



Nevada State Board of Osteopathic Medicine

Notice of Workshop to Solicit Comments on Proposed Regulations

The Nevada State Board of Osteopathic Medicine (Board), located at 2275 Corporate Circle, Suite 210 Henderson, NV 89074, (702) 732-2147, is proposing a change the regulations within Chapter 633 of the Nevada Administrative Code (NAC). The public workshop has been set for 1:30 p.m. on Tuesday, December 5, 2023, at the Board's Las Vegas office located at 2275 Corporate Circle, Suite 210 Henderson, NV 89074 and is also being video conferenced to the Las Vegas office location. The purpose of this workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed regulations:

This regulation draft contains changes to NAC Chapter 633, necessary to implement Governor Lombardo's Executive Order 2023-003, Section 2, which requires all executive branch departments, agencies, boards and commissions to submit a list of not less than ten (10) regulations recommended for removal, in descending order of priority. A copy of the new, proposed NAC Chapter 633 eliminating these regulations is attached to this notice for review. A copy of all materials relating to the proposed regulations may be obtained at the workshop or by contacting the Board at 2275 Corporate Circle, Suite 210 Henderson, NV 89074, and by telephone at (702) 732-2147. 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:

State Library, Archives and Public Records - Carson City, NV

Nevada State Board of Osteopathic Medicine - Las Vegas, NV

Nevada State Board of Osteopathic Medicine Website - <https://bom.nv.gov>

Attachment B

Table of Regulations

| <i>PROVISION TO BE DELETED</i> | <i>TEXT OF PROVISION</i> | <i>JUSTIFICATION FOR DELETION</i> |
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| NAC §633.273 | <p>NAC 633.273 Authorized facility license to practice osteopathic medicine as psychiatrist in certain mental health centers. (NRS 633.291, 633.417, 633.434)</p> <p>1. A person who holds an authorized facility license issued pursuant to NRS 633.417 may employ a physician assistant if the holder of the authorized facility license and the physician assistant otherwise satisfy the requirements of this chapter and chapter 633 of NRS concerning physician assistants and supervising osteopathic physicians.</p> <p>2. A person who holds an authorized facility license described in subsection 1 must, if the person wishes to renew the authorized facility license, annually submit proof of employment as a psychiatrist only in a mental health center of the Division.</p> <p>3. As used in this section:</p> <p>(a) "Division" means the Division of Public and Behavioral Health of the Department of Health and Human Services.</p> <p>(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R154-09, eff. 10-15-2010)</p> | <p>NRS §§633.415, 633.417 and 633.418 already provide a special licensing process for the hire of faculty to practice Osteopathic medicine, in the context of graduates of foreign schools that intend to teach, research or practice clinical Osteopathic medicine in the State of Nevada, as well as a special licensing process for faculty to practice Osteopathic medicine as a psychiatrist in certain mental health centers, in addition to facilities under the auspices of the Nevada Department of Corrections. These provisions also set forth the criteria which need to be met in order for the Board to confer any of these special licenses. The identified regulation adds nothing to those processes.</p> |
| NAC §633.274 | <p>NAC 633.274 Authorized facility license to practice as osteopathic physician in institution of Department of Corrections. (NRS 633.291, 633.418, 633.434)</p> <p>1. A person who holds an authorized facility license issued pursuant to NRS 633.418 may employ a physician assistant if the holder of the authorized facility license and the physician assistant otherwise satisfy the requirements of this chapter and chapter 633 of NRS concerning physician assistants and supervising osteopathic physicians.</p> <p>2. A person who holds an authorized facility license described in subsection 1 must, if the person wishes to renew the authorized facility license, annually submit proof of employment as an osteopathic physician only in an institution of the Department of Corrections.</p> | <p>NRS §§633.415, 633.417 and 633.418 already provide a special licensing process for the hire of faculty to practice Osteopathic medicine, in the context of graduates of foreign schools that intend to teach, research or practice clinical Osteopathic medicine in the State of Nevada, as well as a special licensing process for faculty to practice Osteopathic medicine as a psychiatrist in certain mental health centers, in addition to facilities under the auspices of the Nevada Department of Corrections. These provisions also set forth the criteria which need to be met in order for the Board to confer any of these special</p> |

