 3, NRS 630.130 and 630.311; § 4, NRS 630.130, 630.160 and 630.180; § 6, NRS 622.530, 630.130 and 630.279; § 7, NRS 622.530, 630.130 and 630.269.

A REGULATION relating to health care; establishing requirements for a physician or physician assistant to supervise an advanced esthetician who is performing a nonablative esthetic medical procedure; establishing requirements governing the procedure of an investigative committee designated by the Board of Medical Examiners; revising requirements governing licensure as a physician or physician assistant; establishing discounted fees for certain persons to whom an initial license as a practitioner of respiratory care or perfusionist is issued; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines “nonablative esthetic medical procedure” to mean a procedure performed for esthetic purposes using certain medical devices which is not expected to excise, vaporize, disintegrate or remove living tissue. (NRS 644A.127) Existing law authorizes an advanced esthetician to perform a nonablative esthetic medical procedure under the supervision of a physician, physician assistant or advanced practice registered nurse. (NRS 644A.545) **Section 2** of this regulation authorizes a physician or a physician assistant acting under the supervision of a physician to supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure that is within the scope of practice of the physician or physician assistant, as applicable.

Existing law requires the Board of Medical Examiners to designate a committee to review each complaint against a licensee of the Board, with certain exceptions, and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is not a physician. (NRS 630.311) **Section 3** of this regulation provides that two members of such a committee constitutes a quorum.

Existing law requires an applicant for a license to practice medicine to pass a written or oral examination, or both, as to his or her qualifications to practice medicine. (NRS 630.160) Existing regulations require such an applicant to: (1) pass a written examination concerning the statutes and regulations relating to the practice of medicine in this State; and (2) with certain

exceptions, pass an examination designated by the Board to test the competency of the applicant to practice medicine. (NAC 630.080) **Section 4** of this regulation removes the requirement that such an applicant pass a written examination concerning the statutes and regulations relating to the practice of medicine in this State. **Section 4** also corrects certain statutory references.

Existing regulations require an applicant for licensure as a physician assistant who has not practiced as a physician assistant for 24 months or more to take and pass the same examination to test medical competency as that given to applicants for initial licensure. (NAC 630.280) **Section 5** of this regulation authorizes certain applicants who are ineligible to take the same examination given to applicants for initial licensure to take an alternate exam designated by the Board to test medical competency.

Existing law provides that an applicant for licensure by endorsement as a physician or physician assistant who is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran may not be required to pay more than one-half the standard fee for the initial issuance of the license. (NRS 630.268) **Sections 6 and 7** of this regulation prescribe similar discounted fees for an applicant for licensure by endorsement as a practitioner of respiratory care or perfusionist, respectively, who is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

Section 1. Chapter 630 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A physician may supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure pursuant to NRS 644A.545 if the procedure is within the scope of practice of the physician.*

2. *A physician assistant may supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure pursuant to NRS 644A.545 if:*

(a) The procedure is within the scope of practice of the physician assistant; and

(b) The supervision is supervised by the supervising physician of the physician assistant in accordance with NAC 630.360, 630.370 and 630.375.

3. *As used in this section:*

(a) "Advanced esthetician" has the meaning ascribed to it in NRS 644A.013.

(b) "Nonablative esthetic medical procedure" has the meaning ascribed to it in NRS

644A.127.

Sec. 3. Two members of an investigative committee designated pursuant to NRS 630.311 constitute a quorum for the transaction of business.

Sec. 4. NAC 630.080 is hereby amended to read as follows:

630.080 1. For the purposes of paragraph ~~{(e)}~~ *(d)* of subsection 2 of NRS 630.160, an applicant for a license to practice medicine must ~~{pass:}~~

~~—(a) A written examination concerning the statutes and regulations relating to the practice of medicine in this State; and~~

~~—(b) Except~~, *except* as otherwise provided in subsection 2, *pass* an examination, designated by the Board, to test the competency of the applicant to practice medicine, including, without limitation:

~~{(1)}~~ *(a)* The Special Purpose Examination;

~~{(2)}~~ *(b)* An examination testing competence to practice medicine conducted by physicians; or

~~{(3)}~~ *(c)* Any other examination designed to test the competence of the applicant to practice medicine.

2. The Board will deem an applicant to have satisfied the requirements of ~~{paragraph (b) of}~~ subsection 1 if:

(a) Within 10 years before the date of an application for a license to practice medicine in this State, the applicant has passed:

(1) Part III of the examination given by the National Board of Medical Examiners;

(2) Component II of the Federation Licensing Examination;

- (3) Step 3 of the United States Medical Licensing Examination;
- (4) All parts of the examination to become a licentiate of the Medical Council of Canada;
- (5) The examination for primary certification or recertification by a specialty board of the American Board of Medical Specialties and received primary certification from that board; or
- (6) The Special Purpose Examination; or

(b) The applicant is currently certified and was certified prior to recertification or maintenance of certification requirements by a specialty board of the American Board of Medical Specialties, agrees to maintain that certification throughout any period of licensure in this State and has actively practiced clinical medicine for the past 5 years in any state or country in which the applicant is licensed or officially authorized to practice.

3. For the purposes of subparagraph (3) of paragraph ~~(e)~~ (b) of subsection 2 of NRS 630.160:

(a) An applicant for a license to practice medicine must pass Step 1, Step 2 and Step 3 of the United States Medical Licensing Examination in not more than a total of nine attempts and must pass Step 3 in not more than a total of three attempts; and

(b) An applicant:

(1) Who holds a degree of doctor of medicine must pass all steps of the examination within 7 years after the date on which the applicant first passes any step of the examination; or

(2) Who holds a degree of doctor of medicine and a degree of doctor of philosophy must pass all steps of the examination within 10 years after the date on which the applicant first passes any step of the examination.

4. For any examination conducted by the Board for a license to practice medicine, an applicant must answer correctly at least 75 percent of the questions propounded. The Board will

use the weighted average score of 75, as determined by the Federation of State Medical Boards of the United States, Inc., to satisfy the required score of 75 percent for passage of the Special Purpose Examination and the United States Medical Licensing Examination.

5. The Board will authorize the Federation of State Medical Boards of the United States, Inc., to administer the Special Purpose Examination or the United States Medical Licensing Examination on behalf of the Board.

6. An applicant for a license to practice medicine and a person who holds a license to practice medicine must pay the reasonable costs of any examination required for licensure and any examination ordered pursuant to NRS 630.318.

Sec. 5. NAC 630.280 is hereby amended to read as follows:

630.280 An applicant for licensure as a physician assistant must have the following qualifications:

1. If the applicant has not practiced as a physician assistant for 24 months or more before applying for licensure in this State, he or she must, at the order of the Board, have taken and passed ~~the~~ :

(a) The same examination to test medical competency as that given to applicants for initial licensure ~~+~~; or

(b) An examination designated by the Board, if the applicant is currently certified as a physician assistant by the National Commission on Certification of Physician Assistants, or its successor organization, and ineligible to take the examination described in paragraph (a).

2. Be a citizen of the United States or be lawfully entitled to remain and work in the United States.

3. Be able to communicate adequately orally and in writing in the English language.

4. Be of good moral character and reputation.

5. Have attended and completed a course of training in residence as a physician assistant approved by one of the following entities affiliated with the American Medical Association or its successor organization:

(a) The Committee on Allied Health Education and Accreditation or its successor organization;

(b) The Commission on Accreditation of Allied Health Education Programs or its successor organization; or

(c) The Accreditation Review Commission on Education for the Physician Assistant or its successor organization.

6. Be certified by the National Commission on Certification of Physician Assistants or its successor organization.

7. Possess a high school diploma, general equivalency diploma or postsecondary degree.

Sec. 6. Section 1 of LCB File No. R009-19 is hereby amended to read as follows:

Section 1. 1. An application for licensure by endorsement as a practitioner of respiratory care must be made on a form supplied by the Board. The application must include:

(a) The date of birth and the birthplace of the applicant, his or her sex and the various places of his or her residence after reaching 18 years of age;

(b) The education of the applicant, including, without limitation, all high schools, postsecondary institutions and professional institutions attended, the length of time in attendance at each high school or institution and whether he or she is a graduate of those schools and institutions;

(c) Whether the applicant has ever applied for a license or certificate as a practitioner of respiratory care in the District of Columbia or in another state or territory of the United States and, if so, when and where and the results of his or her application;

(d) The professional training and experience of the applicant;

(e) Whether the applicant has been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory of the United States in which the applicant currently holds or has held a license to engage in the practice of respiratory care;

(f) Whether the applicant has been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her license to engage in the practice of respiratory care;

(g) Whether the applicant has had a license to engage in the practice of respiratory care suspended or revoked in the District of Columbia or any state or territory of the United States;

(h) Whether the applicant has pending any disciplinary action concerning his or her license to engage in the practice of respiratory care in the District of Columbia or any state or territory of the United States;

(i) Whether the applicant has ever been convicted of a felony or an offense involving moral turpitude;

(j) Whether the applicant has ever been investigated for, charged with or convicted of the use, illegal sale or distribution of controlled substances; and

(k) A public address where the applicant may be contacted by the Board.

2. An applicant must submit to the Board:

(a) Proof that he or she holds a corresponding valid and unrestricted license to engage in the practice of respiratory care in the District of Columbia or any state or territory of the United States;

(b) Proof that he or she has engaged in the practice of respiratory care for a period of at least 12 months immediately preceding the date on which the application is submitted;

(c) Proof of completion of an educational program as a practitioner of respiratory care that is approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Commission on Accreditation for Respiratory Care or its successor organization, or another educational program as approved by the Board;

(d) Proof of passage of the examinations required by NRS 630.277 and NAC 630.500 and 630.515;

(e) Such further evidence and other documents or proof of qualifications as required by the Board;

(f) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520;

(g) An affidavit stating that the information contained in the application and any accompanying material is true and complete; and

(h) A complete set of his or her fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check.

3. Each application must be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.

4. The application must be accompanied by the applicable fees for the application for licensure and biennial registration.

5. An applicant shall pay the reasonable costs of any examination required for licensure.

6. Not later than 21 business days after receiving an application for a license by endorsement pursuant to this section, the Board will provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board will approve the application and issue a license by endorsement to engage in the practice of respiratory care to the applicant not later than:

(a) Sixty days after receiving the application; or

(b) Fifteen days after the Board receives the report from the Federal Bureau of Investigation or proof that the applicant has previously passed a comparable criminal background check, as required by paragraph (h) of subsection 2 of this section,

↳ whichever occurs later.

7. A license by endorsement to engage in the practice of respiratory care in this State issued pursuant to this section may be issued at a meeting of the Board or between its meetings by the presiding member of the Board and the executive director of the Board. Such an action shall be deemed to be an action of the Board.

8. *If an applicant seeking licensure by endorsement pursuant to this section is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, the Board will charge not more*

than one-half of the fee established pursuant to NRS 630.268 for the initial issuance of the license.

9. In addition to the grounds set forth in NAC 630.510 and 630.540, the Board may deny an application for licensure by endorsement pursuant to this section if:

(a) An applicant willfully fails to comply with the provisions of paragraph (h) of subsection 2 of this section; or

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the Board has not previously taken disciplinary action against the licensee based on that conviction.

Sec. 7. Section 1 of LCB File No. R010-19 is hereby amended to read as follows:

Section 1. 1. An application for licensure by endorsement as a perfusionist must be made on a form supplied by the Board. The application must include:

(a) The date and place of birth of the applicant;

(b) The gender of the applicant;

(c) The education of the applicant, including, without limitation, each high school and postsecondary institution attended by the applicant, the dates of attendance and whether the applicant is a graduate of those schools and institutions;

(d) Whether the applicant has ever applied for a license or certificate to practice perfusion in the District of Columbia or in another state or territory of the United States and, if so, when and where and the results of his or her application;

(e) The training and experience of the applicant in the practice of perfusion;

(f) Whether the applicant has been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory of the United States in which the applicant currently holds or has held a license to practice perfusion;

(g) Whether the applicant has been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her license to practice perfusion;

(h) Whether the applicant has had a license to practice perfusion suspended or revoked in the District of Columbia or any state or territory of the United States;

(i) Whether the applicant has pending any disciplinary action concerning his or her license to practice perfusion in the District of Columbia or any state or territory of the United States;

(j) If the applicant has ever been convicted of a felony or an offense involving moral turpitude, the dates, circumstances and disposition of each such occurrence;

(k) If the applicant has ever been investigated for, charged with or convicted of the use, illegal sale or dispensing of a controlled substance, the dates, circumstances and disposition of each such occurrence; and

(l) Each place of residence of the applicant after the date of graduation of the applicant from high school or the receipt by the applicant of a high school general equivalency diploma, whichever occurred most recently.

2. An applicant must submit to the Board:

(a) Proof that he or she holds a corresponding valid and unrestricted license to practice perfusion in the District of Columbia or any state or territory of the United States.

(b) Proof that he or she has engaged in the practice of perfusion for a period of at least 12 months immediately preceding the date on which the application is submitted.

(c) Proof of completion of a perfusion education program that satisfies the requirements of NRS 630.2691. For the purpose of that section, the following perfusion education programs shall be deemed approved by the Board:

(1) Any perfusion education program completed by the applicant on or before June 1, 1994, which was approved by the Committee on Allied Health Education and Accreditation of the American Medical Association;

(2) Any perfusion education program completed by the applicant after June 1, 1994, which was accredited by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association or its successor; or

(3) Any other perfusion education program completed by the applicant, the educational standards of which the Board determines are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association or its successor.

(d) Unless the examination requirement is waived pursuant to NRS 630.2693, proof of passage of the certification examination given by the American Board of Cardiovascular Perfusion or its successor, as required by NRS 630.2692.

(e) Such further evidence and other documents or proof of qualifications as required by the Board.

(f) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

(g) An affidavit stating that the information contained in the application and any accompanying material is true and complete.

(h) A complete set of his or her fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check.

3. Each application must be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.

4. The application must be accompanied by the applicable fees for the application for licensure and biennial registration.

5. An applicant shall pay the reasonable costs of any examination required for licensure.

6. Not later than 21 business days after receiving an application for a license by endorsement pursuant to this section, the Board will provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board will approve the application and issue a license by endorsement to practice perfusion to the applicant not later than:

(a) Sixty days after receiving the application; or

(b) Fifteen days after the Board receives the report from the Federal Bureau of Investigation or proof that the applicant has previously passed a comparable criminal background check, as required by paragraph (h) of subsection 2 of this section,

↳ whichever occurs later.

7. A license by endorsement to practice perfusion in this State issued pursuant to this section may be issued at a meeting of the Board or between its meetings by the presiding member of the Board and the executive director of the Board. Such an action shall be deemed to be an action of the Board.

8. *If an applicant seeking licensure by endorsement pursuant to this section is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran, the Board will charge not more than one-half of the fee established pursuant to NRS 630.268 for the initial issuance of the license.*

9. In addition to the grounds set forth in NAC 630.710 and 630.770, the Board may deny an application for licensure by endorsement pursuant to this section if:

(a) An applicant willfully fails to comply with the provisions of paragraph (h) of subsection 2 of this section; or

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the Board has not previously taken disciplinary action against the licensee based on that conviction. .

**PROPOSED
REGULATION R028-22**

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

LCB File No. R028-22

April 11, 2022

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

AUTHORITY: §§ 1, 2 and 6, NRS 630.130; § 3, NRS 630.130, 630.275, 630.2751, as amended by section 20 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 760 and NRS 630.2752, as amended by section 21 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 761; §§ 4 and 9, NRS 630.130 and 630.269; § 5, NRS 630.130 and 630.160; § 7, NRS 630.130 and 630.275; § 8, NRS 630.130 and 630.279.

