



# Nevada State Board of Medical Examiners

## NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Repeal of Regulation of the  
Nevada State Board of Medical Examiners

The Nevada State Board of Medical Examiners (Board) will hold a public hearing at 11:00 a.m., on Tuesday, December 11, 2018, at the Nevada State Board of Dental Examiners, located at 6010 S. Rainbow Blvd., Bldg. A., Ste. 1, Las Vegas, Nevada and videoconferenced to the Nevada State Board of Medical Examiner's office located at 9600 Gateway Drive, Reno, Nevada 89521. The purpose of the hearing is to receive comments from all interested persons regarding the repeal of a regulation that pertains to Chapter 630 of the Nevada Administrative Code.

**R145-18** Proposed Disciplinary Regulation Pursuant to NRS 630.323(6).

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 required by NRS 630.323(6), as codified by Assembly Bill 474 (2017) to address disciplinary action imposed by the Board against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III, or IV or violating the provisions of NRS 639.2391 to 639.23916, inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV. This regulation also provides that the Board will consider the degree to which the licensee made a good faith attempt to comply with applicable provisions of law and regulations when determining: (1) whether such a violation has occurred; and (2) the disciplinary action that it will impose for such a violation.

**2. Either the terms or the substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.**

The regulation addresses the continuing education requirement that the Legislature requires to be imposed as well the licensee's good faith efforts to comply with the new statutory requirements for prescribing controlled substances listed in schedules II, III and IV.

**3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

- a. The Board does not believe that the proposed amendment will have a direct economic effect on the business of the practice of medicine or the public. The statutory requirements set forth by the Legislature for prescribing controlled substances listed in schedules II, III and IV may have an economic effect in terms of additional procedures that must be put in place by licensees before prescribing such controlled substances. Nonetheless, the proposed regulation, which encapsulates the requirements set forth by the Legislature, are not likely to have an adverse economic effect except upon those licensees who fail to comply with the new requirements.
- b. The immediate effects of the proposed regulation are likely to increase awareness among licensees of the new requirements for prescribing controlled substances listed in schedules II, III, and IV. The long-term effects are likely to make more measured decisions about prescribing such controlled substances.

**4. The estimated cost to the agency for enforcement of the proposed regulation.**

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

**5. 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.**

NRS 630.323(6), which is codified from AB 474 (2017), requires the Board to implement a regulation regarding disciplinary actions to be imposed for violations of AB 474 (as codified in the Nevada Revised Statutes). Specifically, it states: “ The Board shall adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating the provisions of [NRS 639.2391](#) to [639.23916](#), inclusive, and any regulations adopted by the State Board of Pharmacy pursuant thereto. Such disciplinary action must include, without limitation, requiring the licensee to complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.”

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

Not applicable

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

Not applicable.

**8. Whether the proposed regulation establishes a new fee or increases an existing fee.**

The proposed regulation does not establish new fees or increase existing fees.

Persons wishing to comment upon the proposed regulation of the Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada State Board of Medical Examiners, attention Jasmine Mehta, Deputy Executive Director, 9600 Gateway Drive, Reno, Nevada 89521.

Written submissions must be received by the Nevada State Board of Medical Examiners on or before Tuesday, December 11, 2018. 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 and Archives, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the office of the Board at 9600 Gateway Drive, Reno, Nevada 89521, and in all counties in which an office of the agency is not maintained, at the main public library or county office, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation is also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us> and [www.medboard.nv.gov](http://www.medboard.nv.gov). Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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

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

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

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

**LCB File No. R145-18**

August 1, 2018

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

AUTHORITY: §1, NRS 630.130, 630.275 and 630.323.

A REGULATION relating to controlled substances; providing that the Board of Medical Examiners will impose disciplinary action for certain violations relating to prescribing controlled substances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Board of Medical Examiners to adopt regulations providing for disciplinary action against a licensee for inappropriately prescribing a controlled substance listed in schedule II, III or IV or violating certain provisions of law and regulations concerning the prescription of such controlled substances. Existing law also requires the Board to impose disciplinary action if the Board determines that a licensee has issued a fraudulent, illegal, unauthorized or inappropriate prescription for such a controlled substance. (NRS 630.323) This regulation requires any such disciplinary action to include a requirement that the licensee complete additional continuing education concerning prescribing certain controlled substances. This regulation also provides that the Board will consider the degree to which the licensee made a good faith attempt to comply with applicable provisions of law and regulations when determining: (1) whether such a violation has occurred; and (2) the disciplinary action that it will impose for such a violation.

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

*1. The disciplinary action imposed by the Board upon finding that a licensee has committed a violation described in subsection 6 of NRS 630.323 must include, without*

*limitation, a requirement that the licensee complete additional continuing education concerning prescribing controlled substances listed in schedules II, III and IV.*

*2. The Board will consider the degree to which a licensee made a good faith attempt to comply with applicable provisions of law and regulations, including, without limitation, the provisions of NRS 639.2391 to 639.23916, inclusive, or any regulations adopted pursuant thereto, when determining:*

*(a) Whether a licensee has committed a violation described in subsection 6 of NRS 630.323; and*

*(b) The disciplinary action to impose for the violation, when applicable.*