



Nevada State Board of Osteopathic Medicine

NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Repeal of Regulations of the
Nevada State Board of Osteopathic Medicine

The Nevada State Board of Osteopathic Medicine (Board) will hold a public hearing at 11:30 a.m., on Friday, July 26, 2024, at the Board's office located at 2275 Corporate Circle, Suite 210, Henderson, Nevada 89074, and by video-conferencing from the Board's office located at 2275 Corporate Circle, Suite 210, Henderson, Nevada 89074. The purpose of the hearing is to receive comments from all interested persons regarding the repeal of ten regulations contained in Chapter 633 of the Nevada Administrative Code (NAC).

R062-24 This regulation draft repeals ten regulations set forth in NAC Chapter 633, namely NAC 633.273, 633.274, 633.380, 633.410, 633.420, 633.440, 633.450, 633.454, 633.457, and 633.466 relating to osteopathic medicine. A copy of the proposed regulation draft is attached to this notice for review.

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 implement the requirement contained in Governor Lombardo's Executive Order 2023-003 to propose ten regulations recommended for removal.

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regulation is a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and the issues involved:**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 regulation 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 regulation to be adopted will be available at the offices of the Board at 2275 Corporate Circle, Suite 210, Henderson, Nevada 89074, for inspection and copying by members of the public during business hours and on the Board's website, <https://bom.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/register/>. Copies of this Notice and the proposed regulation 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 economic effect on the business of the practice of osteopathic medicine, nor will it have an economic effect on the public. The Board does believe that the proposed regulation will have a beneficial effect on the practice of osteopathic medicine in that it will implement Executive Order 2023-003 by eliminating unnecessary, duplicative, or conflicting regulations from NAC Chapter 633.

b. Both immediate and long-term effects:

The Board does not believe that the proposed regulation will have an immediate or long-term economic negative effect on the business of the practice of osteopathic medicine, nor will it have an economic effect on the public. The proposed regulation will help licensees and the public by eliminating unnecessary, duplicative, or conflicting regulations from NAC Chapter 633.

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

The Board sent letters regarding the proposed regulation and requesting information regarding whether the proposed regulation 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 City of Winnemucca, Elko Great Basin College, the Pahrump and Ely Rural Nevada Development Corporations, the Churchill County Economic Development Authority, the Nevada State Medical Association, the Nevada Osteopathic Medical Association, the Washoe County Medical Society, and the Clark County Medical Society. To date, the Board has received no responses indicating that the proposed regulation will impact small businesses.

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

Repeal of the ten regulations set forth in the proposed regulation will not result in an increased cost to the Board.

7. 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, this Notice must include the name of the regulating federal agency:

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

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

The proposed regulation is not required pursuant to federal law.

9. 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 regulation does not regulate the same activity addressed in a federal regulation.

10. The time when, the place where and the manner in which interested persons may present their views on regarding the proposed regulation:

Persons wishing to comment upon the proposed regulation of the Nevada State Board of Osteopathic Medicine 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 Osteopathic Medicine, 2275 Corporate Circle, Suite 210, Henderson, Nevada 89074. Written submissions must be received by the Nevada State Board of Osteopathic Medicine on or before 11:30 a.m., on Friday, July 26, 2024. 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 Osteopathic Medicine may proceed immediately to act upon any written submissions.

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

The proposed regulation is not temporary.

12. Statement Pursuant to NRS 233B.064(2):

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.

13. 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.

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 Osteopathic Medicine's office located at 2275 Corporate Circle, Suite 210, Henderson, Nevada 89074, for inspection and copying by members of the public during business hours, and on the Board's website, <https://bom.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.

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

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

Nevada State Board of Osteopathic Medicine - Henderson, NV

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

**SMALL BUSINESS IMPACT STATEMENT FOR R062-24:
PROVISIONS TO BE DELETED FROM NAC 633**

Effective date of Regulation:

Upon filing with the Nevada Secretary of State

1. Background:

The proposed regulation is 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.

2. Description of Solicitation:

Copies of the Nevada State Board of Osteopathic Medicine's (the "Board") draft regulation and workshop notice were sent by U.S. Mail and emailed to persons who were known to have an interest in the subject of medical regulation, as well as any persons who had specifically requested such notice. These documents were also made available on the website of the Board, available at <https://bom.nv.gov>, and the website of the State of Nevada's Legislative Council Bureau ("LCB"), available at [Legislative Counsel Bureau \(state.nv.us\)](https://legislativecounsel.nv.us).