A REGULATION relating to medical professionals; requiring that a physician, physician assistant, perfusionist or practitioner of respiratory care provide for the presence of a patient attendant during certain examinations and procedures; requiring an applicant for licensure by endorsement as a physician assistant to hold certain certification; adopting a code of ethics for perfusionists; updating certain references; revising certain standards of practice for physicians, physician assistants, perfusionists and practitioners of respiratory care; providing for the automatic suspension of the license of a perfusionist under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Board of Medical Examiners to establish by regulation standards of licensure of physicians, physician assistants, perfusionists and practitioners of respiratory care and adopt such regulations as are necessary or desirable to enable the Board to carry out its duties. (NRS 630.130) **Section 2** of this regulation requires, with certain exceptions, a licensee to ensure a patient attendant is present: (1) during certain examinations of or procedures involving the genitalia, rectum or breast of a patient; (2) upon the request of the patient; or (3) if the licensee desires the presence of the patient attendant. **Section 2** additionally prescribes procedures relating to the attendance of an examination or procedure by a patient attendant. **Section 6** of this regulation includes the provisions of **section 2** within the standards of practice established by the Board.

Existing law provides for the expedited licensure by endorsement of physician assistants who are licensed in other jurisdictions and meet certain other requirements. (NRS 630.2751, as amended by section 20 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 760, NRS 630.2752, as amended by section 21 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 761) **Section 3** of this regulation requires an application for expedited

licensure by endorsement as a physician assistant to include proof that the applicant is currently certified by the National Commission on Certification of Physician Assistants.

Existing law requires the Board to adopt a code of ethics for perfusionists. (NRS 630.269) **Section 4** of this regulation adopts such a code. **Section 9** of this regulation: (1) makes a conforming change by removing existing provisions that partially duplicate that code of ethics; (2) authorizes discipline against a perfusionist who violates that code of ethics; and (3) provides for the automatic suspension of the license of a perfusionist who ceases to be certified by the American Board of Cardiovascular Perfusion, or its successor organization.

Section 5 of this regulation updates references to certain statutory subdivisions to conform with changes made during the 2019 Legislative Session.

Existing law imposes requirements on providers of health care concerning records of birth and death and health care records and certain other general requirements governing the healing arts. (Chapters 440 and 629 of NRS) Existing law further authorizes the Board to discipline a licensed physician, physician assistant, perfusionist or practitioner of respiratory care who violates regulations adopted by the Board. (NRS 630.301) **Section 7** of this regulation require physicians or physician assistants to comply with state law governing records of birth and death, health records and the healing arts, and **sections 8 and 9** of this regulation require practitioners of respiratory care and perfusionists, respectively, to comply with state law governing the healing arts. By prescribing these requirements in regulation, **sections 7-9** authorize the Board to impose discipline against a licensee who violates requirements applicable to the licensee.

Existing law authorizes an advanced practice registered nurse acting independently to: (1) engage in selected medical diagnosis and treatment; (2) subject to certain limitations, prescribe controlled substances, poisons, dangerous drugs and devices; and (3) perform certain other tasks. (NRS 632.237) Existing regulations authorize a physician to collaborate with an advanced practice registered nurse and prescribe certain requirements governing such collaboration. (NAC 630.490) **Section 7** removes the prohibition against a physician failing to provide adequate supervision of an advanced practice registered nurse. Instead, **section 7** prohibits a physician from failing to adequately collaborate with an advanced practice registered nurse with whom the physician is collaborating.

Section 1. Chapter 630 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 6, a licensee shall ensure that a patient attendant is present when:*

(a) The licensee is performing a visual or physical examination of, or a procedure involving, the genitalia, rectum or breast of the patient;

(b) The licensee is performing a procedure involving the placement of any object or matter, including, but not limited to, a finger, swab, medical equipment or medication into the vagina, penis, urethra or rectum of the patient; or

(c) The patient or, if the patient lacks the capacity to consent to medical care, the representative of the patient, requests the presence of a patient attendant.

2. A licensee may provide for the presence of a patient attendant on any occasion not described in subsection 1 if the presence of the patient attendant is desired by the licensee.

3. A patient attendant:

(a) May not be a family member of the licensee or the patient. This paragraph must not be construed to prevent a family member of the patient from also being present at a clinical encounter.

(b) Must be informed by the licensee concerning the scope of the clinical encounter before the encounter or be familiar with the scope of the clinical encounter through education and experience.

(c) Must, when practicable, be the gender that the patient, or, if the patient lacks the capacity to consent to medical care, the representative of the patient, prefers to be present at the clinical encounter.

4. Before performing an examination or procedure at which a patient attendant will be present, a licensee shall:

(a) Inform the patient attendant that:

(1) The primary role of the patient attendant is to protect and enhance the comfort of the patient and protect the patient from inappropriate behavior of the licensee, including, without limitation, sexual misconduct;

(2) The patient attendant is required to immediately report any suspected misconduct to the Board; and

(3) The secondary role of the patient attendant is to protect the licensee from unfounded allegations of improper behavior.

(b) Inform the patient or, if the patient lacks the capacity to consent to medical care, the representative of the patient:

(1) Of the scope of the clinical encounter and what the encounter will entail; and

(2) That the patient attendant will be present and the manner in which the patient attendant will observe the encounter.

5. The licensee shall:

(a) Include the first and last name of the patient attendant in the medical record of the clinical encounter; and

(b) Maintain separately from his or her medical records the contact information for all patient attendants present at his or her clinical encounters, including, without limitation, the mailing address and telephone number of each patient attendant.

6. A patient attendant is not required to be present:

(a) During a mammogram, unless requested by the patient or, if the patient lacks the capacity to consent to medical care, the representative of the patient.

(b) If the patient, or the representative of a patient who lacks the capacity to consent to medical care, declines the presence of a patient attendant in a signed writing. The licensee shall include the signed writing in the medical record of the clinical encounter.

(c) If including a patient attendant would delay or impede the delivery of emergency care.

7. As used in this section, “patient attendant” means a person, other than a licensee or a patient, who is present for and witness to a clinical encounter between a licensee and a patient.

Sec. 3. In addition to the requirements set forth in NRS 630.2751, as amended by section 20 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 760, or NRS 630.2752, as amended by section 21 of Senate Bill No. 184, chapter 171, Statutes of Nevada 2021, at page 761, as applicable, an applicant for expedited licensure by endorsement as a physician assistant must submit to the Board with his or her application proof that the applicant is currently certified by the National Commission on Certification of Physician Assistants or its successor organization.

Sec. 4. In professional interactions with patients, colleagues, other providers of health care and members of the public, a perfusionist shall uphold the dignity of the profession and promote the safety and welfare of patients, including by:

- 1. Holding the well-being of patients paramount.*
- 2. Avoiding conflicts of interest with patients. A perfusionist shall not engage in conduct for financial or other personal gain that violates the trust of a patient or the relationship between the perfusionist and the patient.*
- 3. Delegating responsibilities arising from the license of the perfusionist only to persons qualified to perform those responsibilities and personally supervising the rendering of such delegated responsibilities.*
- 4. Maintaining the confidentiality of the protected health information of a patient.*

Sec. 5. NAC 630.080 is hereby amended to read as follows:

630.080 1. For the purposes of paragraph ~~(e)~~ (d) of subsection 2 of NRS 630.160, an applicant for a license to practice medicine must pass:

(a) A written examination concerning the statutes and regulations relating to the practice of medicine in this State; and

(b) Except as otherwise provided in subsection 2, an examination, designated by the Board, to test the competency of the applicant to practice medicine, including, without limitation:

(1) The Special Purpose Examination;

(2) An examination testing competence to practice medicine conducted by physicians; or

(3) Any other examination designed to test the competence of the applicant to practice medicine.

2. The Board will deem an applicant to have satisfied the requirements of paragraph (b) of subsection 1 if:

(a) Within 10 years before the date of an application for a license to practice medicine in this State, the applicant has passed:

(1) Part III of the examination given by the National Board of Medical Examiners;

(2) Component II of the Federation Licensing Examination;

(3) Step 3 of the United States Medical Licensing Examination;

(4) All parts of the examination to become a licentiate of the Medical Council of Canada;

(5) The examination for primary certification or recertification by a specialty board of the American Board of Medical Specialties and received primary certification from that board; or

(6) The Special Purpose Examination; or

(b) The applicant is currently certified and was certified prior to recertification or maintenance of certification requirements by a specialty board of the American Board of

Medical Specialties, agrees to maintain that certification throughout any period of licensure in this State and has actively practiced clinical medicine for the past 5 years in any state or country in which the applicant is licensed or officially authorized to practice.

3. For the purposes of subparagraph (3) of paragraph ~~(e)~~ (b) of subsection 2 of NRS 630.160:

(a) An applicant for a license to practice medicine must pass Step 1, Step 2 and Step 3 of the United States Medical Licensing Examination in not more than a total of nine attempts and must pass Step 3 in not more than a total of three attempts; and

(b) An applicant:

(1) Who holds a degree of doctor of medicine must pass all steps of the examination within 7 years after the date on which the applicant first passes any step of the examination; or

(2) Who holds a degree of doctor of medicine and a degree of doctor of philosophy must pass all steps of the examination within 10 years after the date on which the applicant first passes any step of the examination.

4. For any examination conducted by the Board for a license to practice medicine, an applicant must answer correctly at least 75 percent of the questions propounded. The Board will use the weighted average score of 75, as determined by the Federation of State Medical Boards of the United States, Inc., to satisfy the required score of 75 percent for passage of the Special Purpose Examination and the United States Medical Licensing Examination.

5. The Board will authorize the Federation of State Medical Boards of the United States, Inc., to administer the Special Purpose Examination or the United States Medical Licensing Examination on behalf of the Board.

6. An applicant for a license to practice medicine and a person who holds a license to practice medicine must pay the reasonable costs of any examination required for licensure and any examination ordered pursuant to NRS 630.318.

Sec. 6. NAC 630.185 is hereby amended to read as follows:

630.185 NAC 630.185 to 630.230, inclusive, *and section 2 of this regulation* set forth the standards of practice established by the Board.

Sec. 7. 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 or her presence at a time when he or she was not in attendance or falsify those records to indicate that procedures were performed by him or her which were in fact not performed by him or her;

(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 or her 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, including, without limitation, supervision provided in the manner described in NAC 630.810 or 630.820;

(i) If the person is a physician, fail to provide adequate supervision of a physician assistant or *adequate collaboration with* an advanced practice registered nurse ~~§~~ *with whom the physician is collaborating*;

(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;

(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 policies set forth in the *Guidelines for the Chronic Use of Opioid Analgesics* adopted by reference in NAC 630.187; or

(l) Administer or use, or allow any person under his or her supervision, direction or control to administer or use, a single-use medical device:

(1) For more than one procedure;

(2) For more than one patient; or

(3) In a manner inconsistent with the manufacturer's instructions or directions included on or with the single-use medical device.

2. *A physician or physician assistant shall comply with all applicable provisions of chapters 440 and 629 of NRS or any regulation adopted pursuant thereto.*

3. As used in this section:

(a) “Chronic pain” has the meaning ascribed to it in section 3 of the *Guidelines for the Chronic Use of Opioid Analgesics* adopted by reference in NAC 630.187.

(b) “Single-dose vial” means a vial, including, without limitation, a sealed sterile vial, which may be accessed by insertion of a needle and which, according to the manufacturer’s instructions:

- (1) Contains only one dose of a medication; and
- (2) May be used for only one patient.

(c) “Single-use medical device” means a medical device that is intended for one use or on a single patient during a single procedure and includes, without limitation, a blade, clip, catheter, implant, insufflator, lancet, needle, sleeve, syringe and single-dose vial.

Sec. 8. NAC 630.540 is hereby amended to read as follows:

630.540 A practitioner of respiratory care is subject to discipline or denial of licensure by the Board if, after notice and hearing in accordance with this chapter, the Board finds that the practitioner of respiratory care:

1. Willfully and intentionally made a false or fraudulent statement or submitted a forged or false document in applying for a license or renewing a license.
2. Performed respiratory care services other than as permitted by law.
3. Committed malpractice in the performance of respiratory care services, which may be evidenced by claims settled against a practitioner of respiratory care.
4. Disobeyed any order of the Board or an investigative committee of the Board or violated a provision of this chapter.
5. Is not competent to provide respiratory care services.

6. Lost his or her certification by the National Board for Respiratory Care or its successor organization.
7. Failed to notify the Board of loss of certification by the National Board for Respiratory Care or its successor organization.
8. Falsified records of health care.
9. Rendered respiratory care to a patient while under the influence of alcohol or any controlled substance or in any impaired mental or physical condition.
10. Practiced respiratory care after his or her license has expired or been suspended.
11. Has been convicted of a felony, any offense involving moral turpitude or any offense relating to the practice of respiratory care or the ability to practice respiratory care.
12. Has had a license to practice respiratory care revoked, suspended, modified or limited by any other jurisdiction or has surrendered such license or discontinued the practice of respiratory care while under investigation by any licensing authority, a medical facility, a branch of the Armed Forces of the United States, an insurance company, an agency of the Federal Government or any employer.
13. Engaged in any sexual activity with a patient who is currently being treated by the practitioner of respiratory care.
14. Engaged in disruptive behavior with physicians, hospital personnel, patients, members of the family of a patient or any other person if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.
15. Engaged in conduct that violates the trust of a patient and exploits the relationship between the practitioner of respiratory care and the patient for financial or other personal gain.

16. Engaged in conduct which brings the respiratory care profession into disrepute, including, without limitation, conduct which violates any provision of a national code of ethics adopted by the Board by regulation.

17. Engaged in sexual contact with a surrogate of a patient or other key person related to a patient, including, without limitation, a spouse, parent or legal guardian, that exploits the relationship between the practitioner of respiratory care and the patient in a sexual manner.

18. Made or filed a report that the practitioner of respiratory care knows to be false, failed to file a record or report as required by law or willfully obstructed or induced another to obstruct such filing.

19. Altered the medical records of a patient.

20. Failed to report any person that the practitioner of respiratory care knows, or has reason to know, is in violation of the provisions of chapter 630 of NRS or NAC 630.500 to 630.560, inclusive, relating to the practice of respiratory care.

21. Has been convicted of a violation of any federal or state law regulating the prescription, possession, distribution or use of a controlled substance.

22. Held himself or herself out or permitted another to represent him or her as a licensed physician.

23. Violated any provision that would subject a practitioner of medicine to discipline pursuant to NRS 630.301 to 630.3065, inclusive, or NAC 630.230.

24. Failed to comply with any applicable provisions of chapter 629 of NRS or any regulation adopted pursuant thereto.

Sec. 9. NAC 630.770 is hereby amended to read as follows:

630.770 1. A perfusionist is subject to discipline pursuant to chapter 630 of NRS or denial of licensure by the Board if, after notice and hearing, the Board finds that the perfusionist:

(a) Willfully and intentionally made a false or fraudulent statement or submitted a forged or false document in applying for or renewing a license.

(b) Performed perfusion services other than as permitted by law.

(c) Committed malpractice in the performance of perfusion services, which may be evidenced by claims settled against the perfusionist.

(d) Disobeyed any order of the Board or an investigative committee of the Board or violated any provision of this chapter or chapter 630 of NRS.

(e) Is not competent to provide perfusion services.

(f) Lost his or her certification by the American Board of Cardiovascular Perfusion or its successor organization.

(g) Failed to notify the Board of loss of certification by the American Board of Cardiovascular Perfusion or its successor organization within 30 days after the loss of certification.

(h) Falsified or altered records of health care.

(i) Rendered perfusion services to a patient while under the influence of alcohol or any controlled substance or in any impaired mental or physical condition.

(j) Practiced perfusion after his or her license as a perfusionist had expired or been revoked or suspended.

(k) Has been convicted of a felony, any offense involving moral turpitude or any offense relating to the practice of perfusion or the ability to practice perfusion.

(l) Has had a license to practice perfusion revoked, suspended, modified or limited by another state or jurisdiction or has surrendered such a license or discontinued the practice of perfusion while under investigation by any licensing authority, a medical facility, a branch of the Armed Forces of the United States, an insurance company, an agency of the Federal Government or any employer.

