



State of Nevada

## Board of Medical Examiners Newsletter

---

REX T. BAGGETT, M.D., President  
ARNE D. ROSENCRANTZ, Vice President  
DIPAK K. DESAI, M.D., Secretary-Treasurer

SUSAN S. BUCHWALD, M.D.  
VICTOR SCARAMOSINO  
PAUL A. STEWART, M.D.  
JACULINE C. JONES, Ed.D.  
CHERYL A. HUG-ENGLISH, M.D.  
JOEL N. LUBRITZ, M.D.

---

### NEVADA STATE BOARD OF MEDICAL EXAMINERS NEWSLETTER

VOLUME 18    OCTOBER 1997

---

#### PRESIDENT'S MESSAGE

**By: Rex T. Baggett, M.D., President**

The end of the biennial registration on June 30, 1997 revealed an important fact: some physicians do not know the contents of NRS 630, the Nevada Medical Practice Act. This is the law that governs the practice of medicine in the State of Nevada, including licensing. Unfortunately, several physicians lost their licenses to practice because of ignorance of the licensing law. The Nevada State Board of Medical Examiners staff endeavored to overcome registration deficiencies, such as inaccurate current addresses, to inform physicians of impending problems with their registration, but the staff is unable to change the law with respect to CME requirements, fees and registration deadlines to accommodate physicians. If you don't know the licensing law, contact the board office to obtain an updated copy of NRS 630.

---

#### NEW BOARD MEMBER AND OFFICERS TAKE OFFICE

Joel N. Lubritz, M.D., was appointed by Governor Miller to a four-year term on the board effective September 1, 1997, replacing M. Nafees Nagy, M.D., who completed eight years service on the board on August 30, 1997. Dr. Lubritz practices Otolaryngology in Las Vegas.

At its August meeting, Rex T. Baggett, M.D., was elected President of the Nevada State Board of Medical Examiners for the next year. Dr. Baggett practices in Carson City and has served on the board since December 18, 1992. During his tenure on the board, he has served as a member of the Investigative Committee and as Vice President.

Dipak K. Desai, M.D., was re-elected to the position of Secretary-Treasurer of the board. Dr. Desai practices in Las Vegas and has served on the board since September 1, 1993, having just been re-appointed by Governor Miller for his second four-year term. In his capacity as Secretary-Treasurer, Dr. Desai will continue to serve as Chair of the board's Investigative Committee.

Arne D. Rosencrantz, a public member of the board, was elected to the position of Vice President. Mr. Rosencrantz has served on the board since July 1, 1994. Mr. Rosencrantz owns Garrett's furniture in Las Vegas. In his position as Vice President, Mr. Rosencrantz will serve as Chair of the board's Internal Affairs Committee.

---

## **NEVADA STATE BOARD OF MEDICAL EXAMINERS DIVERSION PROGRAM**

**By: F. Victor Rueckl, M.D., Director Nevada Health Professionals Assistance Foundation**

In March of 1997, the members of the Nevada State Board of Medical Examiners reaffirmed and enhanced their commitment to physician health. The board voted unanimously to allocate \$100,000 per year to the board's Diversion Program. The purpose of the Diversion Program is to provide physicians and physician assistants a confidential means of seeking and obtaining evaluation, treatment, and monitoring for addictive disease and mental or physical impairment.

In May of 1997, the board contracted with Nevada Health Professionals Assistance Foundation to administer its Diversion Program. The foundation is a non-profit corporation created in 1996 to provide expertise and assistance to Nevada physicians in all areas of impairment. F. Victor Rueckl, M.D., Director, and James M. Tracy, D.D.S., Assistant Director, of the foundation are both recovering alcoholics and addicts with extensive experience in helping physicians and their families recover from the disease of chemical dependency. Ervin Maveal, D.O. (Las Vegas), Gerry Jackson, D.D.S. (Reno) and Bradley Thompson, M.D. (Las Vegas), along with Dr. Rueckl and Dr. Tracy, comprise the Board of Directors of the foundation, which is currently in the final stages of 501(c) IRS classification.

Referrals to diversion come from a variety of sources. Self-referrals are extremely rare. Family referrals are also rare. Most referrals come from partners or colleagues, hospitals, or through law enforcement channels, ie. DUIs, DEA actions or criminal drug offenses. Occasionally, referrals are anonymous. Physicians are also referred to diversion when undergoing board investigation for other matters and an impairment is suspected. In all cases, no records are kept at the board level. All inquiries are immediately referred to Dr. Rueckl or Dr. Tracy.