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| | (Added to NAC by Bd. of Osteopathic Med. by R154-09, eff. 10-15-2010) | licenses. The identified regulation adds nothing to those processes. |
| NAC §633.380 | <p>NAC 633.380 Reports of certain information concerning surgeries: Submission; failure to comply with requirements. (NRS 633.291, 633.524)</p> <p>1. An osteopathic physician shall, on or before January 31 of each year, submit to the Board, on a form to be provided by the Board, the report required pursuant to NRS 633.524.</p> <p>2. Failure to comply with the requirements of this section or NRS 633.524 may subject the osteopathic physician to disciplinary action as provided by law.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R208-05, eff. 2-23-2006; A by R192-07, 12-17-2008)</p> | NRS §633.524 already requires licensed Osteopathic physicians in Nevada to engage in mandatory reporting as to surgeries and sentinel events, and provides that licensees failing to report as such are subject to discipline for such omissions. The identified regulation adds nothing to this process. |
| NAC §633.410 | <p>NAC 633.410 Rulings on preliminary matters. (NRS 633.291)</p> <p>1. The Board, the President or the member of the Board, the hearing officer or the panel designated to preside over a hearing may issue rulings on all preliminary matters, including, without limitation, scheduling matters, protective orders, the admissibility of evidence, and other procedural or prehearing matters.</p> <p>2. A ruling by the President, member of the Board, hearing officer or panel on a preliminary matter is subject to reconsideration by the entire Board upon the request of a Board member or the motion of a party.</p> <p>3. The failure of a party who is affected by a ruling on a preliminary matter to move for reconsideration of the ruling does not constitute:</p> <p>(a) Consent to the ruling; or</p> <p>(b) Waiver of any objection previously made to the ruling.</p> <p>4. For the purposes of this section, a matter is preliminary if it is not dispositive of a disciplinary proceeding or other contested case or a substantive issue therein.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R057-02, eff. 10-24-2002; A by R208-05, 2-23-2006)</p> | NRS §§622A.300 – NRS 622A.380, as well as NRS §§233B.121 – NRS 233B.125 provide significant detail as to the manner in which contested hearings before the Board are to be conducted (i.e., how the flow of such cases are to be managed prior to hearing and the authority given to the Board in the management of such cases.) The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board’s procedure for adjudication of contested cases. |
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| <p>NAC §633.420</p> | <p>NAC 633.420 Appearance and representation of parties. (NRS 633.291)</p> <ol style="list-style-type: none">1. Except as otherwise provided in subsection 2, a party may appear at a hearing in person or by an attorney.2. If the hearing concerns a contested case other than a disciplinary proceeding governed by chapter 622A of NRS, a party shall attend the hearing on the merits in person unless the President or presiding officer waives the requirement of the attendance of the party.3. If a party who is required pursuant to subsection 2 to attend a hearing in person fails to do so without having obtained a waiver of the requirement of his or her attendance pursuant to subsection 2, the Board may:<ol style="list-style-type: none">(a) Determine that the failure to attend the hearing in person shall be deemed:<ol style="list-style-type: none">(1) An admission of all matters and facts contained in the record with respect to the party; and(2) A waiver of the right to an evidentiary hearing; and(b) Take action based upon such admission or upon any other evidence, including affidavits, without any further notice or a hearing.4. If a party retains an attorney to represent him or her before the Board, the attorney shall so notify the Board not later than 10 days after being retained. Thereafter:<ol style="list-style-type: none">(a) The attorney shall sign all motions, oppositions, notices, requests and other papers, including requests for subpoenas; and(b) The Board will serve all notices, motions, orders, decisions, and any other papers or pleadings upon the attorney.5. An attorney appearing as counsel in any proceeding other than a disciplinary proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he or she must be associated with an attorney so admitted and entitled to practice.6. An attorney appearing as counsel in a disciplinary proceeding shall comply with the provisions of NRS 622A.310. | <p>NRS §233B.121 and NRS §622A.310 both confirm the ability of a respondent to appear before the Board with counsel, should they so choose, and those chapters speak to the involvement of counsel, generally, in contested matters. The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board's procedure for adjudication of contested cases.</p> |
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| | (Added to NAC by Bd. of Osteopathic Med. by R057-02, eff. 10-24-2002; A by R208-05, 2-23-2006) | |
| NAC §633.440 | <p>NAC 633.440 Proposed findings of fact and conclusions of law. (NRS 633.291)</p> <p>1. The Board, President, hearing officer, panel or a member of the Board designated to preside over and conduct a hearing may require a party in any disciplinary proceeding or other contested case to file proposed findings of fact and conclusions of law at the close of the proceeding. The Board, President, hearing officer, panel or member of the Board shall fix the period within which the proposed findings of fact and conclusions of law must be filed.</p> <p>2. Each proposed finding of fact and conclusion of law must be clearly and concisely stated and numbered. Each proposed finding of fact must specifically show, by appropriate reference to the transcript, the testimony that supports the finding.</p> <p>3. The proposed findings of fact and conclusions of law, accompanied by a certificate of service, must be filed by each party with the Board, President, hearing officer, panel or member of the Board, and one copy must be served upon each party to the proceeding.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R208-05, eff. 2-23-2006)</p> | NRS §233B.121 and NRS §622A.390 both confirm the required contents of disciplinary orders in contested matters, in terms of findings of fact and conclusions of law. The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board's procedure for adjudication of contested cases. |
| NAC §633.450 | <p>NAC 633.450 Summary suspension of license by Board. (NRS 633.291, 633.651)</p> <p>1. If a complaint has been filed against an osteopathic physician pursuant to NRS 633.531 or against a physician assistant pursuant to NAC 633.287, the Board may order the summary suspension of the license of the osteopathic physician or physician assistant pending disciplinary proceedings.</p> <p>2. The Board will issue such an order if it determines that:</p> <p>(a) The osteopathic physician or physician assistant has violated a provision of this chapter or chapter 633 of NRS;</p> <p>(b) The summary suspension of the license is necessary to prevent a further violation of this chapter or chapter 633 of NRS; and</p> <p>(c) The public health, safety or general welfare imperatively requires the summary suspension of the license.</p> <p>3. An order summarily suspending a license:</p> | NRS §233B.127 and NRS §§633.577, 633.581, 633.591 and 633.601 all speak to the circumstance where an Osteopathic physician presents an imminent threat to public health, and the procedure to be followed in seeking a summary adjudication of that practitioner's ability to practice. Thus, the identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 633. Its elimination is of no significance to the Board's procedure for adjudication of contested cases. |