(m) Engaged in any sexual activity with a patient who was being treated by the perfusionist.

(n) Engaged in disruptive behavior with physicians, hospital personnel, patients, members of the family of a patient or any other person if the behavior interferes with the care of a patient or has an adverse impact on the quality of care rendered to a patient.

(o) Engaged in conduct which brings the profession of perfusion into disrepute, including, without limitation, conduct that violates ~~any of the following ethical guidelines:~~

~~(1) A perfusionist shall at all times hold the well-being of his or her patients paramount and shall not act in such a way as to bring the interests of the perfusionist into conflict with the interests of his or her patients.~~

~~(2) A perfusionist shall not engage in conduct that violates the trust of a patient and exploits the relationship between the perfusionist and the patient for financial or other personal gain.~~

~~(3) A perfusionist shall not delegate licensed responsibilities to a person who is not qualified to perform those responsibilities.~~ *the provisions of section 4 of this regulation.*

(p) Engaged in sexual contact with a surrogate of a patient or with any person related to a patient, including, without limitation, a spouse, parent or legal guardian of a patient, that exploits the relationship between the perfusionist and the patient in a sexual manner.

(q) Made or filed a report that the perfusionist knew to be false, failed to file a record or report as required by law or willfully obstructed or induced another person to obstruct any such filing.

(r) Failed to report to the Board any person that the perfusionist knew, or had reason to know, was in violation of any provision of this chapter or chapter 630 of NRS relating to the practice of perfusion.

(s) Has been convicted of a violation of any federal or state law regulating the prescription, possession, distribution or use of a controlled substance.

(t) Held himself or herself out or permitted another person to represent the perfusionist as a licensed physician.

(u) Violated any provision that would subject a person to discipline pursuant to NRS 630.301 to 630.3065, inclusive, or NAC 630.230.

(v) Failed to comply with any applicable provisions of chapter 629 of NRS or any regulation adopted pursuant thereto.

2. A person who has been licensed as a perfusionist by the Board but is not currently licensed, has surrendered his or her license or has failed to renew his or her license may be disciplined by the Board upon hearing a complaint for disciplinary action against the person.

3. If a perfusionist loses his or her certification by the American Board of Cardiovascular Perfusion or its successor organization, his or her license to practice perfusion is automatically suspended pending further action by the Board.

PUBLIC NOTICES

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director



❖ **PUBLIC NOTICE** ❖

**NEVADA STATE BOARD OF MEDICAL EXAMINERS
REGULATION WORKSHOP**

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

October 19, 2022 – 1:30 p.m.

*** AGENDA ***

Please Note:

- Persons wishing to attend this meeting may do so at either of the above-listed locations.
- Agenda items, other than those items posted with a specific time, may be taken out of sequence or may be combined for consideration by the Deputy Executive Director to accommodate persons appearing at the workshop and/or to aid in the effectiveness of the meeting.
- Items may be pulled or removed from the Agenda at any time.
- Certain Agenda items, or portions thereof, may be conducted in closed session, in accordance with NRS 241.030.
- Public comment is scheduled under Agenda Item 2, at the beginning of the meeting, and again under Agenda Item 9, at the end of the meeting, and may also be called for at other times throughout the meeting by the Deputy Executive Director. When these Agenda items are called, members of the general public may bring matters not appearing on this Agenda to the attention of the Deputy Executive Director. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than four (4) minutes.
- Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

1. Call to Order and Introductions
2. Public Comment
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
3. Presentation and Discussion of Proposed Regulation R177-22
Staff of the Nevada State Board of Medical Examiners (Board) will provide background on the purpose and the need for the proposed revisions to Nevada Administrative Code (NAC) Chapter 630.
4. Question & Answer Period for Proposed Regulation R177-22
Members of the public are invited to ask questions about these proposed regulations.
5. Public Comment for Proposed Regulation R177-22
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
6. Presentation and Discussion of Proposed Regulation R028-22
Staff of the Nevada State Board of Medical Examiners (Board) will provide background on the purpose and the need for the proposed revisions to Nevada Administrative Code (NAC) Chapter 630.
7. Question & Answer Period for Proposed Regulation R028-22
Members of the public are invited to ask questions about these proposed regulations.
8. Public Comment for Proposed Regulation R028-22
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
9. Public Comment
Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.
10. Adjournment (for possible action)

NOTICES POSTED AT THE FOLLOWING:

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| Washoe County Courthouse | Reno, NV |
| Elko County Courthouse | Elko, NV |
| Nevada State Board of Medical Examiners | Reno, NV |
| Nevada State Board of Medical Examiners | Las Vegas, NV |
| Office of the Attorney General | Carson City |
| Office of the Attorney General | Las Vegas, NV |
| Storey County Comm. | Virginia City, NV |
| White Pine County Courthouse | Ely, NV |
| Nevada Public Notice Website | www.notice.nv.gov |
| Nevada State Board of Medical Examiners: | https://medboard.nv.gov/ |

PLEASE NOTE:

- 1) Persons/facilities desiring copies of the Board's agenda must submit their request in writing every twelve (12) months. Check the address label for this agenda for expiration date.
- 2) With regard to any Board meeting, it is possible that an amended notice will be published adding new items to the original agenda. Amended notices will be posted in accordance with the Open Meeting Law.
- 3) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Board office in writing at 9600 Gateway Drive, Reno, NV 89521, or by calling (775) 324-9380, prior to the date of the meeting.
- 4) Anyone desiring supporting material for the meeting is invited to call Mercedes Fuentes at 775-324-9380. Supporting material for the meeting is available at the Board's office at 9600 Gateway Drive, Reno, Nevada.



Nevada State Board of Medical Examiners

Notice of Workshop to Solicit Comments on Proposed Regulations

The Nevada State Board of Medical Examiners (Board), located at 9600 Gateway Drive, Reno, Nevada 89521, (775) 688-2559, is proposing a regulation pertaining to Chapter 630 of the Nevada Administrative Code (NAC).

The public workshop has been set for 1:30 p.m., on Wednesday, October 19, 2022, at the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, and video conferenced to the Board's Reno office. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

- R177-22** Section 2 of this regulation authorizes a physician or physician assistant acting under the supervision of a physician to supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure that is within the scope of practice of the physician or physician assistant, as applicable. Section 3 provides that two members of an investigative committee constitutes a quorum such that committee business may occur. Section 4 removes the requirement that applicants pass a written examination on Nevada law and corrects certain statutory references. Section 5 allows physician assistant applicants who have been out of practice for 24 months or more to take an alternative examination designated by the Board to test medical competency, if necessary. Sections 6 and 7 allow the Board to charge reduced fees for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.
- R028-22** Section 2 of this regulation requires, with certain exceptions, a licensee to ensure a patient attendant is present: (1) during certain examinations of or procedures involving the genitalia, rectum, or breast of a patient; (2) upon the request of the patient; or (3) if the licensee desires the presence of the patient attendant. Section 2 additionally prescribes procedures relating to the attendance of an examination or procedure by a patient attendant. Section of this regulation includes the provisions of Section 2 within the standards of practice established by the Board. Section 3 of this regulation requires that an application for expedited license by endorsement as a physician assistant include proof that the applicant is currently certified by the National Commission on Certification of Physician Assistants. Section 4 adopts a code of ethics for perfusionists. Section 9 of this regulation makes conforming changes to comply with Section 4. Section 5 of this regulation updates references to statutes to conform with changes made during the 2019 Legislative Session. Section 7 of this regulation requires that physicians and physician assistants comply with state law governing records of birth and death, health records and the healing arts, and Sections 8 and 9 of this regulation require practitioners of respiratory care and perfusionist to comply with state law governing the healing arts. By prescribing these requirements in regulation, Sections 7 through 9, authorize the Board to impose discipline against a licensee who violates requirements applicable to the licensee. Section 7 updates the language for

physicians collaborating with advance practice registered nurses to “collaborate” from “supervise.”

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Board at 9600 Gateway Drive, Reno, Nevada 89521, and by telephone at (775) 688-2559. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on the Proposed Regulations has been sent to all persons on the agency’s mailing list for administrative regulations and posted at the following locations:

Washoe County Courthouse - Reno, NV

Nevada State Board of Medical Examiners - Reno, NV

Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse – Ely, NV

Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President

Edward O. Cousineau, J.D.
Executive Director



❖ **PUBLIC NOTICE** ❖

**NEVADA STATE BOARD OF MEDICAL EXAMINERS
REGULATION PUBLIC HEARING**

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

November 15, 2022 – 9:30 a.m.

*** AGENDA ***

Please Note:

- Persons wishing to attend this public hearing may do so at either of the above-listed locations.
- Agenda items, other than those items posted with a specific time, may be taken out of sequence or may be combined for consideration by the Deputy Executive Director to accommodate persons appearing at the public hearing and/or to aid in the effectiveness of the hearing.
- Items may be pulled or removed from the Agenda at any time.
- Certain Agenda items, or portions thereof, may be conducted in closed session, in accordance with NRS 241.030.
- Public comment is scheduled under Agenda Item 2, at the beginning of the meeting, and again under Agenda Item 5, at the end of the meeting, and may also be called for at other times throughout the meeting by the Deputy Executive Director. When these Agenda items are called, members of the general public may bring matters not appearing on this Agenda to the attention of the Deputy Executive Director. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than four (4) minutes.
- Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

1. Call to Order and Introductions

2. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

3. Public hearing on LCB File No. R177-22 (for discussion only)

*Public comment regarding LCB File No. R177-22 is welcomed and will be accepted.
Any written comment received by 9:30 a.m. on November 15, 2022, will be read into the record.*

4. Public hearing on LCB File No. R028-22 (for discussion only)

*Public comment regarding LCB File No. R028-22 is welcomed and will be accepted.
Any written comment received by 9:30 a.m. on November 15, 2022, will be read into the record.*

5. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

6. Adjournment (for possible action)

NOTICES POSTED AT THE FOLLOWING:

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|--|---|
| Washoe County Courthouse | Reno, NV |
| Elko County Courthouse | Elko, NV |
| Nevada State Board of Medical Examiners | Reno, NV |
| Nevada State Board of Medical Examiners | Las Vegas, NV |
| Office of the Attorney General | Carson City |
| Office of the Attorney General | Las Vegas, NV |
| Storey County Comm. | Virginia City, NV |
| White Pine County Courthouse | Ely, NV |
| Nevada Public Notice Website | www.notice.nv.gov |
| Nevada State Board of Medical Examiners: | https://medboard.nv.gov/ |

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- 2) With regard to any Board meeting, it is possible that an amended notice will be published adding new items to the original agenda. Amended notices will be posted in accordance with the Open Meeting Law.
- 3) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Board office in writing at 9600 Gateway Drive, Reno, NV 89521, or by calling (775) 324-9380, prior to the date of the meeting.
- 4) Anyone desiring supporting material for the meeting is invited to call Mercedes Fuentes at 775-324-9380. Supporting material for the meeting is available at the Board's office at 9600 Gateway Drive, Reno, Nevada 89521.



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

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

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 9:30 a.m., on Tuesday, November 15, 2022, at the Board's Reno office located at 9600 Gateway Drive, Reno, Nevada 89521, with video-conferencing to the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of three regulations that pertain to Chapter 630 of the Nevada Administrative Code.

R177-22 Section 2 of this regulation authorizes a physician or physician assistant acting under the supervision of a physician to supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure that is within the scope of practice of the physician or physician assistant, as applicable. Section 3 provides that two members of an investigative committee constitutes a quorum such that committee business may occur. Section 4 removes the requirement that applicants pass a written examination on Nevada law and corrects certain statutory references. Section 5 allows physician assistant applicants who have been out of practice for 24 months or more to take an alternative examination designated by the Board to test medical competency, if necessary. Sections 6 and 7 allow the Board to charge reduced fees for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

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

1. The need for and the purpose of the proposed regulation or amendment:

The proposed regulation is necessary to update existing regulations to be consistent with other provisions of law, to clarify existing requirements in the law, to address supervision by the Board's licensees related to SB291 from the 2021 Legislative Session, and provide for reduced fees for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:

The proposed regulation is not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:

A copy of this Notice and the proposed regulations to be amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this Notice and the proposed regulations to be amended will be available at the offices of the Board at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours and on the Board's website, <https://medboard.nv.gov/>. This Notice and the text of the proposed regulations 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 available on the Internet at <https://www.leg.state.nv.us/register/>. Copies of this Notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

a. Both adverse and beneficial effects:

The Board does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public.

b. Both immediate and long-term effects:

The Board does not believe that the proposed regulation will have an immediate or long-term direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public.

c. The methods used by the agency in determining the impact on small business:

The Board sent letters regarding the proposed regulations and requesting information regarding whether the proposed regulations would impact small businesses to the Better Business Bureau of Northern Nevada, the Better Business Bureau of Southern Nevada, multiple chambers of commerce offices in the State of Nevada, the Nevada State Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that these proposed regulations will impact small businesses.

d. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the proposed regulations will not result in an increased cost to the Board.

e. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

To the Board's knowledge, the proposed regulations do not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.

f. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The proposed regulations are not required pursuant to federal law.

g. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

To the Board's knowledge, the proposed regulations do not regulate the same activity addressed in a federal regulation.

h. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed regulations do not establish new fees or increase existing fees. Fees are reduced for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

i. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied:

The proposed regulations are not temporary.

Persons wishing to comment upon the proposed regulations of the Nevada State Board of Medical Examiners 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, 9600 Gateway Drive, Reno, Nevada 89521. Written submissions must be received by the Nevada State Board of Medical Examiners on or before 9:30 a.m. on Tuesday, November 15, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Medical Examiners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the Nevada State Library, Archives and Public Records, 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 Nevada State Board of Medical Examiners office located at 9600 Gateway Drive, Reno, Nevada 89521, and the Nevada State Board of Medical Examiners office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours, and on the Board's website, <https://medboard.nv.gov/>. 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 available on the Internet at <https://www.leg.state.nv.us/>. Copies of this Notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) days thereafter, shall 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:

Washoe County Courthouse - Reno, NV

Nevada State Board of Medical Examiners - Reno, NV

Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse - Ely, NV

Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

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

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 9:30 a.m., on Tuesday, November 15, 2022, at the Board's Reno office located at 9600 Gateway Drive, Reno, Nevada 89521, with video-conferencing to the Boards Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of three regulations that pertain to Chapter 630 of the Nevada Administrative Code.

R028-22 Section 2 of this regulation requires, with certain exceptions, a licensee to ensure a patient attendant is present: (1) during certain examinations of or procedures involving the genitalia, rectum, or breast of a patient; (2) upon the request of the patient; or (3) if the licensee desires the presence of the patient attendant. Section 2 additionally prescribes procedures relating to the attendance of an examination or procedure by a patient attendance. Section of this regulation includes the provisions of Section 2 within the standards of practice established by the Board. Section 3 of this regulation requires that an application for expedited license by endorsement as a physician assistant include proof that the applicant is currently certified by the National Commission on Certification of Physician Assistants. Section 4 adopts a code of ethics for perfusionists. Section 9 of this regulation makes conforming changes to comply with Section 4. Section 5 of this regulation updates references to statutes to conform with changes made during the 2019 Legislative Session. Section 7 of this regulation requires that physicians and physician assistants comply with state law governing records of birth and death, health records and the healing areas, and Sections 8 and 9 of this regulation require practitioners of respiratory care and perfusionist to comply with state law governing the healing arts. By prescribing these requirements in regulation, Sections 7 through 9, authorize the Board to impose discipline against a licensee who violates requirements applicable to the licensee. Section 7 updates the language for physicians collaborating with advance practice registered nurses to "collaborate" from "supervise."