If someone calls the board to report a physician suspected of practicing while impaired, the caller will be referred to the Diversion Program immediately. No names ever need to be mentioned. Dr. Rueckl is always available at 775/742-1171 (Reno). Dr. Tracy can be reached anytime at 702/257-9005 or 702/460-4512 (Las Vegas). Confidentiality and anonymity are goals of both the board and the foundation. Most referrals are for chemical dependency, and circumstances can be extremely delicate and explosive. Everyone involved is generally on an emotional roller coaster.

Information is gathered and verified before any action is taken by the Diversion Program. Should circumstances necessitate, appropriate intervention is planned. Every effort is made to

help the physician in a kind, respectful, confidential, and therapeutic manner.

Treatment for physicians with chemical dependency is best accomplished in a long-term residential physician-oriented facility. Most Nevada physicians attend Talbot Recovery Campus in Atlanta, Georgia; Springbrook Northwest in Newberg, Oregon; or Rush Behavioral in Chicago, Illinois. Time in treatment averages 14 weeks. Physicians need extended treatment to cut through their denial and educate them about their disease and recovery. All efforts are directed at returning the physician to his profession, his family and his community without shame, prepared to live a life free of any mood-altering chemicals.

Once home, aftercare includes weekly small group re-entry therapy, weekly caduceus meetings, weekly spouses groups and random observed urine testing. The Caduceus Club in Reno is currently comprised of 50 recovering M.D.s, 10 recovering dentists, 2 recovering physician assistants and several other health profession members. In Las Vegas, the Caduceus Club is smaller, but growing rapidly. The on-going support of those who have gone before is extremely beneficial to the newcomer.

All physicians enter 5-year monitoring contracts. There are currently 34 physicians in Nevada under contract, 2 physician assistants under contract and 4 physicians in treatment. Overall, the success rate of physicians in our Diversion Program is just over 90%. This high success rate is unique and astounding in the treatment of alcoholism and addiction, a disease that generally follows a predictable chronic debilitating course, usually ending in death.

Diversion works. Assisting physicians with chemical dependency works. The entire staff of the Nevada State Board of Medical Examiners and the board members recognize the value of supporting physician health and have pledged their support.

***Do you know a colleague who needs help?  
Call the Diversion Program for confidential, expert assistance.  
In Reno: Vic Rueckl at 775/742-1171  
In Las Vegas: Jim Tracy at 702/257-9005 or 702/460-4512***

---

## **WORKSHOPS AND HEARING ON PROPOSED REGULATIONS OF THE NEVADA STATE BOARD OF MEDICAL EXAMINERS**

The board will hold workshops to receive comments from all interested persons regarding the proposed adoption, amendment, or repeal of regulations pertaining to Chapter 630 of the Nevada Administrative Code. The first workshop will be conducted on Monday, November 3, 1997, at 10:00 a.m., or as soon thereafter as it may be conducted on that date, at the Sawyer State Office Building, 555 E. Washington Avenue, Room #1100, Las Vegas, Nevada. The second workshop will be conducted on Tuesday, November 4, 1997, at 10:00 a.m., or as soon thereafter as it may be conducted on that date, at the offices of the board at 1105 Terminal Way, Suite 301, Reno, Nevada.

The board will hold a public hearing to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations pertaining to Chapter 630 of the Nevada Administrative Code. The hearing will be held at 10:00 a.m. on Saturday, December 6, 1997, or as soon thereafter as it may be heard on that date, in the Magnolia Conference Room, at

the Holiday Inn - Emerald Springs, 325 E. Flamingo Road, Las Vegas, Nevada.

Please contact the board office should you wish to receive a copy of the proposed regulations.

---

## **1997 STATUTORY CHANGES TO NRS CHAPTER 630 THE NEVADA MEDICAL PRACTICE ACT**

**By: Richard J. Legarza, J.D., General Counsel**

The Nevada State Legislature, in its 1997 session, made changes to the law of the State of Nevada, including changes to chapter 630, which affect physicians and physician assistants licensed in the state.

### **MANAGED CARE**

A new chapter was added to Title 57 of NRS, entitled "Insurance." The new chapter concerns "health care plans," "managed care," "managed care organizations," and "insured" individuals.

This new chapter defines a physician or group of physicians who provide initial and primary care services to an insured, who maintain the continuity of care for an insured, or who may refer an insured to a specialized provider of health care as "primary care physicians."

The new law also provides that each "managed care organization" shall authorize coverage of a health care service that is recommended for an insured by a provider of health care acting within the scope of his practice if that service is covered by the health care plan of the insured, unless the decision not to authorize coverage is made by a physician who is licensed to practice medicine in the State of Nevada, who possesses the education, training and expertise to evaluate the medical condition of the insured, and has reviewed the available medical documentation, notes of the attending physician, test results and other relevant medical records of the insured; and, if a decision is made not to authorize coverage, that decision and the reason for the decision must be transmitted in writing in a timely manner to the insured, the provider of health care who recommended the service and the primary care physician of the insured, if any.