The Board solicited any potentially impacted businesses by reaching out to various business chambers and associations. Copies of the Board's draft of proposed regulations was sent to the following organizations on December 11, 2023:

- Las Vegas Metro Chamber of Commerce
- Las Vegas Latin Chamber of Commerce
- Las Vegas Asian Chamber of Commerce
- Better Business Bureau of Southern Nevada, Inc.
- Better Business Bureau of northern Nevada, Inc.
- Reno / Sparks Chamber of Commerce
- City of Winnemucca
- Elko Great Basin college
- Pahrump Rural Nevada Development Corporation
- Ely Rural Nevada Development Corporation
- Churchill County Economic Development Authority
- Nevada State Medical Association
- Clark County Medical Society

3. Does the Proposed Regulation Impose a Direct and Significant Economic Burden Upon a Small Business or Directly Restrict the Formation, Operation, or Expansion of a Small Business? (NRS 233B.0608(1))

No, the proposed changes to NAC 633 do not impose a direct and significant burden upon small business or directly restrict the formation, operation, or expansion of a small business. These proposed regulation changes are in direct response to the requirements of Governor Lombardo's Executive Order 2023-003, which is designed to address the fact that "Nevada's current regulatory structure is too often unfocused and inefficient, contains regulations that are obsolete and includes regulations that are unnecessarily onerous, thereby limiting the economic potential of the State..." Hence, by eliminating regulations that have been determined to be superfluous to existing regulations of the Board, these changes should directly benefit small businesses by allowing them to flourish in a less demanding regulatory environment, thereby making it easier for the Board's licensees to provide medical care to the citizens of the State of Nevada.

4. How Was That Conclusion Reached?

This conclusion was reached after conducting a thorough review of the requirements of Governor Lombardo's Executive Order 2023-003 and considering those requirements against the existing regulations within the Board's NAC Chapter 633 to identify superfluous provisions. The Board solicited comment from affected businesses at its regulation workshop on December 5, 2023. The Board will update this Small Business Impact Statement as it receives more comment and input from affected businesses and individuals.

I, Richard Dreitzer, Board Counsel to the Nevada State Board of Osteopathic Medicine certify that, to the best of my knowledge and belief, a concerted effort was made to determine the impact of the proposed regulation on small business, and that the information contained in the statement above is accurate. (NRS 233B.0608(3)).

Dated December 22, 2023

Signature:  _____

RICHARD DREITZER, ESQ.

Board Counsel,

Nevada State Board of
Osteopathic Medicine

**PROPOSED REGULATION OF THE
STATE BOARD OF OSTEOPATHIC MEDICINE**

LCB File No. R062-24

April 22, 2024

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

AUTHORITY: § 1, NRS 633.291, 633.417, 633.418, 633.434, 633.524, 633.651 and 633.660.

A REGULATION relating to osteopathic medicine; revising the conditions under which the holder of certain licenses to practice osteopathic medicine in certain authorized facilities may employ a physician assistant; revising the procedure for the renewal of such a license; repealing certain provisions governing certain reports, summary suspension of a license and practice before the State Board of Osteopathic Medicine that duplicate or conflict with existing law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Osteopathic Medicine to issue an authorized facility license to certain persons who are intending to practice osteopathic medicine in this State as: (1) psychiatrists in a mental health center of the Division of Public and Behavioral Health of the Department of Health and Human Services; or (2) osteopathic physicians in an institution of the Department of Corrections. (NRS 633.417, 633.418) Existing regulations: (1) authorize an osteopathic physician who holds such an authorized facility license to employ a physician assistant under certain circumstances; and (2) set forth certain requirements for the renewal of such licenses. (NAC 633.273, 633.274) This regulation repeals those regulatory provisions, thereby authorizing the holder of an authorized facility license to employ a physician assistant and renew his or her license under the same conditions as other osteopathic physicians.

Existing law requires the Board to require licensees to submit an annual report to the Board concerning: (1) the number and type of surgeries performed by the licensee at his or her office or certain other facilities which require conscious sedation, deep sedation or general anesthesia; and (2) any sentinel event arising from such a surgery. (NRS 633.524) Existing regulations require a licensee to submit such a report on or before January 31 of each year, which conflicts with existing law requiring the submission of such a report when the osteopathic physician renews his or her license on or before January 1 of each year. (NRS 633.471, 633.524; NAC 633.380) This regulation repeals this conflicting provision from the Nevada Administrative Code.