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

- 1. The need for and the purpose of the proposed regulation or amendment:**

The proposed regulation is necessary to update existing regulations to be consistent with other provisions of law, to clarify existing requirements in the law, and to better protect both the public and physicians and physician assistants during patient examinations of the genitalia, rectum, or breast.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:

The proposed regulation is not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:

A copy of this Notice and the proposed regulations to be amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this Notice and the proposed regulations to be amended will be available at the offices of the Board at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours and on the Board's website, <https://medboard.nv.gov/>. This Notice and the text of the proposed regulations 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 available on the Internet at <https://www.leg.state.nv.us/register/>. Copies of this Notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

a. Both adverse and beneficial effects:

The Board does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. Potentially some physicians and physician assistants will have to ensure that patient attendants are present during examinations more frequently. However, the Board has been informed that many physicians and physician assistants already require patient attendants for examinations of patients' genitalia, rectum, or breasts. The Board believes that existing staff in most medical offices will be able to fulfill this role for those who may need to change their procedures to comply with Section 2.

b. Both immediate and long-term effects:

The Board does not believe that the proposed regulation will have an immediate or long-term direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. Potentially some physicians and physician assistants will have to ensure that patient attendants are present during examinations more frequently. However, the Board has been informed that many physicians and physician assistants already require patient attendants for examinations of patients' genitalia, rectum, or breasts. The Board believes that

existing staff in most medical offices will be able to fulfill this role for those who may need to change their procedures to comply with Section 2.

c. The methods used by the agency in determining the impact on small business:

The Board sent letters regarding the proposed regulations and requesting information regarding whether the proposed regulations would impact small businesses to the Better Business Bureau of Northern Nevada, the Better Business Bureau of Southern Nevada, multiple chambers of commerce offices in the State of Nevada, the Nevada State Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that these proposed regulations will impact small businesses. The Board has received an email from the Reno Sparks Chamber of Commerce in support of the regulation.

d. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the proposed regulations will not result in an increased cost to the Board.

e. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

To the Board's knowledge, the proposed regulations do not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.

f. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The proposed regulations are not required pursuant to federal law.

g. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

To the Board's knowledge, the proposed regulations do not regulate the same activity addressed in a federal regulation.

h. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed regulations do not establish new fees or increase existing fees.

i. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied:

The proposed regulations are not temporary.

Persons wishing to comment upon the proposed regulations of the Nevada State Board of Medical Examiners 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, 9600 Gateway Drive, Reno, Nevada 89521. Written submissions must be received by the Nevada State Board of Medical Examiners on or before 9:30 a.m. on Tuesday, November 15, 2022. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Medical Examiners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the Nevada State Library, Archives and Public Records, 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 Nevada State Board of Medical Examiners office located at 9600 Gateway Drive, Reno, Nevada 89521, and the Nevada State Board of Medical Examiners office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours, and on the Board's website, <https://medboard.nv.gov/>. 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 available on the Internet at <https://www.leg.state.nv.us/>. Copies of this Notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) days thereafter, shall 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:

Washoe County Courthouse - Reno, NV

Nevada State Board of Medical Examiners - Reno, NV

Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse - Ely, NV

Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>

NEVADA STATE BOARD OF MEDICAL EXAMINERS

9600 Gateway Drive
Reno, NV 89521

Aury Nagy, M.D.
Board President



Edward O. Cousineau, J.D.
Executive Director

❖ **PUBLIC NOTICE** ❖

**NEVADA STATE BOARD OF MEDICAL EXAMINERS
REGULATION PUBLIC HEARING**

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board of
Medical Examiners
9600 Gateway Drive, Reno, Nevada 89521

January 5, 2023 – 1:30 p.m.

*** AGENDA ***

Please Note:

- Persons wishing to attend this public hearing may do so at either of the above-listed locations.
- Agenda items, other than those items posted with a specific time, may be taken out of sequence or may be combined for consideration by the Deputy Executive Director to accommodate persons appearing at the public hearing and/or to aid in the effectiveness of the hearing.
- Items may be pulled or removed from the Agenda at any time.
- Certain Agenda items, or portions thereof, may be conducted in closed session, in accordance with NRS 241.030.
- Public comment is scheduled under Agenda Item 2, at the beginning of the meeting, and again under Agenda Item 5, at the end of the meeting, and may also be called for at other times throughout the meeting by the Deputy Executive Director. When these Agenda items are called, members of the general public may bring matters not appearing on this Agenda to the attention of the Deputy Executive Director. The Board may discuss the matters, but may not act on the matters at this meeting. If the Board desires, the matters may be placed on a future Agenda for action. In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than four (4) minutes.
- Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. See NRS 233B.126.

1. Call to Order and Introductions

2. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

3. Public hearing on LCB File No. R177-22 (for discussion only)

Public comment regarding LCB File No. R177-22 is welcomed and will be accepted. Any written comment received by 1:30 p.m. on January 5, 2022, will be read into the record.

4. Public hearing on LCB File No. R028-22 (for discussion only)

Public comment regarding LCB File No. R028-22 is welcomed and will be accepted. Any written comment received by 1:30 p.m. on January 5, 2023, will be read into the record.

5. Public Comment

Members of the public are invited to provide public comment. No action will be taken regarding this comment at this workshop. Public comment may be limited to four (4) minutes at the discretion of the Deputy Executive Director.

6. Adjournment (for possible action)

NOTICES POSTED AT THE FOLLOWING:

| | |
|--|---|
| Washoe County Courthouse | Reno, NV |
| Elko County Courthouse | Elko, NV |
| Nevada State Board of Medical Examiners | Reno, NV |
| Nevada State Board of Medical Examiners | Las Vegas, NV |
| Office of the Attorney General | Carson City |
| Office of the Attorney General | Las Vegas, NV |
| Storey County Comm. | Virginia City, NV |
| White Pine County Courthouse | Ely, NV |
| Nevada Public Notice Website | www.notice.nv.gov |
| Nevada State Board of Medical Examiners: | https://medboard.nv.gov/ |

PLEASE NOTE:

- 1) Persons/facilities desiring copies of the Board's agenda must submit their request in writing every twelve (12) months. Check the address label for this agenda for expiration date.
- 2) With regard to any Board meeting, it is possible that an amended notice will be published adding new items to the original agenda. Amended notices will be posted in accordance with the Open Meeting Law.
- 3) Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Board office in writing at 9600 Gateway Drive, Reno, NV 89521, or by calling (775) 324-9380, prior to the date of the meeting.
- 4) Anyone desiring supporting material for the meeting is invited to call or email Mercedes Fuentes at fuentesm@medboard.nv.gov or 775-324-9380. Supporting material for the meeting is available at the Board's office at 9600 Gateway Drive, Reno, Nevada 89521.



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

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

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 1:30 p.m., on Thursday, January 5, 2023, at the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, with video-conferencing to the Board's Reno office located at 9600 Gateway Drive, Reno, Nevada 89521. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of three regulations that pertain to Chapter 630 of the Nevada Administrative Code.

R177-22 Section 2 of this regulation authorizes a physician or physician assistant acting under the supervision of a physician to supervise an advanced esthetician in the performance of a nonablative esthetic medical procedure that is within the scope of practice of the physician or physician assistant, as applicable. Section 3 provides that two members of an investigative committee constitutes a quorum such that committee business may occur. Section 4 removes the requirement that applicants pass a written examination on Nevada law and corrects certain statutory references. Section 5 allows physician assistant applicants who have been out of practice for 24 months or more to take an alternative examination designated by the Board to test medical competency, if necessary. Sections 6 and 7 allow the Board to charge reduced fees for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

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

1. The need for and the purpose of the proposed regulation or amendment:

The proposed regulation is necessary to update existing regulations to be consistent with other provisions of law, to clarify existing requirements in the law, to address supervision by the Board's licensees related to SB291 from the 2021 Legislative Session, and provide for reduced fees for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:

The proposed regulation is not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:

A copy of this Notice and the proposed regulations to be amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this Notice and the proposed regulations to be amended will be available at the offices of the Board at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours and on the Board's website, <https://medboard.nv.gov/>. This Notice and the text of the proposed regulations 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 available on the Internet at <https://www.leg.state.nv.us/register/>. Copies of this Notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

a. Both adverse and beneficial effects:

The Board does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public.

b. Both immediate and long-term effects:

The Board does not believe that the proposed regulation will have an immediate or long-term direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public.

c. The methods used by the agency in determining the impact on small business:

The Board sent letters regarding the proposed regulations and requesting information regarding whether the proposed regulations would impact small businesses to the Better Business Bureau of Northern Nevada, the Better Business Bureau of Southern Nevada, multiple chambers of commerce offices in the State of Nevada, the Nevada State Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that these proposed regulations will impact small businesses.

d. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the proposed regulations will not result in an increased cost to the Board.

e. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency:

To the Board's knowledge, the proposed regulations do not overlap or duplicate the regulations of other state or local governmental agencies or any federal regulations.

f. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The proposed regulations are not required pursuant to federal law.

g. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

To the Board's knowledge, the proposed regulations do not regulate the same activity addressed in a federal regulation.

h. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed regulations do not establish new fees or increase existing fees. Fees are reduced for applicants for licensure by endorsement for practitioners of respiratory care or perfusionists if those applicants are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

i. If the proposed regulation is a temporary regulation, each address at which the text of the regulation may be inspected and copied:

The proposed regulations are not temporary.

Persons wishing to comment upon the proposed regulations of the Nevada State Board of Medical Examiners 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, 9600 Gateway Drive, Reno, Nevada 89521. Written submissions must be received by the Nevada State Board of Medical Examiners on or before 1:30 p.m. on Thursday, January 5, 2023. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada State Board of Medical Examiners may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the Nevada State Library, Archives and Public Records, 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 Nevada State Board of Medical Examiners office located at 9600 Gateway Drive, Reno, Nevada 89521, and the Nevada State Board of Medical Examiners office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours, and on the Board's website, <https://medboard.nv.gov/>. 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 available on the Internet at <https://www.leg.state.nv.us/>. Copies of this Notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty (30) days thereafter, shall 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:

- Washoe County Courthouse - Reno, NV**
- Nevada State Board of Medical Examiners - Reno, NV**
- Nevada State Board of Medical Examiners - Las Vegas, NV**
- Office of the Attorney General - Carson City, NV**
- Office of the Attorney General - Las Vegas, NV**
- White Pine County Courthouse - Ely, NV**
- Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>**



Nevada State Board of Medical Examiners

NOTICE OF INTENT TO ACT UPON REGULATION

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

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 1:30 p.m., on Thursday, January 5, 2023, at the Board's Las Vegas office located at 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, with video-conferencing to the Board's Reno office located at 9600 Gateway Drive, Reno, Nevada 89521. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of two regulations that pertain to Chapter 630 of the Nevada Administrative Code.

R028-22 Section 2 of this regulation requires, with certain exceptions, a licensee to ensure a patient attendant is present: (1) during certain examinations of or procedures involving the genitalia, rectum, or breast of a patient; (2) upon the request of the patient; or (3) if the licensee desires the presence of the patient attendant. Section 2 additionally prescribes procedures relating to the attendance of an examination or procedure by a patient attendance. Section of this regulation includes the provisions of Section 2 within the standards of practice established by the Board. Section 3 of this regulation requires that an application for expedited license by endorsement as a physician assistant include proof that the applicant is currently certified by the National Commission on Certification of Physician Assistants. Section 4 adopts a code of ethics for perfusionists. Section 9 of this regulation makes conforming changes to comply with Section 4. Section 5 of this regulation updates references to statutes to conform with changes made during the 2019 Legislative Session. Section 7 of this regulation requires that physicians and physician assistants comply with state law governing records of birth and death, health records and the healing arts, and Sections 8 and 9 of this regulation require practitioners of respiratory care and perfusionist to comply with state law governing the healing arts. By prescribing these requirements in regulation, Sections 7 through 9, authorize the Board to impose discipline against a licensee who violates requirements applicable to the licensee. Section 7 updates the language for physicians collaborating with advance practice registered nurses to "collaborate" from "supervise."

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

- 1. The need for and the purpose of the proposed regulation or amendment:**

The proposed regulation is necessary to update existing regulations to be consistent with other provisions of law, to clarify existing requirements in the law, and to better protect both the public and physicians and physician assistants during patient examinations of the genitalia, rectum, or breast.

2. If the proposed regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:

The proposed regulation is not temporary.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation:

A copy of this Notice and the proposed regulations to be amended will be on file at the Nevada State Library, Archives and Public Records, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this Notice and the proposed regulations to be amended will be available at the offices of the Board at 9600 Gateway Drive, Reno, Nevada 89521 and 325 E. Warm Springs Road, Suite 225, Las Vegas, Nevada 89119, for inspection and copying by members of the public during business hours and on the Board's website, <https://medboard.nv.gov/>. This Notice and the text of the proposed regulations 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 available on the Internet at <https://www.leg.state.nv.us/register/>. Copies of this Notice and the proposed regulations will also be mailed to members of the public at no charge upon request.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public:

a. Both adverse and beneficial effects:

The Board does not believe that the proposed regulation will have an adverse or beneficial direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. Potentially some physicians and physician assistants will have to ensure that patient attendants are present during examinations more frequently. However, the Board has been informed that many physicians and physician assistants already require patient attendants for examinations of patients' genitalia, rectum, or breasts. The Board believes that existing staff in most medical offices will be able to fulfill this role for those who may need to change their procedures to comply with Section 2.

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The Board does not believe that the proposed regulation will have an immediate or long-term direct economic effect on the business of the practice of medicine, respiratory care, or perfusion, nor will it have a direct economic effect on the public. Potentially some physicians and physician assistants will have to ensure that patient attendants are present during examinations more frequently. However, the Board has been informed that many physicians and physician assistants already require patient attendants for examinations of patients' genitalia, rectum, or breasts. The Board believes that

existing staff in most medical offices will be able to fulfill this role for those who may need to change their procedures to comply with Section 2.

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The Board sent letters regarding the proposed regulations and requesting information regarding whether the proposed regulations would impact small businesses to the Better Business Bureau of Northern Nevada, the Better Business Bureau of Southern Nevada, multiple chambers of commerce offices in the State of Nevada, the Nevada State Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that these proposed regulations will impact small businesses. The Board has received an email from the Reno Sparks Chamber of Commerce in support of the regulation.

d. The estimated cost to the agency for enforcement of the proposed regulation:

Enforcement of the proposed regulations will not result in an increased cost to the Board.

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To the Board's knowledge, the proposed regulations do not regulate the same activity addressed in a federal regulation.

h. Whether the proposed regulation establishes a new fee or increases an existing fee:

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Nevada State Board of Medical Examiners - Las Vegas, NV

Office of the Attorney General - Carson City, NV

Office of the Attorney General - Las Vegas, NV

White Pine County Courthouse - Ely, NV

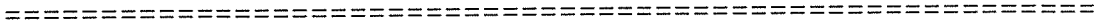
Nevada State Board of Medical Examiners Website: <https://medboard.nv.gov/>

TRANSCRIPT OF WORKSHOP

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NEVADA STATE BOARD OF MEDICAL EXAMINERS

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TRANSCRIPT OF PROCEEDING

REGULATION PUBLIC HEARING

WEDNESDAY, OCTOBER 19, 2022

Reno, Nevada

Reported by: Brandi Ann Vianney Smith

Job Number: 924074

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A P P E A R A N C E S

FOR NEVADA STATE BOARD OF MEDICAL EXAMINERS:

SARAH BRADLEY
Deputy Executive Director
Nevada State Board of Medical Examiners
325 E. Warm Springs Road, Suite 225
Las Vegas, Nevada 89119

MEMBERS OF THE PUBLIC:

ZOE HOUGHTON

1 RENO, NEVADA, WEDNESDAY, OCTOBER 19, 2022, 1:35 P.M.

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4 MS. BRADLEY: My name is Sarah Bradley, and I'm
5 the Deputy Executive Director for the Nevada State Board
6 of Medical Examiners.

7 It is October 19th, 2022, it's 1:35 P.M., and
8 we are here for a regulation workshop on two regulations
9 that the Board is proposing. The first one is R177-22,
10 and the second one is R028-22.

11 The first item on our agenda is, well, the call
12 to order that I just did, and then the second item, is
13 public comment, so now would be the time for the public
14 to provide any comment.