A "managed care organization" cannot restrict or interfere with any communication between a provider of health care and his patient regarding any information that the provider of health care determines is relevant to the health care of the patient, and shall not terminate a contract with, demote, refuse to contract with or refuse to compensate a provider of health care solely because the provider, in good faith:

- 1. Advocates in private or in public on behalf of a patient;
  2. Assists a patient in seeking reconsideration of a decision by the managed care organization to deny coverage for a health care service; or
  3. Reports a violation of law to an appropriate authority.

A "managed care organization" cannot offer or pay any type of material inducement, bonus or other financial incentive to a provider of health care to deny, reduce, withhold, limit or delay specific medically necessary health care services to an insured, but an arrangement for

payment between a managed care organization and a provider of health care that uses capitation or other financial incentives, if the arrangement is designed to provide an incentive to the provider of health care to use health care services effectively and consistently in the best interest of the health care of the insured is not prohibited. Each managed care organization shall employ or contract with a physician who is licensed to practice medicine in the State of Nevada pursuant to chapter 630 of NRS to serve as its medical director.

### **CHILD SUPPORT ARREARAGES**

The legislature adopted changes affecting all licensing agencies, whereby all applications for initial licensure and renewal of licenses must contain a statement, prescribed by regulation of the Welfare Division of the state, requiring an applicant to indicate whether or not the applicant is subject to a court order for the support of children, whether or not the applicant is in compliance with the order or a plan approved by a district attorney or some other public agency, or whether or not the applicant is not in compliance. Further, the new law requires denial of licensure or renewal of license if the applicant does not state which of the above situations is applicable to the applicant.

Chapter 630 was also amended to require the Nevada State Board of Medical Examiners, upon receipt of a court order regarding failure to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child, or stating that a person is in arrears in the payment for the support of one or more children, to deem the license to practice medicine of the person suspended at the end of the 30th day after the date on which the court order was issued, unless the board receives written notification that the person has complied.

Also, from and after October 1, 1997, all license applications for physicians and physician assistants must contain the social security number of the applicant.

### **PHYSICIAN ASSISTANT LICENSES**

The Medical Practice Act has been changed from providing for the issuance of a "certificate" to a physician assistant to the issuance of a "license." Further, with respect to physician assistants, the limitation of a physician only supervising one physician assistant except for additional physician assistants in rural areas, has been repealed. A limitation may, however, be imposed by the board by regulation in the future.

### **GROUND FOR DISCIPLINARY ACTION**

Under the old law, the board could only take formal action against a physician if the physician had committed gross malpractice or repeated malpractice. That law has been changed, and now the only requirement is one act of malpractice.

Under the old law, the board could only take formal action against a physician if the physician influenced a patient in order to engage in sexual activity with the patient or with others. That law still exists, but a new provision has been added which allows the board to take formal action against a physician if the physician engages in any sexual activity with a patient who is currently being treated by the physician.

**BURDEN OF PROOF IN DISCIPLINARY ACTIONS** The old burden of proof to find that a physician had violated the provisions of the Medical Practice Act was by clear and convincing evidence. That standard has been lowered, and now the burden is by a preponderance of the evidence.

## **COSTS INCURRED IN DISCIPLINARY PROCEEDINGS**

The final change adopted by the legislature, which affects physician discipline, is that the board now has the authority to require a physician to pay all costs incurred by the board relating to the disciplinary proceedings, if the board finds that there has been a violation of the Medical Practice Act.

---

## **PHYSICIAN ASSISTANTS**

**By: Lana L. Millard, Investigator**

In January 1997, the investigative staff of the board conducted quality assurance visits to physician assistants actively practicing in Nevada. The purpose of the quality assurance visits was to verify the compliance of physician assistants with the statutes and regulations which pertain to the licensing of physician assistants and the responsibilities of supervising physicians.

Emphasis was placed on strict compliance with NAC 630.360(2), which requires a physician assistant to wear at all times while on duty a placard, plate or insignia which identifies him as a physician assistant, and compliance with NAC 630.370, which, in part, requires a supervising physician to review regularly the records of the patients of the physician assistant and initial those records. NAC 630.380(1) states that a physician assistant is subject to disciplinary action by the board if the physician assistant has held himself out or permitted another to represent him to be a licensed physician, has performed medical services otherwise than at the direction or under the supervision of the supervising physician, or performed services which have not been approved by his supervising physician.

