



State of Nevada

Board of Medical Examiners Newsletter

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NEVADA STATE BOARD OF MEDICAL EXAMINERS NEWSLETTER

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PRESIDENT'S MESSAGE

By: Cheryl A. Hug-English, M.D., President

By way of introduction, I am Cheryl A. Hug-English, M.D., current President of the Nevada State Board of Medical Examiners. I am serving my sixth year as a member of the board. I am a practicing physician in Reno and serve as a faculty member and Assistant Dean of Admissions for the University of Nevada School of Medicine.

The world of medicine has changed greatly over the past years. Gone are the days of a "simple medical practice." Medical practice is now complicated by issues with managed care, insurance plans, contract negotiations, reimbursement rates, provider lists, and forests of paperwork. HMOs, PPOs, IPAs, and other insurance entities often make us scratch our heads and wish that we had gotten a business degree somewhere along the way. We have had to adapt our practices to this new world order and to incorporate others to help with the "business of medicine" to allow us time to take care of patients.

There are newer, even more complex issues facing us today. There are many concerns on a national level that are being discussed that will impact the way that we practice medicine. Questions are being asked as to how states deal with telemedicine, Internet prescribing, pain management, ensuring continuing competency of physicians and others. The Nevada State Board of Medical Examiners has taken an active role in addressing and discussing these issues. Physicians in the state of Nevada have asked for guidance on some of these matters, and the board has attempted to respond with guidelines (see article on pain regulations).

It is a complicated world in which we live. Technology offers us tremendous resources, but also

creates difficult dilemmas. As a physician, I see the role of the State Board of Medical Examiners not only to protect the public health, safety, and welfare, but also to ensure that we make every attempt to assist physicians in communicating and addressing these complex issues in medicine. I believe that every other member of the Nevada State Board of Medical Examiners, both physician and public members, join me in this viewpoint of the board's role.

"PAINFUL" REGULATIONS

By: Cheryl A. Hug-English, M.D., President

There has been a great deal of discussion and confusion about the pain regulations recently adopted by the Nevada State Board of Medical Examiners. This article is written as an attempt to clarify the intent and purpose of the regulations, and to review the process of their adoption.

Chronic pain management is an important issue that is being addressed not only in the State of Nevada, but also nationally. Questions have been raised by physicians and others as to how to manage and monitor pain control. In response to this concern, the board, at the request of the Nevada State Medical Association, assembled a task force in 1998, comprised of representatives of the Nevada State Board of Osteopathic Medicine, the Nevada State Board of Pharmacy, the Nevada State Board of Nursing, the University of Nevada School of Medicine, Larry Matheis, the Executive Director of the Nevada State Medical Association, as well as other representatives of the medical profession. This task force developed proposed regulations. These regulations were then amended at the request of the Nevada State Medical Association to adopt by reference the guidelines for pain management by the Federation of State Medical Boards of the United States, Inc. Notices of intent to adopt regulation were posted in every library in the state of Nevada, as well as on the board's Web site, and hearings were held on these regulations, prior to their final review by the Legislative Counsel Bureau.

It is important to note that the board sought out and welcomed input in the development and proposal of these regulations. It is also important to point out that our State Medical Association fully supported and encouraged passage of these guidelines in their present form.

Pain is one of the most common presenting complaints in clinical practice. It is often difficult and frustrating to diagnose and manage. These regulations were drafted with the intention of making it less complicated for physicians in prescribing and monitoring pain medications. Inadequate pain control may result from physicians' lack of knowledge about pain management medications or fears of disciplinary action from state boards. These guidelines are designed to encourage better pain management and recognize that controlled substances, including opioid analgesics, are a key component of pain management.

There has been a great deal of misinformation distributed about these pain regulations and what they are designed to do. Letters have been sent to various medical societies throughout the state, suggesting that the Nevada State Board of Medical Examiners is going to target and discipline physicians for prescribing controlled substances for pain. This could not be farther from the truth. One need only look to the preamble of the regulations, where it clearly states: **"physicians should not fear disciplinary action from the board or other state regulatory or enforcement agency for prescribing, ordering, administering, or dispensing controlled substances including opioid analgesics, for a legitimate medical purpose and in the usual course of professional practice"**. The board has never disciplined a physician in the state of Nevada for prescribing pain medication, unless it has been for engaging in the process of actually selling medications. There are also rumors that the board is "out to get" physicians. It is important to realize that this board does not actively pursue physicians in order to file

complaints against them. In actuality, the board receives about 800 written complaints each year and files approximately 10 to 20 formal complaints, most having nothing to do with pain management. The board takes its responsibility of protecting the public's health, safety, and welfare seriously; however, it is rare that we find it necessary to file formal complaints against physicians. Most physicians in the state of Nevada practice responsibly and provide excellent medical care for their patients. It is our job to ensure that the small minority of physicians who have moral, ethical, or competency issues are disciplined appropriately.