15 For the record, there is no one present from
16 the public in Las Vegas, which is where I am at. I'm
17 looking on the video screen, and I don't see anyone
18 present in Reno.

19 MS. FUENTES: We do have one more person that
20 came and signed in.

21 MS. BRADLEY: Okay. Maybe can that person come
22 up to the table? That way I can see.

23 MS. HOUGHTON: Yes. Okay.

24 MS. BRADLEY: We do have someone in Reno.

25 That's exciting. Did you want to provide any general

1 public comment?

2 MS. HOUGHTON: No. Thank you.

3 MS. BRADLEY: Okay. All right. Well, I'm
4 going to go ahead and move on then from that item.

5 And item number 3 is the presentation and
6 discussion of the proposed regulation R177-22. So what
7 I'm going to go ahead and do is just go through that
8 regulation, each of sections, and talk about the changes
9 there.

10 And then item 4 will be a time for
11 questions and answers on that. So if you have questions
12 in Reno about it, that would be the time for that.

13 And then item 5 would be any comment on that
14 regulation draft.

15 I'm going to go ahead and start. So Section 1
16 is just some prefatory language that is added by LCD to
17 regulation drafts; it doesn't actually have any
18 substance.

19 Section 2 is talking about the fact that if an
20 advanced esthetician is supervised by a physician -- and
21 this is a new law that was added effective January 1,
22 2022 -- that the services that the advanced esthetician
23 is doing are also within the scope and practice of the
24 physician.

25 And then added to that is if a physician

1 assistant is doing supervision, which NRS 6441A.545
2 allows that that -- those services are also within the
3 scope and practice of the physician assistant, and the
4 supervising physician is supervising that supervision and
5 aware of it.

6 And Section 3 is clarifying that two members of
7 an investigative committee designated pursuant to NRS
8 630.311 would be a quorum and allow the transaction of
9 business.

10 Section 4 is making some changes just to update
11 the requirements for applications, the points necessary
12 to apply for a license as a physician.

13 Section 5 is clarifying that if a physician
14 assistant is out of practice for 24 months or more --
15 it's actually been amended in different read to be 12 --
16 oh, excuse me, from 12 to 24. Excuse me. It is 24 now.
17 Gosh. It was 12.

18 So if they've been out of practice for 24
19 months and they have to take an exam to show competency,
20 that there could be an alternate exam designated by the
21 Board in that situation if they're certified by the
22 NCCPA.

23 Section 6 is providing for licensure by
24 endorsement for veterans, surviving spouses of veterans,
25 active duty as well, but they get a reduced fee if

1 they're applying for licensure as a practitioner or
2 respiratory care.

3 Then, similarly, Section 7 does the same thing
4 for perfusionists. So if a perfusionist is an active
5 duty member, a veteran, a spouse of an active duty member
6 or veteran, the initial issuance of a license, they would
7 pay one-half of the fee.

8 So that is R177-22. I don't know if there's
9 any questions about this regulation in Reno? No
10 questions from our member of the public? Okay. I'm not
11 seeing any.

12 So I'm now going to move to number 5, which is
13 public comment for regulation R177-22. Is there any
14 public comment on that regulation? Okay. I'm not seeing
15 any public comment for that.

16 So I am going to go ahead and move to item
17 number 6 on the agenda, which is the presentation and
18 discussion of proposed regulation R028-22. I'm going to
19 go ahead and discuss this regulation by section, and then
20 we'll do the same thing, questions and answers and public
21 comment.

22 So, again, Section 1 is prefatory language
23 drafted by LCD; it doesn't actually make any changes.

24 Section 2 creates a new provision that would
25 require licensee to have a patient attendant present when

1 they are visually or physically examining or doing a
2 procedure involving the genitalia, rectum, or breast of a
3 patient.

4 Also a procedure that might involve inserting
5 medical equipment or fingers or swabs or medication into
6 the vagina, penis, urethra, or rectum of the patient, or
7 if the patient lacks capacity to consent if the
8 representative requests the patient attendant be present.

9 And then also, if someone asks for it, there's
10 an optional allowance that a patient attendant could be
11 present just for a regular exam if that makes the patient
12 more comfortable.

13 And there's some requirements about who could
14 be a patient attendant pursuant to this regulation, and
15 the fact that the patient should know the role of the
16 patient attendant during that exam.

17 The patient attendant is to be informed that if
18 there's any suspected misconduct, that that is reported
19 directly to the Board.

20 And the patient attendant should be aware of
21 what the exam is supposed to be and what kind of things
22 should be done in that exam.

23 The patient attendant's name would be added to
24 the patient's records. So it would be the first and the
25 last name of the patient attendant in the medical record

1 of a patient.

2 And then contact information for patient
3 attendants present at clinical counters for that licensee
4 would be maintained in a list that would be available to
5 the Board upon asking/asked.

6 And there's exceptions here that a patient
7 attendant would be not be required during a mammogram
8 unless requested by the patient.

9 If the patient or their representative, if they
10 are not able to consent, declines the patient attendant
11 being there, they can have a written statement put in
12 their record that would, basically, say that they're
13 asking that there not be a patient attendant present.

14 And then if there's an emergency situation
15 where we just can't have this happen that quickly,
16 something's going on where we can't wait for a patient
17 attendant, then, obviously, the emergency care takes
18 precedence. So that would be an exception.

19 Section 3, this basically just says that
20 there's a new requirement for endorsement for physician
21 assistants expediting licensure by endorsement.

22 So now part of that application needed to
23 include the proof that the person is certified by the
24 National Commission, certification of physician
25 assistants.

1 I believe all new applications already have to
2 have that as well. We're just clarifying for the
3 endorsement application that they also have a
4 certification.

5 Section 4 adds a code of ethics, code of
6 conduct for perfusionists, which is required by law to be
7 included in the regulations.

8 Section 5 makes some updates to conform with
9 changing to the Nevada Revised Statutes that happened,
10 and just to make sure that the regulations correspond
11 with those changes.

12 Section 6 just adds in Section 2 of this
13 regulation, so the patient attendant say that that's part
14 of the standards of practice and something that licensees
15 would have to follow.

16 Section 7 just clarifies that it's not
17 supervision of an advance practice registered nurse by a
18 physician; it's collaboration. So we just wanted to
19 clarify "collaboration" with using that term.

20 Also in that section now is stating that
21 physicians and physician assistants have to comply with
22 all provisions of NRS 440 and NRS 629 that are applicable
23 to them. So we're just adding that to our regulation.

24 440 has to do with death certificates and
25 requirements for timely signing of those, and 629 has to

1 do with keeping medical records under the required
2 timeline and making sure they're available to patients
3 within the appropriate timeline as well.

4 Section 8, this adds for practitioners of
5 respiratory care that they also have to follow the
6 requirements of NRS Chapter 629 with regard to the
7 provision of medical records to a patient if requested,
8 also making sure that they're kept for the required
9 timeframe.

10 And Section 9 is the same thing for
11 perfusionists; it incorporates that code of conduct, and
12 then it also says that they have to follow NRS Chapter
13 629 with regard to records being kept timely and
14 appropriately as required for other health care
15 providers, and if that is not happening, that it's
16 grounds for discipline.

17 And then the last thing there is just
18 clarifying that if a perfusionist loses their
19 certification, their license to practice would be
20 suspended until -- basically, it says until further
21 action of the Board, but, really, it's probably going to
22 be until they get their certification back.

23 So that is the summary for R028-22. Are there
24 any questions on this regulation? No questions on this
25 regulation. I'm not seeing any. No. Okay.

1 Then the next part is going to be public
2 comment for proposed regulation R028-22. Any public
3 comment? No. Okay.

4 I'm going to go ahead, then, and move to item
5 9, which is this general public comment period. This
6 would be the time for any public comment to be provided
7 regarding any issue not related to these regulations.

8 I'm not seeing any public comment in Reno. No.
9 Okay. And we have no public comment here in Las Vegas.

10 So I'm going to go ahead and adjourn the
11 meeting then at 1:48 P.M. So we'll go ahead and adjourn.

12 And we will have the transcript made available
13 to anyone who asks, as well as we have the text of these
14 regulations, and we have contact information on the
15 agenda.

16 So if anyone has questions or wants to talk
17 about these regulations further, I would be glad to talk
18 to them.

19 We will adjourn. Thank you.

20 (Meeting adjourned at 1:48 P.M.)

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1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)

3

4 I, BRANDI ANN VIANNEY SMITH, do hereby certify:

5 That I was present on October 19, 2022, at the
6 Nevada State Board of Medical Examiners, 9600 Gateway Drive,
7 Reno, Nevada, and took stenotype notes of the proceedings
8 entitled herein, and thereafter transcribed the same into
9 typewriting as herein appears.

10 That the foregoing transcript is a full, true, and
11 correct transcription of my stenotype notes of said
12 proceedings consisting of 11 pages.

13 DATED: At Reno, Nevada, this 22nd day of October,
14 2022.

15

16 /s/ Brandi Ann Vianney Smith

17 _____
 BRANDI ANN VIANNEY SMITH

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**TRANSCRIPT OF
PUBLIC HEARING
ON 11-15-22**

In the Matter Of:

Nevada State Board of Medical Examiners

REGULATION PUBLIC HEARING

November 15, 2022

Job Number: 928745

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NEVADA STATE BOARD OF MEDICAL EXAMINERS

REGULATION PUBLIC HEARING

TRANSCRIPT OF PROCEEDINGS

Held at the Nevada State Board of Medical Examiners

9600 Gateway Drive

Reno, Nevada 89521

Videoconferenced to:

Offices of the Nevada State Board of Medical Examiners

325 East Warm Springs Road, Suite 225

Las Vegas, Nevada 89119

Tuesday, November 15, 2022

REPORTED BY:
NICOLE J. HANSEN
NV. CCR NO. 446
CAL. CSR 13909
RPR, CRR, RMR
Job No.: 928745

1 APPEARANCES:

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| 4 | 1. Call to Order and Introductions | 4 |
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| 6 | 2. Public Comment | 4 |
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| 9 | 3. Public hearing on LCB File No. R177-22 (For discussion only) | 5 |
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| 12 | 4. Public hearing on LCB File No. R028-22 (For discussion only.) | 11 |
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1 RENO, NEVADA; TUESDAY, NOVEMBER 15, 2022; 9:30 A.M.
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4 MS. BRADLEY: So it is 9:33, I think, on
5 Tuesday, November 15th, 2022. We are here for a public
6 hearing regarding a couple of regulations that the Board
7 is proposing. So I'm Sarah Bradley. I'm the Deputy
8 Executive Director for the Board.

9 So the first item on our agenda is just a
10 general public comment period. I do note that I think we
11 have one public member in Las Vegas and one here in Reno.
12 So if you have any general comment, not about the reg,
13 now is the time. I'm seeing no in Reno.

14 Any general public comment in Las Vegas?

15 MR. SCHWARTZ: Mine is probably more along
16 the lines of what's going on, so I was just -- some
17 general questions on if an aesthetician is able to fire a
18 laser without a physician. I don't know if that's
19 appropriate for questions or --

20 MS. BRADLEY: I think you might be wanting to
21 talk about maybe the one regulation. And honestly, the
22 question you're asking is not really one that I can
23 probably answer.

24 MR. SCHWARTZ: Okay.

25 THE COURT REPORTER: And if he could please

1 state his name for the record.

2 MS. BRADLEY: Would you state your name and
3 spell your last name.

4 MR. SCHWARTZ: Dana Schwartz:
5 S-C-H-W-A-R-T-Z.

6 MS. BRADLEY: So when we get to the
7 regulation regarding the advanced aesthetics, we'll talk
8 about that. But like I said, I'm not sure I can totally
9 answer your question. I think that might be more of a
10 scope-of-practice question.

11 MR. SCHWARTZ: Okay.

12 MS. BRADLEY: So then now we are going to
13 move to Item 3, which is the public hearing on LCB File
14 Number R177-22. And so this is where it's the time for
15 public comment on this regulation. I don't have any
16 written comment that I received, or else I would read
17 that into the record. But this is the regulation that
18 does talk about supervision of an advanced aesthetician
19 in the performance of non-ablative aesthetic medical
20 procedures, and then we also talk about a quorum for
21 Board business on the Investigative Committee, and we're
22 saying that that's two members.

23 And then there's some other changes that are
24 really just updating language to be consistent with other
25 changes that have been made relatively recently in

1 Section 4 and 5.

2 And then Section 6 and 7 are allowing if we
3 have applicants for licensure by endorsement for
4 practitioners of respiratory care or perfusionists, if
5 those are active members of or spouses of military
6 members or veterans or surviving spouses, that the Board
7 would just charge half of the application fee for those
8 folks. I don't know that we've really had any, but we're
9 just wanting to make sure we have that opportunity for
10 those people.

11 So this is the reg we're going to talk about.
12 So let me turn to it. So do I have any public comment on
13 this regulation: R177-22?

14 So I think your question, Mr. Schwartz, is
15 maybe about this one. So would you go ahead and state
16 your question again.

17 MR. SCHWARTZ: Yeah. I actually have a few,
18 but just questioning if an aesthetician is able to fire a
19 Class-4 laser with no physician at the moment.

20 MS. BRADLEY: Well, so you're saying
21 aesthetician not advanced aesthetician, so --

22 MR. SCHWARTZ: Advanced aesthetician. I'm
23 sorry.

24 MS. BRADLEY: Yeah. Because I think what
25 aestheticians can do is a question for the cosmetology

1 board, and what advanced aestheticians can do is a
2 question for the cosmetology board. So that's not a
3 question for me.

4 MR. SCHWARTZ: Okay. Fair.

5 MS. BRADLEY: What the purpose of this
6 regulation is -- and of course if you have questions, but
7 basically, what we're trying to say is that physicians
8 are doing supervision for advanced aestheticians that it
9 has to be something that physician is in their scope of
10 practice, right. So the idea is to say -- because
11 there's all kinds of physicians licensed in Nevada. And
12 the ones that should be supervising advanced
13 aestheticians, the work should be in their scope of
14 practice.

15 And then we're also talking here in this
16 regulation about physician assistants, and they are
17 allowed under 644A, which is the cosmetology board
18 statute. Okay. I don't know why the camera just
19 changed, but it did.

20 MR. ANDREAS: I'm just trying to make it so
21 that he can see you as well.

22 MS. BRADLEY: Oh.

23 MR. ANDREAS: He wasn't able to see you, so
24 I'm trying to flip it back so you can both see each
25 other. Sorry.

1 MS. BRADLEY: Okay. Sorry. Well and so 644A
2 allows physician assistants to do the supervision. And
3 so the intent here is just saying that because physician
4 assistants require a supervising physician to perform
5 medical services, they have to let their supervising
6 physician know and have approval from their supervising
7 physician before they supervise an advanced aesthetician.

8 So do you have any questions about this reg
9 or any comments --

10 MR. SCHWARTZ: No.

11 MS. BRADLEY: -- Mr. Schwartz?

12 MR. SCHWARTZ: No, I don't.

13 MS. BRADLEY: Okay. All right. So you're
14 not concerned about the reg? Are you an aesthetician?

15 MR. SCHWARTZ: I'm not. So I moved from
16 Missouri, and I'm in the process of building out a
17 business that I think this affects, so I'm having no luck
18 as far as reaching out to the cosmetology board or
19 anywhere else and to be honest, don't want to continue to
20 throw money at something that doesn't make sense. So
21 that's really my purpose of being here is -- but maybe
22 I'm in the wrong place. And that's fair as well.

23 MS. BRADLEY: Yeah. So we work -- this is
24 the medical board, and we license the physicians and
25 physician assistants who can do the supervision, but we

1 don't license the advanced aestheticians, and so I can't
2 really speak to what they can do other than to tell you
3 to check 644A.

4 MR. SCHWARTZ: Okay.

5 MS. BRADLEY: It lays out ablative and
6 nonablative procedures. The cosmetology board website
7 also has a list of procedures. They have a pretty
8 helpful website when it comes to this. So I would
9 suggest you look there if you haven't.