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| | <p>(a) Must:</p> <p>(1) Comply with the applicable provisions of NRS 233B.127; and</p> <p>(2) Set forth the grounds upon which the order is issued, including a statement of facts;</p> <p>(b) Is effective upon service on the osteopathic physician or physician assistant of the order and complaint; and</p> <p>(c) Remains in effect until the Board:</p> <p>(1) Modifies or rescinds the order; or</p> <p>(2) Issues its final order or decision on the underlying complaint.</p> <p>4. A hearing on the complaint must be held within 45 days after the effective date of the suspension.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R057-02, eff. 10-24-2002; A by R192-07, 12-17-2008; R154-09, 10-15-2010)</p> | |
| <p>NAC §633.454</p> | <p>NAC 633.454 Hearing officer or panel: Authority of Board; duties; findings and recommendations. (NRS 633.291, 633.660)</p> <p>1. The Board may appoint a hearing officer or panel to preside over and conduct a hearing concerning a disciplinary proceeding in the manner set forth in chapter 622A of NRS.</p> <p>2. If the Board appoints a hearing officer or panel pursuant to subsection 1, the Board may:</p> <p>(a) Revoke the appointment and assume responsibility for presiding over and conducting the hearing; or</p> <p>(b) Designate another hearing officer or panel to preside over and conduct the hearing.</p> <p>3. If a hearing officer or panel presides over and conducts a hearing concerning a disciplinary proceeding, the hearing officer or panel shall, after the close of all evidentiary hearings, file with the Board and serve on each party to the hearing written findings and recommendations that include, without limitation:</p> <p>(a) A proposed order;</p> <p>(b) The findings of fact and conclusions of law of the hearing officer or panel;</p> <p>(c) The reasons and bases for its findings of fact and conclusions of law; and</p> <p>(d) The recommendations of the hearing officer or panel.</p> <p>4. Pursuant to NRS 622A.300, the written findings and recommendations of a hearing officer or panel are subject to review by the entire Board.</p> | <p>NRS §§622A.300 – NRS 622A.410, as well as NRS §§233B.121 – NRS 233B.126 provide significant detail as to the manner in which contested hearings before the Board are to be conducted (i.e., who is to hear such hearings and how they are to be conducted, as well as the contents of orders following such hearings.) The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board’s procedure for adjudication of contested cases.</p> |