To review the basic pain control guidelines, there are seven basic parameters: 1) Evaluation of the patient; 2) Treatment plan; 3) Informed consent; 4) Periodic review; 5) Consultation; 6) Medical records; and 7) Compliance with controlled substance laws and regulations. These basic principles constitute good medical practice and sound judgment in managing pain. Unfortunately, the misrepresentations of these regulations that have been distributed and communicated to many physicians have created confusion. Physicians have raised concern that if they prescribe pain medication for a patient while on call over the weekend without a physical exam, they could be subject to discipline. This is not the case. As long as a medical record exists and an evaluation has been done on the patient as part of established care, these regulations do not suggest that each and every time a medication is prescribed a new evaluation must occur. The same is true of hospice care. The board knows that it is not feasible or practical to do a physical exam each time a hospice patient receives a controlled substance for pain medication. Again, it is important that a medical record with an evaluation of the patient exists and is referred to when managing pain control.

These regulations are primarily designed for guiding the use of **chronic** pain control medications. They are not designed to regulate one-time prescriptions for short-term acute pain control. These misinterpretations have created a lot of unnecessary anxiety for physicians. It is important to remember that these are guidelines. There are certainly exceptions that can and will occur. Again, referring to the preamble of the guidelines: "**each case of prescribing for pain will be evaluated on an individual basis. The board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of these guidelines, if good cause is shown for such deviation.**"

Finally, these regulations were drafted with the recognition by many practicing physicians, as well as by the Nevada State Medical Association, that guidelines were needed to help eliminate confusion on both under and over prescribing for pain control. These guidelines adopted by reference from the Federation of State Medical Boards of the United States, Inc. are an excellent resource and are being used in many other states without problems. Pain control is a problem that requires a planned, thoughtful approach to management. These guidelines help physicians do just that.

REMAINDER OF 2001 MEETING SCHEDULE

November 22 & 23 Thanksgiving Day & Family Day HOLIDAYS

NOVEMBER 30 & DECEMBER 1 (Fri & Sat) BOARD MEETING BOARD OFFICE, RENO

December 25 Christmas Day HOLIDAY

2002 MEETING SCHEDULE

January 1 New Year's Day HOLIDAY

January 21 Martin Luther King, Jr.'s Day (OBSERVED) HOLIDAY

February 18 Presidents' Day (OBSERVED) HOLIDAY

MARCH 1 & 2 (Fri & Sat) BOARD MEETING BOARD OFFICE, RENO

May 27 Memorial Day (OBSERVED) HOLIDAY

MAY 31 & JUNE 1 (Fri & Sat) BOARD MEETING BOARD OFFICE, RENO

July 4 Independence Day HOLIDAY

September 2 Labor Day HOLIDAY

SEPTEMBER 6 & 7 (Fri & Sat) BOARD MEETING BOARD OFFICE, RENO

October 25 Nevada Day (OBSERVED) HOLIDAY

November 11 Veteran's Day (OBSERVED) HOLIDAY

November 28 & 29 Thanksgiving Day & Family Day HOLIDAYS

DECEMBER 6 & 7 (Fri & Sat) BOARD MEETING BOARD OFFICE, RENO

December 25 Christmas Day HOLIDAY

LEGISLATIVE CHANGES TO THE NEVADA MEDICAL PRACTICE ACT

By: Larry D. Lessly, J.D., Executive Director/Special Counsel

A number of changes were made to the statutes governing the practice of medicine, practice as a physician assistant, and practice as a practitioner of respiratory care in the last session of the Legislature.

The Legislature passed legislation requiring that practitioners of respiratory care be licensed by the Nevada State Board of Medical Examiners by January 1, 2002. Accordingly, the board is proceeding with the licensing process to license approximately 700 practitioners of respiratory care in the state of Nevada. An initial application fee of \$100.00 and biennial registration fee of \$200.00 were set by the board.

A number of housekeeping measures were enacted to the statutes with respect to physician assistants practicing in Nevada, and one substantive change, providing that nurses can take orders from physician assistants, was enacted.

With respect to medical doctors, a number of changes occurred. The following grounds for disciplinary action were enacted:

Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.

The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when such a failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.

The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a national code of ethics adopted by the board by regulation.

The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.