10 MR. SCHWARTZ: Okay.

11 MS. BRADLEY: And if you have signed in,
12 which I'm hoping you did --

13 MR. SCHWARTZ: I did.

14 MS. BRADLEY: And if you've given me an email
15 address, I will email the cosmetology board and include
16 you in and get you in touch with someone at the Board.

17 MR. SCHWARTZ: That would be fantastic. And
18 just to clarify, I think what I was under -- the way I
19 understood this was that there's possibly a change that's
20 taking effect to require nurse practitioners to do so
21 opposed to just the supervision? Am I still in the wrong
22 place?

23 MS. BRADLEY: Well, so there's another board
24 that licenses nurse practitioners, advanced practice
25 registered nurses. They are also allowed to do the

1 supervision. So again, so I guess what I would tell you
2 is if you start with 644A, that's the cosmetology board's
3 chapter, and that tells you what an advanced aesthetician
4 is. It also tells you who can supervise advanced
5 aestheticians. And physicians, physician assistants,
6 advanced practice registered nurses are all included in
7 the people that can supervise advanced aestheticians.

8 MR. SCHWARTZ: Okay.

9 MS. BRADLEY: When I say physician, and
10 you're new to Nevada, physician --

11 MR. SCHWARTZ: Yes.

12 MS. BRADLEY: -- could mean medical doctor,
13 which is what we license, M.D.s. It also can mean D.O.,
14 which is Doctor of Osteopathic medicine. That's a
15 different board.

16 MR. SCHWARTZ: Okay.

17 MS. BRADLEY: And they're also allowed. But
18 my job is just to say what M.D.s and P.A.s, licensed
19 physician assistants licensed by our Board can do, if
20 that makes sense.

21 MR. SCHWARTZ: Perfect. That makes sense.

22 MS. BRADLEY: So there are other people that
23 can supervise those advanced aestheticians that I don't
24 have authority to make a regulation about. Well, the
25 board --

1 MR. SCHWARTZ: Understood.

2 MS. BRADLEY: Well, my Board doesn't. And so
3 this is just for what our people can do.

4 MR. SCHWARTZ: Okay.

5 MS. BRADLEY: And like I said, if you signed
6 in, I'll get you in touch with someone at the cosmetology
7 board.

8 MR. SCHWARTZ: That's fantastic. I
9 appreciate it.

10 MS. BRADLEY: So any more questions on this
11 regulation? No? I'm seeing none. And so I think we
12 have no comment then, other comment then on this one, so
13 I will go ahead then and move us to the next item.

14 MR. SCHWARTZ: I can just go?

15 MS. BRADLEY: Yes, if you'd like to go, sir,
16 Mr. Schwartz, you can. And like I said, I'll email you
17 afterwards.

18 MR. SCHWARTZ: Thank you so much. I
19 appreciate your time.

20 MS. BRADLEY: Thank you. So we are going to
21 move on to Item Number 4, which is the public hearing on
22 LCB File Number R028-22. Again, this is the time for
23 public comment regarding this regulation. And I guess I
24 would ask: Do I have any public comment on this
25 regulation? And I'm seeing here in Reno, I don't.

1 This regulation requires that patient
2 attendants be present during examinations of visual or
3 physical examinations of or procedure involving the
4 genitalia, rectum or breasts of a patient unless the
5 patient actually declines to have that person present or
6 there's an emergency situation where they're not able to
7 have that occur. And yeah, so no comment, I guess.

8 Okay. Then we will go ahead and move to
9 public comment. Item Number 5, which is another general
10 public comment period. Do I have any public comment?
11 I'm seeing not here in Reno. So we will now then adjourn
12 at I think it's 9:44. So thank you so much, everyone.

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1 STATE OF NEVADA)
COUNTY OF WASHOE)

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4 I, Nicole J. Hansen, Certified Court Reporter,
5 State of Nevada, do hereby certify:

6 That prior to being examined, the witness in the
7 foregoing proceedings was by me duly sworn to testify to
8 the truth, the whole truth, and nothing but the truth;

9 That said proceedings were taken before me at
10 the time and places therein set forth and were taken down
11 by me in shorthand and thereafter transcribed into
12 typewriting under my direction and supervision;

13 I further certify that I am neither counsel for,
14 nor related to, any party to said proceedings, not in
15 anywise interested in the outcome thereof.

16 In witness whereof, I have hereunto subscribed
17 my name.

18

19 Dated: November 15, 2022

20 *Nicole J. Hansen*
21 -----

22 Nicole J. Hansen

23 NV. CCR No. 446, RPR, CRR, RMR

24 CA. CSR 13,909

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**TRANSCRIPT OF
PUBLIC HEARING
ON 1-5-23**

In the Matter Of:

Nevada State Board of Medical Examiners

TRANSCRIPT OF PROCEEDINGS

January 05, 2023

Job Number: 941080

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NEVADA STATE BOARD OF MEDICAL EXAMINERS

REGULATION PUBLIC HEARING

TRANSCRIPT OF PROCEEDINGS

Conference Room at the Offices of the Nevada State Board
of Medical Examiners

325 East Warm Springs Road, Suite 225

Videoconferenced to:

Conference Room at the Offices of the Nevada State Board
of Medical Examiners

9600 Gateway Drive

Reno, Nevada 89521

JOB NO. 941080
REPORTED BY:
NICOLE J. HANSEN
NV. CCR NO. 446
CAL. CSR 13909
RPR, CRR, RMR

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1 RENO, NEVADA; THURSDAY, JANUARY 5, 2023; 1:30 P.M.
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4 COUNSEL CONTINE: Good afternoon. I'm Deonne
5 Contine. I'm the general counsel for the Medical Board.
6 Sarah Bradley is out ill, so I'm pinch-hitting for her
7 conducting this hearing.

8 Just to kind of go over process and to make
9 sure you know that theres's information at the table and
10 available if you want a copy of the regulation, the
11 notice, all of the public comment that was submitted. We
12 received five, I think five written comments from the
13 Nevada State Medical Association, the OB-GYN Association,
14 the Clark County Medical Society, and Ann Silver at the
15 Reno-Sparks Chamber and then Dr. Reeves.

16 If there's any other public -- if there's any
17 other written comment, if somebody thinks that they
18 submitted comment, written comment or they want to submit
19 a written comment additionally, we will keep written
20 comment submissions open until the end of the month until
21 January 31st, and so you can submit that written comment
22 to BradleyS@medboard.nv.gov if you have additional
23 written public comment.

24 I just wanted to give a little background too
25 and talk about the process where we are and where we go

1 from here. This is the public hearing required by NRS
2 233B prior to the way the agency puts forward their
3 regulations to the Board, so this hearing is done and
4 then the Board does the review. So all of the
5 information, all of the testimony, all of the transcript
6 from today's meeting and any other meeting, the written
7 comment, the public comment, it will all be compiled and
8 presented to the Board for discussion at that March
9 meeting, and they will give staff guidance on how to
10 proceed or whether to proceed at that time.

11 I think that's all the introductory comments
12 that I wanted to make just so we were clear on process
13 and where we're going from here. I'm going to turn to
14 the agenda and go to public comment. This is general
15 public comment on anything under the jurisdiction of the
16 Board that isn't on the agenda today.

17 Is there any public comment in Las Vegas?

18 Is there any public comment in Reno? Okay.

19 I'll move onto Item Number 2. We have two
20 regulations on the agenda today, so I'll open the hearing
21 on LCB File Number R177-22. Is there anybody in Las
22 Vegas that wants to comment on that regulation?

23 DR. HAVINS: Yes.

24 COUNSEL CONTINE: Go ahead, sir.

25 DR. HAVINS: Okay. I'm a licensee of the

1 Board --

2 COUNSEL CONTINE: We have a court reporter
3 transcribing, so could you state slowly and spell your
4 name slowly for the record. Thank you.

5 DR. HAVINS: Sure. First name is Weldon:
6 W-E-L-D-O-N. Last name is Havins: H-A- V, as in Victor,
7 -I-N-S, as in Sam.

8 COUNSEL CONTINE: Thank you.

9 DR. HAVINS: I want to comment on LCB File
10 Number R177-22, particularly the portion that says
11 existing regulations will require applicant to pass a
12 written exam concerning the statutes and regulations
13 relating to the practice of medicine in this state. And
14 that is to be removed.

15 I can understand why this may be considered a
16 bit of an impediment from a licensee's point of view, but
17 on the other hand, there are many laws that the licensees
18 are required to be in compliance such as NRS and NAC 630,
19 639, 453, 454, 629, 629A, 432, and 439B, just offhand.
20 So if they are unaware of these mandates, then they're
21 much more likely to transgress and be subject to
22 licensure discipline.

23 So if you're going to remove that, one of the
24 suggestions were made here by physicians was perhaps they
25 should attest that they have read and are familiar with

1 these statutes and regulations governing the practice of
2 medicine in Nevada including reporting requirements which
3 are scattered somewhat in other statutes. So just
4 because generally, there's not health law courses where
5 in medical school or residency where people will be
6 required to be familiar with all of these requirements,
7 especially if they're coming in from out of state, they
8 should be familiar with Nevada law.

9 So if you're going to take it out -- and that
10 may be the wise thing to do -- just to have them sign
11 something that says they have reviewed or they're aware
12 of these laws and regulations governing the practice of
13 medicine because they're going to be held to that
14 standard if they violate them.

15 COUNSEL CONTINE: Great. Thank you, sir.

16 Is there any other public comment in Las
17 Vegas on LCB File Number R177-22? Is there any public
18 comment in Reno?

19 Okay. So we'll move on to Item Number 4
20 public hearing on LCB File Number R028-22. I'll open the
21 public hearing. I'll open it up in Las Vegas first if
22 there's comment. Go ahead, sir.

23 DR. EISEN: Good afternoon.

24 COUNSEL CONTINE: Hi.

25 DR. EISEN: My name is Dr. Andrew Eisen:

1 E-I-S-E-N. I'm a licensee of the Board, number 8263, and
2 I am here primarily representing the Nevada State Medical
3 Association, of which I am president. I did submit a
4 written statement in advance of the meeting. I will not
5 read that verbatim now, but I would like to just mention
6 a couple of highlights and some additional thoughts if
7 that's okay with you, Mr. Madame Chair.

8 COUNSEL CONTINE: That would be great.
9 Thanks.

10 DR. EISEN: So the Nevada State Medical
11 Association first and foremost understands the concerns
12 of the Board that led to the promulgation of this
13 regulation. And we, as the Board, have as our first
14 priority the protection and safety and good care of
15 patients.

16 Our concerns here arise from the specifics of
17 the regulation as currently proposed, and we feel that a
18 number of issues arise from that. Primarily, we feel
19 that the requirements of an additional person in the room
20 for these sensitive examinations: Breast, genital,
21 rectal exams, is an imposition on the physician/patient
22 relationship and removes control of the environment from
23 the patients as it should be the explicit prohibition of
24 the trusted person in the room being a family member of
25 the patient is of concern.

1 We feel that it's important that patients are
2 made aware of their rights to have a chaperon present for
3 these kinds of exams and also understand that it may be
4 necessary for the physician to bring additional personnel
5 into the room for the performance of an exam or a
6 procedure on these areas, but the patient should be in as
7 much practical control of that as possible.

8 There are a number of examples that my
9 members have raised of situations in which this may be
10 problematic, and I could share a couple of those at the
11 moment.

12 One special concern to me as a pediatrician
13 is if I am performing an examination on say a pre-teen
14 girl who is -- and I'm doing that examination for
15 suspected sexual abuse, this is already a very difficult
16 and stressful environment for her. I would want her to
17 have a trusted person in the room, a family member or a
18 friend or another advocate, and I would need another
19 person in the room to help me with that exam and these
20 laws, etcetera, to require another person in the room
21 whose primary responsibility is not the performance of
22 the procedure or the examination but to be an attendant
23 is now another person in that room who is another
24 stranger to this preadolescent who is in a very difficult
25 and stressful and frightening environment. And we think

1 that there should simply be more control on behalf of
2 that patient as to who is in that room.

3 We are also concerned with the language of
4 the resolution itself of the regulation -- I apologize --
5 of the regulation itself, the instructions to the
6 attendant which talk about their primary responsibility
7 being to protect the patient from inappropriate behavior
8 on the part of a physician including sexual impropriety.
9 That implies to the patient attendant and by extension
10 the patient that every physician licensee is
11 untrustworthy and is a risk to them, and we feel that
12 that undermines the relationship between the physician
13 and the patient, and we feel that that language is
14 unnecessarily inflammatory toward physicians.

15 We're also concerned about the breadth of the
16 regulation in that this would apply only to MD physicians
17 and not to other licensed physicians in the state. It
18 also would not apply to other non-physician healthcare
19 professionals, and it's important to us that patients
20 understand that their rights are consistent, whether the
21 examiner or the proceduralist is an M.D., a D.O., a P.A.,
22 an advanced practice registered nurse or anyone else who
23 may have reason to examine their genitals, rectum or
24 breast.

25 Again, our bottom line here is certainly that

1 we recognize the concern and we would offer our
2 assistance to work with the members of the Board to craft
3 guidance for licensees and regulations if it's deemed to
4 be necessary to insure that patients are always cognizant
5 of their rights and that patients are always made to feel
6 safe and comfortable, and we are available at any time to
7 assist with that.

8 COUNSEL CONTINE: Thank you, Dr. Eisen, for
9 your comments.

10 DR. EISEN: Thank you. And I would entertain
11 any questions if there are any.

12 COUNSEL CONTINE: I don't have any.

13 DR. EISEN: Okay.

14 COUNSEL CONTINE: Thank you. Is there any
15 other comment?

16 DR. FIORE: Hi. Good afternoon. My name is
17 Nicholas Fiore: N-I-C-H-O-L-A-S. F-I-O-R-E. I'm a
18 member of the Board of Medicine, and I am the president
19 of the Clark County Medical Society and currently an
20 individual physician in private practice in pediatric
21 surgery as well. And I believe that our letter has been
22 submitted, and I just wanted to make certain that you
23 have a letter from Clark County Medical Society which
24 supports the comments and concerns of the Nevada State
25 Medical Association.

1 And I want to add to the record that we have
2 discussed this with our board of trustees during an open
3 meeting as well as we have sent copies of this to our
4 members. Additionally, we put this out in our monthly
5 newsletter a description of this, and we've heard from
6 different members. And essentially, they've all had the
7 same opinion and support the statement made by Dr. Eisen.

8 And I would just like to, if I may, just make
9 another statement as a personal physician and as a
10 pediatric surgeon. So this is not as president of Clark
11 County Medical Society. This is a personal statement of
12 mine and just ultimately a question or concern or
13 whatever you want to call it, but we regularly examine
14 newborns. And as a pediatric surgeon, it's essential
15 that we examine the genitalia. And it's essential that
16 we examine the anus and probe the anus because not all
17 kids are born with an anus, an anal opening or an anus at
18 all.

19 And during these examinations, I'm not
20 exactly sure how we can certainly have a nurse there, but
21 I'm trying to figure out the implications of this. Many
22 times, the parents are there often, you know,
23 occasionally in the hospital setting which I'm not even
24 sure whether it this applies to a hospital setting or
25 not. I guess I'm assuming it does. What are we to do in

1 those situations?

2 In addition, some babies that we examine are
3 intersex, and so we don't know what sex they are. We
4 don't have the chromosomes yet, so we're not even able to
5 tell. And how we would we definitively apply these rules
6 and correctly apply these rules in this regulation? It
7 just creates a question for me. I know that's a very
8 specific circumstance but, you know, it is something that
9 comes to mind, and I wanted to personally as a physician
10 and as a pediatric caregiver, you know, there's no
11 greater support for the patient than the parent.

12 And, you know, I just wonder if this really
13 undermines them. I know the intention is to protect the
14 patient and that's what we take an oath to do, but I just
15 wanted to put those thoughts out there, and I'm happy to
16 entertain any questions.