Problems which the board continues to experience with physician assistants and supervising physicians is failure to comply with NAC 630.340(2) and NAC 630.360, which require the two parties to notify the board of termination of employment and reasons for termination, and the physician assistant's responsibility to notify the board in writing within 72 hours of any changes relating to his supervising physician.

A physician who wishes to supervise a physician assistant must be approved by the board prior to supervision commencing. Applications for approval as a supervising physician and fee information may be obtained by contacting the board office. A physician assistant must have an approved supervising physician recorded at the board office at all times when the physician assistant is engaged in active practice. NAC 630.273 provides that the certificate of a physician assistant is valid only so long as the supervising physician employs and supervises the physician assistant.

Effective October 1, 1997, all physician assistants will be licensed by the board, as opposed to being certified, as the result of statutory change. Immediately following the October 1, 1997 effective date, all physician assistants will receive a letter from the board requesting that their certificates be mailed to the board office. Once a physician assistant's certificate is received at the board office, a new license will be mailed to the physician assistant which will replace the certificate. This service will be performed at no cost to the physician assistant.

---

## **TWENTY YEARS OF PHYSICIAN ASSISTANT REGULATION**

**By: C. Robert Vanselow, P.A.-C, Representative  
Physician Assistant Advisory Committee to the Board**

The closing of the recent state legislative session noted some changes to physician assistant legislation within the state of Nevada. We are beginning our twenty-first year of regulating physician-physician assistant practice. To date, the relationship between the board of medical examiners and the physician assistants has been very productive in terms of delivery of quality medical care. The first of October will mark a new era as defined by the state legislature; physician assistants will now be licensed through the board. Other changes to NRS 630 enable the board a greater latitude in dealing with physician assistants and their supervising physicians at the regulation level.

The Board of Medical Examiners wishes to take this opportunity to state its commitment to quality physician-physician assistant practice. A reminder is sent, as well, that each practicing team should be familiar with the rules and regulations applicable to their practice. Infractions of these rules are taken seriously, and penalties will be applied. We have tried to make the statutes and regulations as simple as possible to understand and implement. Members of the staff are always available to answer any questions regarding physician assistant practice. May our next twenty years be as fruitful as the first.

---

## **CONTINUING MEDICAL EDUCATION REQUIREMENTS**

**By: Rebecca A. Gaul-Richard, License Specialist**

The Nevada State Board of Medical Examiners requires that all physicians licensed in an active status, in order to continue licensure, meet the continuing medical education (CME) requirements set by the legislature under Nevada Revised Statutes 630.153 and 630.157.

The board has recently completed the biennial registration for the period of July 1, 1997 through June 30, 1999, and concluded through the audit of the registration forms and proof of CME, that there is some confusion as to how many CME hours are needed depending upon the initial date of licensure, and whether there is an exemption of the CME requirements for recent licensees.

New licensees are not required to submit proof of CME at the time of their initial licensure, however, in order for them to register at the time of the next biennial registration period, July 1, 1999, they must have obtained CME based on the following calendar:

- If licensed between July 1, 1997 and December 31, 1997, the first 6 months of the biennial registration period, the physician must complete 40 hours of CME.
- If licensed between January 1, 1998 and June 30, 1998, the second 6 months of the biennial registration period, the physician must complete 30 hours of CME.
- If licensed between July 1, 1998 and December 31, 1998, the third 6 months of the biennial registration period, the physician must complete 20 hours of CME.

- If licensed between January 1, 1999 and June 30, 1999, the fourth 6 months of the biennial registration period, the physician must complete 10 hours of CME.

The CME credits must have been completed between July 1, 1997 and June 30, 1999, which is the current biennial registration period.

Another area of confusion is which licensees may be exempt from the CME requirement. NRS 630.153(2) provides that any physician who has completed 12 months of a residency or fellowship any time during the previous period for registration, at the time of the current application for biennial registration, would be exempt from the CME requirement. For example, if such a physician registered for the current 1997 through 1999 registration period, he would be exempt from the CME requirements if he had completed one year of residency or fellowship training during the preceding registration period, which was July 1, 1995 through June 30, 1997, whether he was licensed during this preceding period or not.

If you have any questions regarding continuing medical education or biennial registration, please do not hesitate to contact the board office.

---

## **WE'RE HERE TO HELP YOU WITH LICENSE APPLICATIONS**

**By: Betty L. Tonner, License Specialist** The Nevada State Board of Medical Examiners has 4 license specialists available to help you with your questions regarding state licensure for physicians and physician assistants.

Too often we find that physicians calling for application for medical licensure have received incorrect information regarding Nevada requirements due to incorrect information passed from person to person.

Please have all prospective hires call the board office directly for the current licensure requirements. This will save time for all individuals involved, and could very well hasten the application process itself.