Effective July 1, 2001, physicians seeking licensure in the state of Nevada must have 36 months of **progressive** postgraduate training. This requirement means that progressive postgraduate years (i.e. PGY-1, PGY-2, PGY-3, etc.), as opposed to multiple PGY-1 years, must be completed. In addition, physicians seeking licensure by temporary license or locum tenens license must now complete all requirements for licensure that any other physician seeking an unrestricted medical license must complete. The Legislature also created a special purpose license for the practice of telemedicine on Nevada patients from out-of-state locations, together with a volunteer license, which is issued without fees to a physician who has retired, meets all current requirements for licensure, and wishes to provide his or her services in a volunteer capacity without compensation. The "retired" status of licensure was abolished, and all physicians who attempted to register in retired status on July 1, 2001, were transferred to "inactive" status without additional cost. Provisions regarding the issuance of a county restricted license for practice in an underserved area of the state of Nevada were changed to provide that the Nevada State Board of Medical Examiners would make the determination as to what constitutes an underserved area of a county, as opposed to the Office of Rural Health of the University of Nevada School of Medicine. The board has received few applications for such status in recent years.

The board will be publishing up-to-date statutes and regulations and will be distributing them to all board licensees, including medical doctors, physician assistants, and practitioners of respiratory care in the near future. This is being done in order to provide all of our licensees with a ready reference to all laws governing practice in Nevada.

NEW REGULATIONS UNDER NAC CHAPTER 630

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

The board, on October 24, 2001, adopted several regulations. Many of the adopted regulations were changes to the Nevada Administrative Code resulting from a change in terminology in the last session of the Nevada State Legislature where all references to "physician's assistants" were changed to read "physician assistants," throughout. There were few substantive changes to any of those regulations.

When the legislature was in session, the board adopted temporary regulations, which had to be

re-noticed, hearings had to be held, and the Legislative Counsel Bureau had to review them to make the regulations permanent. Once again, there were no substantive changes to the temporary regulations.

The adopted regulations and their subject matter were, generally, as follows:

1. The practice of integrative and complementary medicine.

These regulations state, in summary, that an M.D. may practice by using any means or instrumentality that does not have a risk for a patient which is unreasonably greater than the means or instrumentality ordinarily utilized by physicians in good standing practicing in the same specialty or field, and is not provided as a substitute for any conventional treatment which has proven to be of substantial benefit to the patient.

Certain assessments must be documented in the medical chart of the patient which include, without limitation, conventional methods of diagnosis, and may include non-conventional methods of diagnosis. The assessment must include an adequate medical record, documentation as to whether conventional treatment options have been discussed with, offered to, refused by, or undertaken with the patient, and if so, the outcome.

If treatment is offered which is not considered to be conventional, certain provisions of the new regulations must be complied with by the licensee, all of which are set out in the regulations.

2. The licensing of practitioners of respiratory care.

These regulations were adopted as a result of the legislation requiring licensure of respiratory therapists in this state, by the Nevada State Board of Medical Examiners. These regulations are not lengthy and are being provided to all practitioners of respiratory care as they are licensed by the board.

3. Definition of "medically underserved" area.

This has now been defined as an area designated by the board with a population to primary care physician ratio of 2,500:1. In addition, the board may consider any additional criteria proposed by the officer of rural health of the University of Nevada School of Medicine or a board of county commissioners.

4. Resident physician license.

As a condition of renewal of limited licenses to practice medicine as a resident physician in the state of Nevada, licensees are now required to submit an annual report signed by the director of the program of clinical training and the chair of the Graduate Medical Education Program.

5. CME credit for medical reviews.

A regulation was adopted that allows the board to issue up to 20 hours of continuing medical education credit during a single biennial period to a licensee who performs a medical review for the board. The amount of credit up to a maximum of 20 hours during the biennial period must have been actual time involved in performing the medical review.

6. Credibility of witnesses at hearings.

A regulation was adopted requiring the hearing officer or panel of members of the board to submit a synopsis of the testimony taken at a hearing and to make a recommendation to the board on the veracity of witnesses if there is conflicting evidence or the credibility of witnesses is a determining factor.

The final regulations were filed with the Legislative Counsel Bureau on Thursday, October 25, 2001, and become effective thirty-five (35) days thereafter.

All current regulations of the Nevada State Board of Medical Examiners may be viewed on the Internet at www.leg.state.nv.us. When at that site, click on "law library", "administrative code", "browse", and "NAC 630".