17 COUNSEL CONTINE: Thank you for your
18 comments. No questions.

19 DR. FIORE: Thank you.

20 COUNSEL CONTINE: Is there any other public
21 comment in Las Vegas?

22 DR. FORMAN: My name is Mitchell Forman:
23 F-O-R-M-A-N. I'm an osteopathic physician, and I'm here
24 today as the president-elect of the Clark County Medical
25 Society. I have some questions regarding the scope of

1 the problem. It was difficult for me to comprehend why a
2 change was needed when as the Board identified as the
3 scope of the problem, the frequency, the prevalence.

4 COUNSEL CONTINE: I could give my
5 understanding of this issue. This is about my about
6 sixth day, seventh day here, but I watched some other
7 hearings, so it's my understanding that in the discipline
8 cases, a lot of the guidance that the Board has been
9 providing has to do with having chaperons or some
10 allegations that if there was a chaperone or a patient
11 attendant in the room that some of the issues and
12 concerns could be alleviated that way.

13 And so I believe some time ago, there was
14 discussion with the Board about that, and they directed
15 staff to kind move forward and go through this process.
16 So that's the genesis, I believe, of this regulation.

17 DR. FORMAN: Again, I wonder: Has there been
18 a change from previous years regarding the frequency of
19 these reports? I assume it's reports by patients to the
20 Board of although you talk about other things than sexual
21 reports, some other reports which I'm not clear on what
22 they are. Has there been an increased frequency,
23 significant increased frequency of these reports?

24 COUNSEL CONTINE: I'm sorry.

25 DR. FORMAN: The last thing I listened to

1 online, the question, basically the same question was
2 answered. And the response was: It's more than a
3 handful. I mean, I find that a terrible answer, quite
4 honestly, and I'd appreciate it if we had some idea of
5 how prevalent this problem is in terms of the numbers.

6 COUNSEL CONTINE: Yeah. I'm sorry. I can't
7 answer that question for you right now. There might be
8 some opportunity to have some discussion at the Board
9 meeting regarding that.

10 DR. FORMAN: I think it would be pretty
11 important to hear that.

12 The other question I have is when a report is
13 made to the Board, in terms of the investigation and the
14 resolution of it, generally how long does that take? Is
15 there a backlog of reports that are being investigated
16 beyond a couple weeks, a couple of months or so? I'm not
17 aware of that.

18 COUNSEL CONTINE: I don't know the numbers at
19 this point. The investigative process can take --
20 depending on the complexity of the case -- six months to
21 a year, and then if there's a --

22 EXECUTIVE DIRECTOR COUSINEAU: Deonne, we're
23 not here to talk about the investigative process. We're
24 here to talk about the regulations.

25 COUNSEL CONTINE: Yeah. I can't really talk

1 to it. You know, it's a process that just like any other
2 process where the information is gathered and decisions
3 are made about how to move forward.

4 DR. FORMAN: And having -- well, two other
5 questions. One is I agreed with Dr. Eisen's response
6 regarding the gender issue which is much more complex and
7 it creates some problems in terms of evaluating a patient
8 in terms of what they feel their gender identity is,
9 which I think needs to be respected, of course.

10 The other question has to do with I've been
11 in practice for 44 years as a rheumatologist and an
12 internist, so I'm responsible for evaluating the entire
13 patient not just joints. And in that period of time,
14 I've seen adolescents, I've seen men and women in the
15 traditional biologic sense, and I've always had someone
16 in the room with me when an examination required
17 evaluation of breasts, when there was breast implant
18 litigation as some of you may know a number of years ago
19 in the '90s that involves a complaint of rectal problems
20 in terms of skin rashes that might involve the genitalia
21 with vasculopathy, and I always had an office member that
22 was present with the patient's knowledge and agreement in
23 the room with me at that time.

24 And speaking with my colleagues, the sense
25 I've had over 44 years is that everybody is doing the

1 same thing. And I just would like to understand why that
2 is not enough to continue doing right now.

3 The other issue has to do with just a normal
4 cardiac examination. In women, particularly who have
5 pendulous breasts, large breasts, in order to
6 appropriately examine the heart with the stethoscope,
7 it's necessary for either the patient or for the
8 healthcare provider to lift up the breast so the
9 healthcare provider can listen adequately to the heart
10 and the sounds of the heart, and that's potentially an
11 issue with a normal cardiac examination. And I wonder if
12 that is an issue that needs to be more appropriately
13 addressed by the Board as well.

14 And in terms of most of our office is -- I
15 think this is a true statement. Most women who are
16 visiting the office, in my experience, very few offices
17 have men who are either nurses, medical assistants, and I
18 realize that this may not reflect everyone's situation,
19 but that's been the case -- will we be required to hire
20 someone and pay them. And is that not a conflict of
21 interest: The fact that they know that they're being
22 paid by someone who they're overseeing and would have to
23 make a report, you know, seems to me to be an issue as
24 well. I'd be happy to answer any questions or go on my
25 way.

1 COUNSEL CONTINE: No, sir, but thank you for
2 your comments.

3 Go ahead, sir.

4 DR. HAVINS: Weldon Havins: W-E-L-D-O-N
5 H-A-V-I-N S, as in Sam.

6 So extending a little bit on what Dr. Forman
7 said, I've really been in a place where the problem is
8 delineated such that the solution to the problem is this
9 regulation.

10 The regulation seems perhaps to be overbroad
11 in one sense. The regulation only applies to members of
12 the Nevada Board of Medical Examiners. It does not
13 affect licensees of the Nevada Board of Osteopathic
14 Medicine, it doesn't affect the licensees of Nevada State
15 Board of Nursing or any other occupational board. So
16 someone may conclude that the problem rests with
17 licensees of the Nevada Board of Medical Examiners.

18 If this is an identified problem and the
19 solution is this regulation or something similar to it,
20 then it would seem to be appropriate to put this into
21 statute so that it governs all licensees in Nevada who
22 see patients and are doing these types of examinations.
23 It does not seem to apply to people that do --
24 specifically to individuals that do breast screenings or
25 to x-ray techs. So this is restricted just to licensees

1 of Nevada Board of Medical Examiners.

2 The questions at the Interim Health
3 Committee, I think, Sarah Bradley, who is an excellent
4 attorney and hard worker, said that the basis of the
5 regulation was complaints made to the Nevada Board of
6 Medical Examiners.

7 I've recently done a four-year term on the
8 Board, and I didn't -- I was on an Investigation
9 Committee for a while. I didn't see a large number of
10 these complaints come through. It may be they were
11 handled before they got to the Investigative Committee.
12 And so it's hard to know whether or not is this a few
13 individuals that are being involved in inappropriate
14 activity? If that's the case and that has been the case
15 in a few instances in the past and the Board has taken
16 action on them and an investigation, they're under
17 monitorship now if they haven't had more severe licensure
18 sanctions.

19 It seems like the Board is doing their job
20 now in receiving these complaints and processing them
21 appropriately and disciplining doctors that are
22 potentially abusive.

23 Requiring a patient attendant for every
24 patient unless the patient declines in writing seems to
25 create a non-funded Band-Aid. There are many other

1 concerns that have been expressed to some of us. Several
2 plastic surgeons have contacted me and said all my staff
3 are female, but occasionally I see a male with a breast
4 mass, so I would have to hire a person to be a patient
5 attendant for this male who needs to have his breasts
6 examined.

7 So there's nothing about this just being
8 related to females, but it's across the board. I've also
9 expressed some concern about those that are of the same
10 gender, and we have trans people more and more commonly
11 and whom do we select? Is that going to require a trans
12 attendant? That's been brought up as a concern. So it
13 seems that it's an unfunded mandate.

14 The proposed regulation questions here say
15 that the Board believes that this would not be costly to
16 most physicians, but it's going to be a concern to some
17 physicians because they're going to have to hire other
18 individuals to serve as patient attendants.

19 The patient attendant is to report
20 immediately to the Nevada Board of Medical Examiners any
21 suspected misconduct. That's a requirement in this
22 regulation, but the Nevada Board of Medical Examiners
23 does not have any jurisdiction over this patient
24 attendant who is an employee of the physician or the
25 client. So, as Dr. Forman said, that seems to create a

1 conflict. And then having no legal basis to sanction
2 someone that doesn't perform -- a patient attendant
3 doesn't report seems to take away the effectiveness
4 potentially of a patient attendant.

5 It's going to require additional medical
6 records requirements. One of the most common sanctions
7 that physicians receive are for medical record
8 requirement violations, and this would seem to add to
9 that if they didn't include the name of the physician
10 attendant, for instance, or keep records of the patient
11 attendants in another form or to have a patient examine
12 -- decline to have a patient attendant but didn't create
13 a signed writing. That would be a violation. That could
14 affect licensure sanction.

15 So I think that if there is an identified
16 problem and this is the solution to that problem, it
17 would be good to identify to the public what that problem
18 is, that it's not just a few doctors, but it must be
19 fairly pervasive because the solution is pervasive,
20 affecting all licensees of the Nevada Board of Medical
21 Examiners.

22 There was a report of the Federation of State
23 Medical Boards put out in 2020, and they had some
24 suggestions on this. It's called physician sexual
25 misconduct, and I just want to read into the record some

1 of the statements in there.

2 It says the State Medical Board should place
3 a high priority on investigation of complaints of sexual
4 misconduct due to patient vulnerability unique to such
5 cases. And the Board's concerned they do that. It is
6 part of the policy if it hasn't already. It may be that
7 the Board is doing that.

8 Each complaint should be investigated, judged
9 on its own merits. Where permitted by state law, an
10 investigation should include a review of previous
11 complaints to identify any patterns of behavior. And as
12 far as we know, the Board likely is doing that. If the
13 State Medical Boards have access to investigators of
14 different genders, the Board should seek --

15 COUNSEL CONTINE: I'm sorry. The court
16 reporter is trying to get down what you're saying, and so
17 when you read quickly through a text, she can't get it
18 down. So to the extent that you're going to read
19 information from that document, can you just slow it down
20 a little bit?

21 DR. HAVINS: Okay. Yes. Thank you.

22 Where state medical boards have access to
23 investigators of different genders, the Board should seek
24 the complainant's preference regarding the gender of the
25 investigators and assign them. And that may well be. I

1 know in the south, they've had male and female
2 investigators.

3 Following a finding of sexual misconduct, if
4 a license is not revoked or suspended, it is essential
5 that a state medical board establish appropriate
6 monitoring of physicians and their continued practice.
7 That, I believe, the Board is doing currently.

8 This article or this publication of the
9 Federation of State Medical Boards does distinguish
10 between a chaperone and a monitor, and monitors are being
11 used by the Board of Medical Examiners now. Generally, a
12 finding has been made through an agreement with the
13 physician.

14 Again, this Federation of State Medical Board
15 said practice monitors should only be used if the
16 following conditions have been met. The practice monitor
17 has undergone formal training involving their role
18 including their primary responsibility and direct
19 reporting to the State Board. That's a monitor they're
20 talking about rather than a chaperon. We don't use
21 either term in the proposed regulation. We use "patient
22 attendant," so I'm not sure where the patient attendant
23 falls on that spectrum.

24 Here in the article, it says it's highly
25 recommended that all practice monitors have clinical

1 backgrounds. That's nice, but I don't know if patient --
2 how difficult it will be to find patient attendants that
3 have clinical backgrounds. The patient monitor should be
4 approved by the State Medical Board.

5 If you're going to approve patient
6 attendants, then it's going to require a good deal of
7 work administratively on the part of the Nevada Board of
8 Medical Examiners, and these cannot be an employee or a
9 colleague of a monitored physician. But under the
10 patient attendant, they are going to be employees of the
11 physician or the clinic.

12 And then in here, the practice monitor has
13 been trained in the safe and appropriate way to intervene
14 during a clinical encounter where there is confidence of
15 inappropriate behavior on the part of the physician.

16 For a patient attendant to disrupt an exam,
17 it would seem they're going to have to be very familiar
18 with that specialty and what is involved in that exam in
19 order to interrupt that procedure on a patient. And then
20 here, it says: The patient monitor submits regular
21 reports to the state medical board regarding the
22 monitored physician compliance and monitoring
23 requirements.

24 So again, if that patient attendant is to do
25 that, that creates another layer of administrative work

1 for the Board. I am not sure that that's necessary to
2 address the problem, but we don't have specifics on the
3 problem, how pervasive the problem is, whether it's a few
4 physicians. If it is, then they need to be identified
5 and educated or dealt with in licensure discipline
6 actions. So I'm just concerned about the breadth of this
7 regulation and that it may cause potentially more harm
8 than good.

9 Will there be physicians that just forego
10 doing breast exams and genital exams, and if so, what
11 foreseeable consequences will there be of that? Are we
12 going to have breast masses that are discovered much
13 later? Are there going to be more advanced prostate
14 cancers before they're discovered? Are there going to be
15 an increase in carcinoma of the cervix because physicians
16 just don't want to do that because of the potential
17 liability to them through the licensure disciplinary
18 process? I don't know the answers to those, but if we
19 could define the problem, I think you might be able to
20 more narrowly focus the solution. Thank you for
21 listening.

22 COUNSEL CONTINE: Thank you for your
23 comments.

24 Is there any other comment in Las Vegas?

25 DR. FORMAN: There was one other what I think

1 is an important commentary. This is Mitchell Forman:

2 F-O-R-M-A-N. I spoke a little while ago.

3 As with most issues in medicine, patient
4 education and education of students of medical students,
5 P.A.'s, nurse practitioners, is a very important part of
6 our job. Dr. Havins and I, in fact, for the last 18
7 years have given lectures on ethics, professionalism and
8 legal aspects of medicine where we've created videos with
9 the UNLV Performing Arts Center. We have created videos
10 that demonstrate the situations that are described in
11 this new legislation and given this internationally,
12 nationally, and locally as part of the requirements now
13 for licensure in our state. And we deal with this on the
14 level of medical students have courses that deal with it.

15 So I think a proposal should involve at least
16 educating those who ultimately become healthcare
17 providers, and that would be through my thinking and
18 Dr. Havins, I know, has felt the same. That's why we
19 devoted so much time to this. I feel the same way about
20 education as a way of preventing some of the things
21 you're talking about, and we're doing that now. And it's
22 required for licensure. Thank you.

23 COUNSEL CONTINUE: Thank you. Anybody else in
24 Las Vegas? Does anybody in Reno want to make public
25 comment?

1 DR. HALD: Hello. I'm Sherry Hald: H-A-L-D.
2 I'm an OB-GYN here in Reno. And first, just a comment
3 that I would agree with Dr. Havins and Dr. Forman that it
4 would be beneficial to the Nevada State Medical Community
5 to understand the scope of the perceived problem with
6 statistics. Also, to provide information about how
7 violations have been managed in the past and present. At
8 times, there may be a component of that that could be a
9 deterrent for inappropriate behavior. So that's more of
10 a comment just on the scope of the problem.

11 Regarding the requirement of an attendant,
12 from an OB-GYN standpoint, there are many circumstances
13 that I have personally faced and on a daily basis where I
14 am alone with a female patient and perform certain
15 components of an exam just with my patient.

16 I think there's different generational
17 experiences here, and many of our younger female
18 physicians have, if you will, grown up with an attendant,
19 but some of us have not. And some of our patients have
20 not quote, "grown up" with having an attendant present
21 other than as an assistant for a procedure.

22 And where this has evolved, I have patients
23 who routinely share very intimate information with me
24 only during these times we're alone and in the middle of
25 an exam where they won't share that information with me

1 when there is an assistant present. So I foresee this
2 could potentially be a barrier for my patients for
3 sharing sensitive information.

4 Secondly, I have a number of adolescent
5 patients who are coming in for a genital type of exam for
6 the very first time or early times. Often, there is a
7 family attendant, usually a female adolescent, female
8 family member who is present, and I think bringing in
9 another person is more of a voyeuristic experience. I
10 think these adolescents are already feeling embarrassed,
11 at times shame, they're scared, and to have another
12 person in the room to have them have to expose a private
13 part of their body could create a barrier to providing
14 care.

