

Chapter 630 of NAC

EMERGENCY REGULATIONS OF PHYSICIANS AND PHYSICIAN ASSISTANTS RELATING TO MEDICAL ASSISTANTS

(Effective for 120 days from September 18, 2009)

NEVADA BOARD OF MEDICAL EXAMINERS' STATEMENT OF EMERGENCY

WHEREAS, the Nevada Board of Medical Examiners (the Board) has convened this public meeting for the purpose of considering the adoption of the foregoing Emergency Regulations of physicians and physician assistants as it relates to medical assistants; and

WHEREAS, the Board finds that an emergency exists insofar as:

1. Substantial confusion in the medical community exists as to whether NRS 453.375 and 454.213 apply to medical assistants and their authority to administer prescription drugs;
2. Physicians in the state are uncertain as to whether they can allow their medical assistants to administer medications;
3. Medical assistants are being laid off from their employment because of the confusion and uncertainty;
4. Some physicians are curtailing patient services and procedures, and most physicians are uncertain how to proceed, creating considerable statewide disruption to patient care;

WHEREAS, the Board believes that the Emergency Regulations will clarify the practice boundaries for physicians, physician assistants, and medical assistants;

WHEREAS, the Board also believes that immediate clarification is needed to prevent further harm and disruption to the delivery of patient care by Nevada's physicians and physician assistants.

NOW THEREFORE, the Board hereby adopts the following Emergency Regulations which shall be effective September 18, 2009.

EMERGENCY REGULATIONS OF PHYSICIANS AND PHYSICIAN ASSISTANTS RELATING TO MEDICAL ASSISTANTS

Sec. 1. NAC 630.230 shall be amended to read as follows:

1. A person who is licensed as a physician or physician assistant shall not:

- (a) Falsify records of health care;
- (b) Falsify the medical records of a hospital so as to indicate his presence at a time when he was not in attendance or falsify those records to indicate that procedures were performed by him which were in fact not performed by him;
- (c) Render professional services to a patient while the physician or physician assistant is under the influence of alcohol or any controlled substance or is in any impaired mental or physical condition;
- (d) Acquire any controlled substances from any pharmacy or other source by misrepresentation, fraud, deception or subterfuge;
- (e) Prescribe anabolic steroids for any person to increase muscle mass for competitive or athletic purposes;
- (f) Make an unreasonable additional charge for tests in a laboratory, radiological services or other services for testing which are ordered by the physician or physician assistant and performed outside his own office;
- (g) Prescribe controlled substances listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530, controlled substance analogs, chorionic gonadotrophic hormones, thyroid preparations or thyroid synthetics for the control of weight;
- (h) 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;
- (i) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant;
- (j) If the person is a physician, fail to provide adequate supervision of a physician assistant or an advanced practitioner of nursing;
- (k) Fail to honor the advance directive of a patient without informing the patient or the surrogate or guardian of the patient, and without documenting in the patient's records the reasons for failing to honor the advance directive of the patient contained therein; or
- (l) Engage in the practice of writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that deviates from the guidelines set forth in the *Model Guidelines for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

2. As used in this section:

- (a) "Acute pain" has the meaning ascribed to it in section 3 of the *Model Guidelines for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

(b) "Chronic pain" has the meaning ascribed to it in section 3 of the *Model Guidelines for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

(c) "Controlled substance analog" means:

(1) A substance whose chemical structure is substantially similar to the chemical structure of a controlled substance listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530; or

(2) A substance which has, is represented as having or is intended to have a stimulant, depressant or hallucinogenic effect on the central nervous system of a person that is substantially similar to, or greater than, the stimulant, depressant or hallucinogenic effect on the central nervous system of a person of a controlled substance listed in schedule II pursuant to NAC 453.520 or schedule III pursuant to NAC 453.530.

~~[(d) "Medical assistant" means any person who:~~

~~—— (1) Is employed by a physician or physician assistant;~~

~~—— (2) Is under the direction and supervision of the physician or physician assistant;~~

~~—— (3) Assists in the care of a patient; and~~

~~—— (4) Is not required to be certified or licensed by an administrative agency to provide that assistance.]~~

Sec. 2. NAC chapter 630 shall be amended to add the following new language:

1. A physician or physician assistant may allow a person to assist the physician or physician assistant in providing medical care or services as a medical assistant only where the medical assistant:

(a) Is employed by the physician or physician assistant; and

(b) Performs such services at the direction of and under the direct supervision of the physician or physician assistant.

2. A physician or physician assistant may not allow a medical assistant to:

(a) Except as otherwise provided in Section 3 of this regulation, perform or provide any service for which a license or registration is required by Nevada law in order to perform the service;

(b) Perform or provide any service to or upon the body of a patient unless the physician or physician assistant:

(1) Has previously physically examined the patient;

(2) Has determined that the patient has a medical condition for which the physician or physician assistant has determined a course or plan of treatment;

(3) Directs and supervises the service performed or provided by the medical assistant;

(c) Perform or provide any discretionary or professional service; or

(d) Perform or provide any service upon the body of a patient independently of the physician or physician assistant.

3. A physician or physician assistant may allow a medical assistant to:

(a) Perform routine assessment tasks such as the taking of a patient's temperature, weight, or blood pressure to assist the physician or physician assistant with the performing of a physical examination of the patient; and

(b) Administer a prescription drug as provided in Section 3 of this regulation.

4. A physician or physician assistant may allow a medical assistant to perform or provide a service upon the body of a patient only when:

(a) Trained by the physician or physician assistant to competently and safely perform or provide the service;

(b) Directed to perform or provide the service upon the body of the patient by the physician or physician assistant; and

(c) The physician or physician assistant is in close physical proximity to the patient and the medical assistant when the medical assistant provides the service.

Sec. 3. NAC chapter 630 shall be amended to add the following new language:

1. A physician or physician assistant may possess and administer a prescription drug:

(a) Himself;

(b) By directing and allowing a person authorized under NRS 453.375 or NRS 454.213 to do so; or

(c) By directing a medical assistant to do so.

2. A physician or physician assistant may not direct and may not allow a medical assistant to administer:

(a) Chemotherapy;

(b) Corticosteroids or other injected anti-inflammatory drugs unless by subcutaneous or intramuscular injection;

(c) Anesthetics that would render the patient unconscious or semi-conscious;

(d) Botulinum neurotoxin;

(e) Collagen and other cosmetic or dermal fillers;

(f) Drugs intended to interfere with or block neural function except for topical or local anesthetics used to temporarily relieve pain or to facilitate another medical procedure;

(g) Any other drug where the therapeutic outcome is dependent upon the placement, quantity, or technique uniquely within the discretion, training, and judgment of a physician or physician assistant.

ADOPTION BY THE BOARD


SIGNED this _____ day of September, 2009.

**Charles N. Held, M.D., Chairman
Nevada Board of Medical Examiners**

GOVERNOR'S ENDORSEMENT

PURSUANT TO NRS 233B.0613 I, Governor Jim Gibbons, endorse the Nevada State Board of Medical Examiners' statement justifying an emergency for passage of the within regulation of physicians and physician assistants as it relates to medical assistants.

SIGNED this 17th day of September, 2009.



JIM GIBBONS
Governor