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| | <p>5. Upon review of the written findings and recommendations of a hearing officer or panel, the Board may, subject to the provisions of NRS 233B.124 and subsection 5 of NRS 622A.300, approve, reject or modify the written findings and recommendations, in whole or in part, and may take any other action that the Board deems appropriate to resolve the case.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R208-05, eff. 2-23-2006)</p> | |
| <p>NAC 633.457</p> | <p>NAC 633.457 Hearing officer or panel: Rulings regarding admissibility of evidence; referral of matter to Board. (NRS 633.291)</p> <p>1. In a disciplinary proceeding, a ruling made by a hearing officer or panel presiding over and conducting a hearing concerning the disciplinary proceeding regarding the admissibility of evidence is subject to review by the Board.</p> <p>2. In extraordinary circumstances, when a prompt decision by the Board is necessary to promote substantial justice, the hearing officer or panel shall refer the matter to the Board for a determination and may recess the hearing pending the determination.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R208-05, eff. 2-23-2006)</p> | <p>NRS §§622A.300 – NRS 622A.410, as well as NRS §§233B.121 – NRS 233B.126 provide significant detail as to the manner in which rulings on issues before the Board are to be handled. The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board’s procedure for adjudication of contested cases.</p> |

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| <p>NAC 633.466</p> | <p>NAC 633.466 Stipulations regarding facts in issue. (NRS 633.291)</p> <p>1. With the approval of the Board, hearing officer or panel presiding over and conducting a hearing concerning a disciplinary proceeding, the parties to the disciplinary proceeding may stipulate as to any fact in issue, either by written stipulation introduced in evidence as an exhibit or by an oral statement made upon the record. The stipulation is binding only upon the parties so stipulating and is not binding upon the Board, hearing officer or panel.</p> <p>2. A stipulation may be considered by the Board, hearing officer or panel as evidence at a hearing concerning the disciplinary proceeding. Notwithstanding the stipulation of the parties, the Board, hearing officer or panel may require proof of the facts stipulated to by independent evidence.</p> <p>(Added to NAC by Bd. of Osteopathic Med. by R208-05, eff. 2-23-2006)</p> | <p>NRS §§622A.300 – NRS 622A.410, as well as NRS §§233B.121 – NRS 233B.126 provide significant detail as to the manner in which agreements on facts at issue in cases before the Board are to be handled. The identified regulation simply speaks to the handling of circumstances that are already contemplated within NRS Chapters 233B and 622A. Its elimination is of no significance to the Board’s procedure for adjudication of contested cases.</p> |
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