

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY NRS  
233B.066**

**LCB FILE R150-13**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 634.

**1. A clear and concise explanation of the need for the adopted regulation.**

The purpose of the proposed regulation is to codify standards and procedures now required pursuant to enactment of Assembly Bill 73 passed by the Nevada Legislature during the 2013 session and to add new language and amend current provisions related to chiropractic physicians and chiropractor's assistants. New language was added to:

- provide for interpretation of the phrase "conduct detrimental to the best interests of the public" as used in Subsection 10 of NRS 634.018 as applied to chiropractor's assistants
- allow students enrolled in health care assistant programs to perform chiropractor's assistant services as a learning experience for the students
- provide for open-book examinations to eliminate costs of traveling to Nevada to take exams
- provide additional consequences for applicants who cheat on their examinations
- establish certain parameters for taking and development of radiographs by chiropractor's assistants
- authorize issuance of a temporary license to a substitute chiropractor to assist a licensee who is unable to practice due to military leave
- require registration of domain addresses to improve communication with licensees and chiropractor's assistants and curtail the Board's expenses
- include requirements for surrender of chiropractor's assistant certificates
- require licensees who close a practice to notify the Board of the location at which patients' records may be obtained.

The fee for an examination for a certificate as a chiropractor's assistant was increased to defray the expenses in conducting the examinations and the fee for review by the Board of a continuing education course was increased to defray the Board's expenses in reviewing and approving the applications.

The definition of "Chiropractor's Assistant" was amended for clarification of oversight.

The requirement of two fingerprint cards that must be submitted by applicants was reduced to one as currently needed for background checks.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulation were sent via e-mail to all of the Board's licensees and chiropractor's assistants who maintain an e-mail address with the Board, totaling 658 licensees and chiropractor's assistants who were notified. The Board also sent a copy of the proposed regulations, notice of workshop and notice of intent to act upon the regulation to the Nevada Chiropractic Association, the trade association that represents chiropractic physicians and chiropractor's assistants statewide, and to all people on the Board's mailing list, totaling 24 additional people who were notified. The documents were also mailed to all county libraries in Nevada and posted at the following locations:

- Chiropractic Physicians' Board, 4600 Kietzke Lane, Suite M245, Reno
- Nevada State Library, 100 Stewart St., Carson City
- Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas
- Legislative Building, 401 South Carson St., Carson City
- Washoe County Courthouse, 75 Court St., Reno

The Board discussed the proposed language at its regular meetings on January 12, April 6, July 2, August 6, August 20, September 10, September 24 and October 5, 2013. A workshop was held regarding the regulations on November 16, 2013. Any person who desired to make comments regarding the regulations was invited to participate in the workshop. A representative of the Nevada Chiropractic Association was the only member of the profession present at the Workshop on November 16, 2013.

On January 22, 2014 the Board issued a Notice of Intent to Act Upon a Regulation which incorporated the proposed amendments and suggestions of the parties attending the meetings and workshops. On February 22, 2014, the Board conducted a hearing regarding the final language of the proposed regulation. All written communications from members of the profession received prior to the meeting were considered. All parties present at the hearing who desired to provide testimony were allowed to fully state their views and concerns regarding the proposed regulation. At the conclusion of the hearing, the Board announced its final determinations regarding the language of the regulation.

**3. The number of persons who:**

- (a) Attended the November 16, 2013 Workshop – 1**  
**Testified at the November 16, 2013 Workshop – 1**
- (b) Attended the February 22, 2014 Hearing – 8**  
**Testified at the February 22, 2014 Hearing - 7**
- (c) Submitted written statements for the November 16, 2013 Workshop – 0**  
**Submitted written comments for the February 22, 2014 Hearing – 89**

**4. For each person identified in subparagraph (b) and (c) above, see attached for the following information that was provided to the Chiropractic Physicians' Board:**

- (a) Name**
- (b) Telephone number**
- (c) Business address**
- (d) Business telephone number**
- (e) Electronic mail address**
- (f) Name of entity or organization represented**

A list containing the requested information is attached as Exhibit 1.

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The comments received at the workshop were from either representatives of the affected practices or from practitioners. The comments received at the hearing were from chiropractic physicians, a representative of the Association (a chiropractor himself), and a representative of the postgraduate and continuing education division of a chiropractic college. The volume of comments at the hearing was substantial and can be summarized as consisting of substantive matters related to the effect of the regulations, attempts to minimize the unintended or negative consequences of the regulation, and crafting or omitting language that, in almost all cases, was accepted by consensus of the stakeholders and participants at the workshop and the hearing.

**6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation with change.**

The permanent regulation was adopted on February 22, 2014, and included the changes, additions, and amendments suggested at the workshop, hearing, and the Legislative Committee that were acceptable to the Board as being within the legislative intent of the empowering statutes (NRS 634.030(2)).

**7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects.**

As amended as a result of the public hearing, the regulations were not intended to and will not have adverse economic effects upon the practice of chiropractic in Nevada. The input received by the Board indicated that the \$15 increase (from \$60 to \$75) of the examination fee for chiropractor's assistant applicants will have a nominal adverse effect on the profession and that the \$25 fee increase to seminar sponsors for the Board's review and approval of continuing education seminars is well within the fees charged by other states and will have a minimal, if any, adverse economic effect on the profession.

Open-book examinations will have a beneficial economic effect for applicants for licensure by relieving them from the considerable expense of traveling to a Nevada exam site.

In the course of the public meetings, workshop and hearing at which the regulation was considered, some concerns were raised by attending members of the public regarding the potential negative economic effects of some of the proposed fee changes under consideration, and based upon the input from the public, the Board opted to remove the fee changes that were the subject of objection. The fee changes that remain in the regulation have not received any comment, concern, or objection. Based on the volume of written and oral objections from the public to the proposed limitation of the number of continuing education hours that may be taken online, the Board voted to strike that section (Section 16(10)) in its entirety. Written objections and comments were received at the hearing with respect to the proposal to regulate prepayment plans. The Board opted to remove that section (Section 5) with the intent to review and propose it as a new and separate regulation in the near future.

**(b) Both immediate and long-term effects.**

The proposed regulations will have the same effects immediately and in the long-term.

**8. The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

**9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency,.**

The Chiropractic Physicians' Board is not aware of any similar regulations of other state or government agencies that the proposed regulations overlap or duplicate.

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

This proposed regulation is not required by federal law.

**11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The Board estimates that the two fee increases in the proposed regulation may raise \$12,000.00 annually. The money will be placed in the Board's general account and will be used to offset the actual costs incurred by the Board in administering the chiropractic assistants' examinations and in reviewing the proposed continuing education courses.

## **EXHIBIT 1**

### **OPPOSITION TO Proposed Prepayment Plan Regulation - WRITTEN**

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