Contact the board's license specialists for information on obtaining medical licensure in Nevada:

**Rebecca A. Gaul-Richard - physician last names from A through G**

**Elizabeth A. Zarubi - physician last names from H through O**

**Betty L. Tonner - physician last names from P through Z**

. . . or for information regarding physician assistants: **Roberta M. Nolan**

Should you or your office staff have licensing questions, please do not hesitate to contact these license specialists for information.

---

## **DOMESTIC VIOLENCE AND HEALTH CARE: A NEW ERA**

**By: Attorney General Frankie Sue Del Papa**

**Office of the Attorney General** Nevada has been chosen as one of only 10 states in the

nation to develop a more comprehensive model program to respond to domestic violence within the health care system. As Chair of Nevada's 25 member Domestic Violence Prevention Council, I see this as both great news for victims, and an excellent opportunity for the health care community to collectively work toward an integrated, coordinated response.

Nevada was selected by the Family Violence Prevention Fund, (the FUND), a national non-profit organization whose mission is to help reduce family violence in America. The FUND, which has been in existence over 15 years, created the National Health Initiative on Domestic Violence with a long term goal that the health care system in 10 selected states, including Nevada, will have a comprehensive and integrated response to domestic violence by the end of March in the year 2000. The project is being supported by a grant from the Conrad N. Hilton Foundation.

The National Health Initiative places a heavy emphasis on training. The FUND has developed and tested a rigorous training regimen which is built around the participation of multi-disciplinary teams representing administrators, physicians, nurses, social workers and advocates. The goal of the training is to teach health care providers about domestic violence and to institutionalize protocols throughout the institution which require broad-based screening, intervention and referral for victims of domestic violence.

A major effort is being undertaken immediately to reach out to Nevada's health care professionals, advocates and others to see how we can best collaborate and cooperate to inventory the programming underway, to assess the unmet needs, to rank Nevada's priorities and determine what we can individually and collectively bring to the table to be involved in this project.

At the end of March 2000, the expectation is that in each of the 10 states the following would have occurred:

- Establishment of a Health Care and Domestic Violence Leadership Team committed to achieving a comprehensive response to domestic violence within the state's health care system.
- Establishment of interdisciplinary model programs in 15 health care systems/facilities that includes training and follow-up technical assistance.
- Development of a long range plan for expanding this work throughout the state.
- Development of a long range plan for addressing public policy issues related to health care and domestic violence.
- Establishment of increased media coverage around health care response to domestic violence and the state's organizing activities.
- Development of an evaluation plan for the project with the Family Violence Prevention Fund.

Research conducted by the FUND demonstrates that if domestic violence prevention activities are to become institutionalized across the health care system, active and visible leadership from key opinion leaders at all levels and across many disciplines - - is vital.

The Office of the Attorney General has reviewed the previous efforts undertaken including the Emergency Room Protocols developed in response to the significant numbers of battered women who seek hospital emergency room care. Additionally, Drs. Ralph Mayer and Kitty Glantz, members of Nevada's Domestic Violence Prevention Council, have developed an

informational card known as the "RADAR card," 30,000 of which are in the process of distribution to Nevada's health care community.

The Attorney General's office will work closely with Sue Meuschke, Executive Director of the Nevada Network Against Domestic Violence and Yvonne Sylva, Administrator of Nevada's Health Division, among others, to make Nevada's plan both comprehensive and inclusive. Too many families and individuals suffer needlessly from the often tragic effects of domestic violence. Unfortunately, if the cycle is not broken, the violence is likely to continue in generation after generation. But, with an enhanced and coordinated effort, we can make more of a difference in the lives of victims, in neighborhoods, communities and ultimately, in our state.

Sue Meuschke said, "This is a great opportunity for the Nevada health care community to provide important intervention in this crisis of domestic violence."

Yvonne Sylva said, "Domestic violence has become a recognized public health concern contributing to Nevada's high injury and death rates. The Health Division looks forward to the opportunity to work with all of the partners in this project to provide early identification and intervention to stop the epidemic of violence in our society."

We will be working with the FUND over the next 2 months to formalize a leadership team and outline a preliminary plan for the state. In the meantime, the office is mailing a letter and information to dozens of health organizations, associations and practitioners as well as victims' advocates and other community leaders to seek ideas and recruit participation on the Domestic Violence and Health Care Leadership Team and for the Action Plan.

This is an opportunity to have a direct impact on this important societal issue and we encourage and welcome suggestions, comments and participation from any interested party.

Laminated cards are available through my office by calling 775/687-3510. The card will help with screening, identifying and documenting these cases and, ultimately, may help to cure the problem through referrals and criminal prosecution. If well documented, live medical testimony may not be necessary in court. Not only are these patients victims of crime, but their children warrant protection as well.