15 I would also say that I do have concerns
16 about some of the language about gender. First off,
17 gender may not be the appropriate word the Board is
18 looking for in the first place as gender, as we know, is
19 very fluid and it's very difficult to ascertain what
20 gender is for one person and another. But even if we
21 were to provide an attendant who is the same sex as --
22 biologic sex as the patient, that could become a problem
23 when there are sensitive exams, particularly on males.

24 I see this particularly in urology settings,
25 family practice settings where most of the assistants are

1 female. You may have a female physician, a female
2 patient, and now they have to find another male somewhere
3 to be an attendant. I can't speak directly to how
4 problematic this might be in a practice as this wouldn't
5 affect me directly, but it would be useful to hear from
6 those practices where there's a large percentage of male
7 patients who need such type of an exam.

8 I also think there is a concern I have
9 regarding again not having the attendant be a family
10 member because I think a family member could very safely
11 be, if you will, a chaperone, a safety mechanism for a
12 patient.

13 Next, I have concerns about the language here
14 where it's number three or no -- excuse me -- number
15 five. Item two: The attendant shall be familiar with
16 the scope of the clinical encounter either through his or
17 her education and experience or through being informed by
18 the licensee prior to the encounter. So we're asking
19 that the attendant be educated by the licensee.

20 The licensee is the one who is being
21 monitored by the attendant. So if you truly have a
22 licensee who is inappropriate, unethical, they could
23 certainly educate the attendant in a way that protects
24 them from inappropriate behavior, perhaps saying: This
25 is always appropriate for me to touch in this way or to

1 photograph this body part, and the attendant believes
2 well, that must be appropriate.

3 Furthermore, if we're truly going to protect
4 a patient from an inappropriate touch, it would require
5 the attendant to be very close to the exam looking
6 directly at the exposed body part, again, in a way that I
7 feel is very inappropriate and voyeuristic and
8 uncomfortable to the patient.

9 I personally would not want to be a patient
10 having someone looking at my genital area with a
11 physician and the attendant, everyone peering in looking
12 at me. I think that would be very uncomfortable and a
13 barrier to me to seek care. And so I would like that to
14 be considered as well.

15 Let me see if there was anything else. Not
16 finally. I think another component would be again to
17 consider how this might financially impact physicians
18 just on hiring, the process to put information to an EMR,
19 the process to maintain records on attendants who are no
20 longer around.

21 Maybe we've lost track of those people, and
22 in this process, we should also have a proposal from the
23 Board as to what is the action for an identified
24 violation. I presume that the action would be different
25 if we lost track of the address of an attendant as

1 compared to an identified violation upon a patient, but I
2 think somewhere, that needs to be explained to the
3 licensees as to what the proposed action would be.

4 And then finally, again, I do have concerns
5 that this seems to single out licensees of the Nevada
6 Board of Medical Examiners. And there are so many areas
7 where patients, people could be in danger including
8 radiation techs, mammography techs. You could go into
9 society with tattoo artists and piercing artists and
10 people who provide cosmetic services that involve the
11 genitals. And so while I know that's beyond the scope of
12 the Board, it could be something that would be brought up
13 in different ways that more all-encompassing to address
14 concerns about protecting patients and persons who are in
15 a sensitive situation with sensitive body parts exposed.

16 I think I hit most everything. Any questions
17 about my practice and how it would be impacted?

18 COUNSEL CONTINE: No.

19 DR. HALD: Thank you for your time.

20 DR. SNYDER: Hello. My name is Jeff Snyder.

21 Jeff: J-E-F-F. Snyder: S-N-Y-D-E-R. I'm the Executive
22 Director of OB-GYN Associates, and we submitted our
23 comments written previously, so thank you for that
24 opportunity.

25 I think that the main thing that I would like

1 to emphasize that hasn't already been said -- because I
2 think we agree with a lot of what's already been said --
3 is we've always supported patients' choice in these
4 matters. If the patient has a preference for an
5 attendant or chaperon or however you want to name it, we
6 would always support that. And we think that that should
7 be the focus of this versus the default being an
8 attendant that may provide barriers that have been
9 previously discussed.

10 So additionally, I think that the notion that
11 there is no cost associated with this regulation, I think
12 is not true even in situations where we routinely have
13 attendants in nearly every exam unless the patient
14 doesn't want to or other relationships are established.
15 Just the time for physicians to add to notes, make sure
16 it's there, maintaining those records does have a cost.
17 So thank you.

18 COUNSEL CONTINE: Thank you. Is there any
19 other comment in Reno? Okay. Before I close the hearing
20 on this file number, I just I know there was a lot of
21 conversation on Sections 1 and 2, and there are a lot of
22 other provisions in this regulation. I just want to make
23 sure nobody has any other comments on any other
24 provisions in the regulation.

25 All right. So we'll close the hearing on LCB

1 File Number R028-22, and we'll move on to public comment.

2 Again, just general public comment issues that are under
3 the purview of the Board.

4 Any public comment in Las Vegas?

5 Any public comment here?

6 All right. Thank you, everybody, for all of
7 the comments. Great information provided, and we'll go
8 ahead and adjourn the hearing.

9 (The hearing concluded at 2:22 p.m.)

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1 STATE OF NEVADA)
COUNTY OF WASHOE)

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18 Dated: January 6, 2023

19

20 *Nicole J. Hansen*
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**WRITTEN COMMENTS RECEIVED
REGARDING PROPOSED
REGULATION R177-22**

From: Ann Silver <asilver@thechambervn.org>
Sent: Monday, September 26, 2022 3:00 PM
To: Sarah A. Bradley <bradleys@medboard.nv.gov>
Cc: Tom Clark <tom@tomclarksolutions.com>
Subject: CFR Guidance - Disaster Declarations 3-2-2020.docx

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms. Bradley:

Thank you for providing the Reno + Sparks Chamber with a chance to review the proposed regulations in R028-22 and R111-22.

Upon reviewing the language, we can support the regulations and in fact, encourage them. We see no undue burden placed on places of businesses when required to maintain additional observation of examinations or any process involving the insertion into private areas since these additional professionals will assist in safeguarding the care, consideration, and safety of each patient.

Ann

**chamber of
commerce**
RENO + SPARKS

Ann Silver
Chief Executive Officer
The Reno+Sparks Chamber of Commerce
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**WRITTEN COMMENTS RECEIVED
REGARDING PROPOSED
REGULATION R028-22**

From: Ann Silver <asilver@thechambervn.org>
Sent: Monday, September 26, 2022 3:00 PM
To: Sarah A. Bradley <bradleys@medboard.nv.gov>
Cc: Tom Clark <tom@tomclarksolutions.com>
Subject: CFR Guidance - Disaster Declarations 3-2-2020.docx

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms. Bradley:

Thank you for providing the Reno + Sparks Chamber with a chance to review the proposed regulations in R028-22 and RI11-22.

Upon reviewing the language, we can support the regulations and in fact, encourage them. We see no undue burden placed on places of businesses when required to maintain additional observation of examinations or any process involving the insertion into private areas since these additional professionals will assist in safeguarding the care, consideration, and safety of each patient.

Ann

**chamber of
commerce**
RENO + SPARKS

Ann Silver
Chief Executive Officer
The Reno+Sparks Chamber of Commerce
449 S. Virginia #300, Reno, NV 89501
asilver@thechambervn.org 775.636.9550

December 28, 2022

Nevada State Board of Medical Examiners
325 E. Warm Springs Road, Suite 225
Las Vegas, Nevada 89119

Dear Sirs and Madams:

I oppose the proposed Nevada Board of Medical Examiners regulation R028-22 Section 2 which requires, with certain exceptions, a licensee to ensure a patient attendant is present: (1) during certain examinations of or procedures involving the genitalia, rectum, or breast of a patient; (2) upon the request of the patient; or (3) if the licensee desires the presence of the patient attendant. Section 2 additionally prescribes procedures relating to the attendance of an examination or procedure by a patient attendant.

This proposed policy "to ensure a patient attendant is present: (1)) during certain examinations of or procedures involving the genitalia, rectum, or breast of a patient" is not consistent with published policies implemented by the United Kingdom National Health Service, the United States Department of Defense medical facilities, the Federation of State Medical Boards, multiple State medical boards, the American Medical Association, the American Academy of Pediatrics, American College of Obstetricians and Gynecologists, multiple nationally recognized Academic Medical Centers including Johns Hopkins Health System and University of Wisconsin Health Center and MidMichigan Health System. Recent experience of licensed Nevada physicians confirms that many LGBTQ+, adolescent, and elderly patients do not wish to have patient attendants whom they do not know or trust to attend sensitive examinations or procedures involving genitalia, rectum, or breast.

Consistent with local practice at Nellis Air Force Base Hospital, I recommend that facilities where Nevada licensed physicians practice should be encouraged to post signs in examination rooms indicating, "Let us know if you wish to have a chaperone present during your examination." Post signs in facilities showing the name and contact information of independent ombudsman representatives where possibly inappropriate unprofessional behavior may be reported without adverse effects on the reporting patient. The Nevada State Board of Medical Examiners should continue to investigate possibly inappropriate unprofessional behavior of licensed Nevada health professionals reported to it by patients. And Nevada State Board of Medical Examiners should continue to refer possible sexual predator cases to criminal prosecution authorities.

References are available on request.

Thank you for your attention to this important matter.



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January 3, 2023

Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

RE Public Comment Submission for Patient attendant Regulations. (LCB File No. R028-22)

Distinguished Members of the State Medical Board of Examiners:

Thank you for the opportunity to discuss the regulation on patient attendants (R028-22). As an OB-GYN practice, we support each patient's desire and choice to have a patient attendant during any exam or procedure discussed in the LCB File No. R028-22. We agree that patients should feel comfortable and safe during all exams.

We do have the following comments on the proposed regulations that we believe either needs clarification or updating for patient concerns and to allow effective patient care.

1. This seems to solely be directed to "Licensee" under NAC 630, (PHYSICIANS, PHYSICIAN ASSISTANTS, MEDICAL ASSISTANTS, PERFUSIONISTS AND PRACTITIONERS OF RESPIRATORY CARE). Therefore, large segments of healthcare would presumably not be included, such as APRNs, RNs, CNAs, rad techs, etc. Additionally non-healthcare settings are left out such as tattoo, body waxing, and others.
 - a. Was this by intent and why specific to primarily physicians?
 - b. Was this to apply in all settings including hospitals and nursing homes?
2. Sec. 2, 1 appears to imply that an attendant must be present, however can decline in writing by way of section 2.6(b). There are many times when a patient is not comfortable with another person in the room.
 - a. The default position should be choice versus that a patient attendant will primarily always be in the exam.
3. Sec 2, 2 implies that a licensee can provide a patient attendant if desired by the licensee.
 - a. This does not address if the patient refuses to allow an attendant or another needed for the medical encounter, and the medical practitioner should have the option to opt out of the procedure and have an equal right to decide for their own comfort and safety. Additionally, there should be indemnification for the provider if the patient refuses to allow an attendant person.

4. The proposed regulation requires the presence of the attendant and the patient attendant's name in the medical chart. This will add to "chart/note bloat" of items that do not add clinical value but appear to be primarily legal protection.
 - a. We propose that a one-time form that indicates the patient's right to choose if to have an attendant during exams or procedures described in the regulation and that the patient has the right to change their mind at any time.
 - i. This is more problematic in recurring exams such as in obstetrics that may be weekly or more at the end of a pregnancy. The patient often does not want another person in the room and this would require a written declination each time.
5. Sec 2,3(a) requires the attendant to be the gender of the patient when "practicable"
 - a. Gender being a fluid social construct this may be hard to ascertain and to supply a "match" – sex of the patient would be more appropriate.
 - b. This should be way of the patient choice as to the gender preferred and outline if that gender is not available what are the patient's and licensee's options.
 - c. "When practicable" is not defined and leaves room for creating an unclear situation of a matching gender.
6. The entire regulation increases the cost of healthcare by way of required documentation and personnel. Depending on how expansive the intent is, it may be cost prohibitive in some settings without a recognition of the cost and some funding.

Physicians have an obligation to inform their patients of their rights and empowering them by communicating clearly what options they have and allow patients to exercise the patient's choice.

A one-time intake form that explains the procedures in each specialty and the patient's desire to have or not have a patient attendant during these would help mitigate some of the above concerns.

Additionally, a patient may not want an attendant during the medical history discussion but does during the physical exam. The patient's choice in this should be allowed and the focus.

Thank you for the opportunity to submit these comments and we would be glad to work with the Board to assure patient safety and needs are met.

Sincerely,



Jeff Snyder
Executive Director



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January 3, 2023

Nevada State Board of Medical Examiners
9600 Gateway Drive
Reno, NV 89521

Re: Public Comment Submission – LCB File No. R028-22

Distinguished Members of the Nevada State Board of Medical Examiners:

The Nevada State Medical Association (NSMA) would like to submit public comment in regard to LCB File No. R028-22.

The Nevada State Medical Association recognizes the concerns of the Board with regard to the safety of patients undergoing examinations, particularly of sensitive and highly personal areas, and agrees that even a single transgression of professional standards and ethics with regard to such contact and the violation of patient trust that represents is not acceptable. The physician members of the NSMA join with the Board in its attention to protecting patients and are also committed to minimizing patient discomfort with sensitive exams and procedures. We are concerned, though, that the current proposal requiring a chaperone whom the patient may not know or trust, regardless of the patient's wishes, is not the best approach to address these concerns.

Physicians have an obligation to inform their patients of their rights and empowering them by communicating clearly what options they have.

Patients should feel comfortable and safe at all times, and physicians can support this by empowering patients to have a chaperone present for their examination. It is essential also that this chaperone be someone whom the patient is confident they can trust. The required imposition of someone unknown to the patient, not essential for the service being provided, regardless of the patient's wishes, is not conducive either to the best practice of patient safety and care, nor of providing the most supportive environment for the patient.

We believe physicians can do this by implementing office policies and procedures with both current and new patients that ensure that patients are informed that they may either bring a chaperone of their choice or request that a chaperone – someone in addition to any personnel

required for an examination or procedure – be provided for them. They should also be informed that a physician may require or request additional professional or support personnel in the room for the examination or procedure, and that refusal of these additional personnel by the patient may lead to cancellation or deferral. This policy should be conspicuously posted in the physician’s office and exam room(s) and should be included and processed with a new patient packet.

It is essential, also, that physicians be indemnified for any adverse outcome arising from a cancellation or deferral due to the patient’s refusal to permit these additional personnel.

Lastly, Nevada physicians can empower and support their patients by adopting the principles of the ‘Use of Chaperones’ policy of the American Medical Association *Code of Ethics* which prioritizes the patient’s opportunity to exercise all practical control of who is in attendance during these examinations.

Thank you for the opportunity to submit these comments on behalf of the Nevada State Medical Association. As always, I and our members look forward to working closely with the Board to promote practices that put patients’ interests first.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Eisen', with a stylized flourish at the end.

Andrew Eisen, MD
NSMA President



Clark County Medical Society

2590 E Russell Road
Las Vegas, Nevada 89120
P: 702.739.9989

www.ClarkCountyMedical.org

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January 5, 2023

Distinguished Members of the Nevada State Board of Medical Examiners:

The Clark County Medical Society (CCMS) would like to submit public comment in regard to LCB File No. R028-22.

The Executive Council of CCMS has reviewed the statement submitted by Dr. Andrew Eisen of the Nevada State Medical Association and fully supports this statement. We have received comments during our Board of Trustees meeting on December 20, 2022 and from members of CCMS which are consistent with and in support of this statement as well. We would ask that the Nevada State Board of Medicine place this document on the record.

Sincerely,

Nicholas F. Fiore, MD, FACS, President of CCMS 2022 – 2023

Staci McHale, MD, Immediate Past President

Mitchell D. Forman, DO, President Elect

Elissa Palmer, MD, Secretary

Nilesh Gokal, MD, Treasurer

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