Existing law: (1) authorizes the Board to appoint a hearing officer or panel to hear a contested case; and (2) provides that a hearing officer or panel appointed by the Board has all the powers that are necessary to conduct a hearing concerning the discipline of a licensee. (NRS

622A.300, 633.660, 633.665) Existing law: (1) authorizes a licensee to appear on his or her own behalf or be represented by an attorney in a contested case; and (2) imposes certain requirements governing the qualifications and conduct of such an attorney. (NRS 622A.310) Existing law establishes the procedure for filing and ruling on preliminary motions in a contested case before a regulatory body, including the Board. (NRS 622A.360) Existing law requires a regulatory body to consider any preliminary stipulations. At the conclusion of a hearing and if allowed by the regulatory body or hearing panel or officer, existing law authorizes either party to recommend specific disciplinary action to the regulatory body or hearing panel or officer. (NRS 622A.380) Existing law authorizes the Board to summarily suspend the license of an osteopathic physician, physician assistant or anesthesiologist assistant pending a hearing if the Board determines that the health, safety or welfare of the public or any patient is at risk of imminent or continued harm. (NRS 633.581, as amended by section 78 of Assembly Bill No. 270, chapter 247, Statutes of Nevada 2023, at page 1581) This regulation repeals certain provisions of the Nevada Administrative Code governing practice before the Board that are largely duplicative of existing law. (NAC 633.410, 633.420, 633.440, 633.450, 633.454, 633.457, 633.466)

Section 1. NAC 633.273, 633.274, 633.380, 633.410, 633.420, 633.440, 633.450, 633.454, 633.457 and 633.466 are hereby repealed.

TEXT OF REPEALED SECTIONS

633.273 Authorized facility license to practice osteopathic medicine as psychiatrist in certain mental health centers. (NRS 633.291, 633.417, 633.434)

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.

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.

3. As used in this section:

(a) “Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.

(b) “Mental health center” has the meaning ascribed to it in NRS 433.144.

633.274 Authorized facility license to practice as osteopathic physician in institution of Department of Corrections. (NRS 633.291, 633.418, 633.434)

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.

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.

633.380 Reports of certain information concerning surgeries: Submission; failure to comply with requirements. (NRS 633.291, 633.524)

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.

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.

633.410 Rulings on preliminary matters. (NRS 633.291)

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.

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.

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:

(a) Consent to the ruling; or

(b) Waiver of any objection previously made to the ruling.

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.

633.420 Appearance and representation of parties. (NRS 633.291)

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:

(a) Determine that the failure to attend the hearing in person shall be deemed:

(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:

(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.

633.440 Proposed findings of fact and conclusions of law. (NRS 633.291)

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.

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.

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.

633.450 Summary suspension of license by Board. (NRS 633.291, 633.651)

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.

2. The Board will issue such an order if it determines that:

(a) The osteopathic physician or physician assistant has violated a provision of this chapter or chapter 633 of NRS;

(b) The summary suspension of the license is necessary to prevent a further violation of this chapter or chapter 633 of NRS; and

(c) The public health, safety or general welfare imperatively requires the summary suspension of the license.

3. An order summarily suspending a license:

(a) Must:

(1) Comply with the applicable provisions of NRS 233B.127; and

(2) Set forth the grounds upon which the order is issued, including a statement of facts;

(b) Is effective upon service on the osteopathic physician or physician assistant of the order and complaint; and

(c) Remains in effect until the Board:

(1) Modifies or rescinds the order; or

(2) Issues its final order or decision on the underlying complaint.

4. A hearing on the complaint must be held within 45 days after the effective date of the suspension.

633.454 Hearing officer or panel: Authority of Board; duties; findings and recommendations. (NRS 633.291, 633.660)

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.

2. If the Board appoints a hearing officer or panel pursuant to subsection 1, the Board may:

(a) Revoke the appointment and assume responsibility for presiding over and conducting the hearing; or

(b) Designate another hearing officer or panel to preside over and conduct the hearing.

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:

(a) A proposed order;

(b) The findings of fact and conclusions of law of the hearing officer or panel;

(c) The reasons and bases for its findings of fact and conclusions of law; and

(d) The recommendations of the hearing officer or panel.

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.

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.

633.457 Hearing officer or panel: Rulings regarding admissibility of evidence; referral of matter to Board. (NRS 633.291)

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.

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.

633.466 Stipulations regarding facts in issue. (NRS 633.291)

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.

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.