---

## **NEVADA STATE BOARD OF MEDICAL EXAMINERS' OPINION ON MEDICAL ACUPUNCTURE**

June 16, 1997

Christi L. Bonds, M.D., M.A.  
1101 West Moana Lane, Suite 10  
Reno, NV 89509

Dear Dr. Bonds:

You have written Larry D. Lessly, Executive Director, Nevada State Board of Medical Examiners, requesting a legal opinion regarding licensed medical doctors performing Medical

Acupuncture, as taught at UCLA in their 200-hour CME course on Medical Acupuncture.

Where a licensed physician receives training and the number of hours of training received is immaterial to any determination by the board as to whether or not a physician can practice any particular branch of medicine, the Nevada State Board of Medical Examiners does not license by specialty or place of training.

The practice of medicine is defined, in part, as meaning:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, **by any means or instrumentality** [emphasis added]
2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

Your license to practice medicine allows you to practice "Medical Acupuncture," if you are utilizing some special skill, education or experience, and assuming you are qualified to practice "Medical Acupuncture" with that special skill, education or experience, you do it without committing malpractice or gross malpractice, you are not performing services which you know or have reason to know you are not competent to perform and you exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

Whether or not you may have a problem with any other regulatory licensing board of the State of Nevada, is another question.

There are certain licensing boards, which by law specifically exempt physicians from licensing, such as Podiatry, Optometry, Dispensing Opticians, Hearing Aid Specialists and Audiologists, and Speech Pathologists. There are others, such as the State Board of Oriental Medicine and Acupuncture which do not exempt physicians from their licensing requirements, and to practice their form of medicine without a license granted by their board is the commission of a criminal offense in the state of Nevada.

Whether or not the State Board of Oriental Medicine would consider the practice of "Medical Acupuncture" a practice requiring a license from their board is a question more properly addressed to that board.

Very truly yours,

Susan S. Buchwald, M.D., President  
Nevada State Board of Medical Examiners

---

**FEDERAL MOTOR CARRIER SAFETY REGULATIONS'  
CHANGE IN MEDICAL EXAMINER'S CERTIFICATE**

**By: Dana Mathiesen, Drivers License Division State Department of Motor Vehicles and  
Public Safety**

March 19, 1997

Dear Members of the Nevada State Board of Medical Examiners:

The Federal Motor Carrier Safety Regulations recently mandated a change in the Medical Examiner's Certificate used by commercial motor vehicle operators. We are enclosing a sample of the new Physical Examination Forms which should be used immediately by Nevada physicians in lieu of the forms revised in January of 1995. **[PLEASE NOTE: SHOULD YOU WISH A COPY OF THE NEW *PHYSICAL EXAMINATION FORM*, PLEASE CALL DANA MATHIESEN AT 775/688-2322.]**

We are contacting those physicians whose names are familiar to us for submitting physical examination forms to our department, however, we do not have the means to contact all licensed physicians in the state. If you release a periodic publication to physicians, or if physicians contact your office for information, we would appreciate your passing this information on to them.

The only change on the form is an additional box in the Medical Examiner's Certificate area, which reads "Qualified by operation of 49 CFR 391.64." This section of the Federal Regulations pertains to drivers who participated in the federal vision and diabetes waiver study programs. These drivers were subsequently allowed to "grandfather" into the commercial license program. We have enclosed a copy of FMCSR {391.64 for your information.

Thank you for your cooperation. If you have any questions, please feel free to contact me at 775/688-2322.

Sincerely, Dana Mathiesen, Drivers License Division

**{391.64 Grandfathering for certain drivers participating in vision and diabetes waiver study programs.**

(a) The provisions of {391.41(b)(3) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by insulin-controlled diabetic drivers; provided:

(1) The driver is physically examined every year, including an examination by a board-certified/eligible endocrinologist attesting to the fact that the driver is:

(i) Otherwise qualified under {391.41;

(ii) Free of insulin reactions (an individual is free of insulin reactions if that individual does not have severe hypoglycemia or hypoglycemia unawareness, and has less than one documented, symptomatic hypoglycemic reaction per month);

(iii) Able to and has demonstrated willingness to properly monitor and manage his/her diabetes; and

(iv) Not likely to suffer any diminution in driving ability due to his/her diabetic condition.

(2) The driver agrees to and complies with the following conditions:

(i) A source of rapidly absorbable glucose shall be carried at all times while driving;

(ii) Blood glucose levels shall be self-monitored one hour prior to driving and at least once every four hours while driving or on duty prior to driving using a portable glucose monitoring device equipped with a computerized memory;

(iii) Submit blood glucose logs to the endocrinologist or medical examiner at the annual examination or when otherwise directed by an authorized agent of the FHWA;

(iv) Provide a copy of the endocrinologist's report to the medical examiner at the time of the

annual medical examination; and

(v) Provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized federal, state or local enforcement official.

(b) The provisions of {391.41(b)(10) do not apply to a driver who was a participant in good standing on March 31, 1996, in a waiver study program concerning the operation of commercial motor vehicles by drivers with visual impairment in one eye; provided:

(1) The driver is physically examined every year, including an examination by an ophthalmologist or optometrist attesting to the fact that the driver:

(i) Is otherwise qualified under {391.41; and

(ii) Continues to measure at least 20/40 (Snellen) in the better eye.

(2) The driver provides a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination.

(3) The driver provides a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized federal, state or local enforcement official.

---

### **BOARD DISCIPLINARY ACTIONS APRIL THROUGH SEPTEMBER, 1997**

#### **CAMPBELL, Robert E., P.A.-C**

**Complaint Filed: 8/7/96** - Charged with 1 count of violation of NAC 630.380(1)(b) holding himself out to be a licensed physician; 1 count of violation of NAC 630.380(1)(c) performing medical services otherwise than at the direction or under the supervision of the supervising physician; and 1 count of violation of NAC 630.386(1)(e) engaging or having engaged in the performance of medical services when he is unable to do so with reasonable skill and safety to patients because of his excessive use of alcohol or any other controlled substance or because of any mental or physical condition or illness.

**Order of Summary Suspension of License to Practice Medicine in the State of Nevada: 8/11/97** - The board determined that the continued practice of medicine by Mr. Campbell during the pendency of the time necessary for a hearing on the complaint filed on August 7, 1997 against him would endanger the health, safety, and welfare of his patients and summarily suspended his license pending the hearing. Board Action: 9/20/97 - Revoked Mr. Campbell's certificate to practice as a physician assistant in the State of Nevada.

#### **CHOMIAK, Bryant D., M.D.**

**Complaint Filed: 4/22/97** - Charged with 1 count of violation of NRS 630.306(1) the inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance; 1 count of violation of NRS 630.306(2)(b) engaging in any conduct which the board has determined is a violation of the standards of practice established by regulation of the board; and 1 count of violation of NAC 630.230(1)(d), a standard of practice, rendering professional services to a patient while the physician is under the influence of alcohol or any controlled substance.

**Order of Summary Suspension of License to Practice Medicine in the State of Nevada: 4/24/97** - The board determined that the continued practice of medicine by Dr. Chomiak during the pendency of the time necessary for a hearing on the complaint filed on April 22, 1997 against him would endanger the health, safety, and welfare of his patients and summarily suspended his license pending the hearing. Board Action: 7/16/97 - Revoked Dr. Chomiak's

license to practice medicine in the State of Nevada.

**DUBIN, Stephen P., M.D.**

**Complaint Filed: 4/22/97** - Charged with 2 counts of violation of NRS 630.304(1) obtaining a license to practice medicine by fraud or misrepresentation, or by any false, misleading, inaccurate or incomplete statement; and 2 counts of violation of NRS 630.306(2)(a) engaging in conduct intended to deceive; 1 count of violation of NRS 630.304(1)

**Board Action: 07/15/97** - Revoked Dr. Dubin's license to practice medicine in the State of Nevada.

**EVANGELISTA, Luisito A., M.D.**

**Complaint Filed: 9/16/96** - Charged with 1 count of violation of NRS 630.3062(4) failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061; 2 counts of violation of NRS 306(2)(a) engaging in any conduct intended to deceive; 1 count of violation of NRS 630.3065(2)(a) willful failure to comply with a subpoena of the board; 14 counts of violation of NRS 630.306(2)(b) engaging in any conduct which the board has determined is a violation of the standards of practice established by regulation of the board; 14 counts of violation of NAC 630.230(1)(c) engaging in the practice of writing prescriptions for controlled substances in such excessive amounts as to constitute a departure from prevailing standards of acceptable medical practice; 26 counts of violation of NAC 630.245 malpractice defined as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances; 1 count of violation of NRS 630.301(4) gross or repeated malpractice; 12 counts of violation of NAC 630.205(1) and (a) or (b) prescribing an appetite suppressant to control weight under certain circumstances set out in paragraphs 1(a) and (b); 12 counts of violation of NAC 630.205(4) failure to obtain a medical history and perform a physical examination of the patient and conduct appropriate studies to determine if there are any contraindications to the use of the appetite suppressant by the patient; and 1 count of violation of NRS 630.301(4) gross or repeated malpractice. **Board Action: 9/20/97** - Revoked Dr. Evangelista's license to practice medicine in the State of Nevada.

**HOSSAIN, Mohammad M., M.D. Board Action: 4/24/97** - Reconsidered and accepted Dr. Hossain's application for licensure, and Dr. Hossain was issued a license to practice medicine in the State of Nevada.

**LEVINGER, William A., M.D. Complaint Filed: 4/16/97** - Charged with 1 count of violation of NRS 630.306(11) failure by a licensee or applicant to report, within 30 days, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction, namely, the State of Idaho.

**Board Action: 6/20/97** - Entered into a Stipulation for Settlement and Ordered Dr. Levinger to: 1) pay \$500.00 as reimbursement to the board for costs of investigation in the matter; and 2) enter into an agreement with the Nevada Health Professionals Assistance Foundation, which agreement will provide, among other things, that the Idaho Physicians Recovery Network be authorized to provide - and that Dr. Levinger authorize the Idaho Physicians Recovery Network, in writing, to provide - the Nevada Health Professionals Assistance Foundation with any and all reports, conclusions, or recommendations concerning Dr. Levinger's monitoring by the Idaho Physicians Recovery Network.

**ONG, Teng C., M.D.**

**Findings of Fact, Conclusions of Law and Order Entered Pursuant to Stipulation for**

**Settlement Filed: 7/9/97** - The board has settled Dr. Ong's Nevada Supreme Court appeal of the District Court's Decision affirming the board's disciplinary order. In the Findings of Fact, Conclusions of Law and Order Entered Pursuant to Stipulation for Settlement filed 7/9/97, the board ordered that Dr. Ong's license shall remain suspended; however, the suspension is stayed and his probation is reduced from 4 to 2 years, commencing 3/15/96; and while on probation: a) Dr. Ong shall complete 30 hours of CME in the area of pain management and 10 hours dealing with prescribing of narcotic medication as directed by the board in addition to the standard 20 hours of CME; b) Dr. Ong's probation shall not terminate until successful completion of the added CME; c) Dr. Ong shall reimburse to the board \$5,000.00 for its expenses incurred in the investigation and hearing process; and d) in the event Dr. Ong violates or fails to comply with the probationary terms, the board, after providing notice to Dr. Ong and an opportunity to be heard, may terminate the probation and suspend his license.

**ROSEN, Robert S., M.D. Complaint Filed: 7/9/97** - Charged with 1 count of violation of NRS 630.301(1) any offense involving moral turpitude; 1 count of violation of NRS 630.304(1) renewing a license to practice medicine by fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement; and 1 count of violation of NRS 630.306(2)(a) engaging in any conduct which is intended to deceive.

**Board Action: 9/20/97** - Ordered Dr. Rosen to: 1) receive a public written reprimand; 2) pay a fine in the amount of \$500.00; 3) reimburse to the board the expenses incurred in the investigation and hearing process; and 4) perform 40 hours of public community service in Las Vegas without compensation, which service to be approved in advance by the board, within 1 year from the date of the filing of the board's Order.

### **PUBLIC REPRIMAND ORDERED BY THE BOARD**

ROBERT S. ROSEN, M.D.

Dear Dr. Rosen:

On July 9, 1997, a complaint was filed against you alleging three (3) violations of Chapter 630 of the Nevada Revised Statutes. Specifically, you were charged with having been convicted of an offense involving moral turpitude, a violation of NRS 630.301(1); answering a question on your application for renewal "No," when the correct answer was "Yes," thereby engaging in the conduct of renewing a license to practice medicine in the state of Nevada by misrepresentation or by any false, misleading, inaccurate or incomplete statement, a violation of NRS 630.304(1); and, that by answering the question on your application for renewal "No," when the correct answer was "Yes," you engaged in conduct which was intended to deceive, a violation of NRS 630.306(2)(a).

On September 20, 1997, you were found guilty by the board of all three (3) of the above counts in the complaint.

On September 24, 1997, the board entered its order, as follows:

1. That you pay the costs of the investigation and hearing in the sum of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00);
2. That you perform forty (40) hours of public community service in the Las Vegas, Nevada area, without compensation, which public community service must be approved by the board in advance of its performance, and which public community service must be completed within one (1) year of the date of the Order;
3. That you pay a fine of FIVE HUNDRED DOLLARS (\$500.00); and,

- 4. 4. That you receive a public reprimand.

Accordingly, it is my unpleasant duty as President of the Nevada State Board of Medical Examiners to formally and publicly reprimand you for your conduct which has brought personal and professional discredit upon you, and which reflects unfavorably upon the medical profession as a whole.

Rex T. Baggett, M.D.  
President



[RETURN TO THE NEWSLETTER TABLE OF CONTENTS](#)