All proposed regulations, including this latest set of adopted regulations – with some minor changes which occurred at the board hearing adopting the regulations – may be viewed on the Internet at the same site www.leg.state.nv.us. When at that site, click on "law library", "Nevada Register", "Browse", "Subject Index", and "R108-01P"

The board - after all 2001 legislation, and all new regulations have been codified, under numerical designations assigned by the Legislative Counsel Bureau - will be printing and distributing to all licensees a complete set of the Nevada Revised Statutes and Nevada Administrative Code regulations that are applicable to physicians, physician assistants, practitioners of respiratory care, and supervising/collaborating physicians. The timetable for their production and distribution is some time in the early part of 2002.

Respiratory Therapist Licensure - Nevada Raises the Bar

By: Michael J. Garcia, R.R.T., Practitioner of Respiratory Care Advisor

The practice of respiratory care has recently taken a big step forward in the state of Nevada. Although every state that borders ours, and all but five others in our nation have taken this step before us, the time has finally come for the therapists of Nevada to accept the professional responsibility and accountability that come with legal licensing.

In 1997, the legislature recognized the budding profession of respiratory care by establishing a work practice act requiring therapists in our state to pass nationally recognized examinations. This brought an end to on the job training for this occupation. In addition, it prompted the inception of a college-based program tailored to meet national standards for competency and educational preparation. At the time of this change, many were concerned that this law might bring workforce shortages, and/ or would put a host of hard working citizens in the unemployment line; however, the need to improve the degree of public safety was held above such concerns, and the practitioners either met the new requirements or moved out of the practice of respiratory care.

Although NRS 640B brought a requirement for credentials to the practice of respiratory therapy, the door remained open in our state to any therapist that had at one time or another passed the national exam. There were no provisions for reviewing therapists' professional history, no formal verification of their credentials, and no ongoing monitoring of their activities once within our local health care arena. As all but six states in the nation established formal licensing for therapists, very few places remained for those who had lost their licenses elsewhere. Other health care professionals, and the general public, were gaining an awareness of the need to regulate this

profession. The practice of respiratory care was becoming increasingly more sophisticated, and, therefore, posed increasing risk for patients who might find themselves in the hands of incompetent care givers.

Since the passage of the work practice act, the professional association of therapists in Nevada has worked to find a route for the establishment of legal licensure. A variety of potential mechanisms were explored, with licensing under the Nevada State Board of Medical Examiners found to be the optimal arrangement. Senate Bill 91 ended the journey for licensure, and will begin a new era in the local evolution of this profession.

Much as in 1997, there will no doubt be those who express concerns regarding this increase in accountability, and those who will not meet the new regulatory standards. The safety of the public, however, will again prevail. As the bar rises in Nevada, respiratory therapists will take the final formal step in holding their profession up to the same public scrutiny as other members of the modern health care team.

ATTENTION ALL PRACTITIONERS OF RESPIRATORY CARE

By: Larry D. Lessly, J.D., Executive Director/Special Counsel

Approximately 700 practitioners of respiratory care are receiving this newsletter for the first time as a result of the legislation enacted in the last session of the Nevada Legislature to require practitioners of respiratory care to be licensed by the Nevada State Board of Medical Examiners by January 1, 2002. The board is proceeding with the licensure process at this time. Approximately 700 applications have been sent to prospective licensees as practitioners of respiratory care in the state of Nevada. In the event that you did not receive an application, or if you know of any practitioner of respiratory care practicing in Nevada who did not receive an application, please contact the board office in Reno at 775-688-2559 or toll-free from elsewhere within Nevada at 888-890-8210.

It is illegal for a practitioner of respiratory care to practice in the state of Nevada without being licensed by the Nevada State Board of Medical Examiners after January 1, 2002. Please assist the board in providing this information to any practitioner of respiratory care who has not received an application for licensure.

The following is a listing of those practitioners of respiratory care to whom the board attempted to mail an application for licensure and has had the applications returned to the board office marked as "undeliverable" by the post office: Susan L. Batten, Matthew L. Bolin, Leanne C. Boner-Welch, Patrick H. Brakebush, Donald Brown, William J. Cesarone, Amnat Chandarothai, Tina M. Cheramie, Carol J. Collier, Arneshia Cross, Anthony J. Cruz, Clarence D. Cummins, Bobbette, G. Deem, Reynaldo De Guzman, Craig P. Ferrari, Robert Fletcher, Garret H. Franke, Ellen L. Gadegaard, Patrick J. Hannigan, Kyle Hurst, Keirsten G. Jackson, Becky F. Johnson, Gerald T. Jones, Louis Juarez, Gary L. Lynch, Joseph H. Melonson, Gilbert F. Montoya, Jeffrey Oliver, Nancy E. Robbins, Marla Beth Simmons, Robert B. Sobkowiak, Shirley A. Steffee, Shawn M. Stincley, David F. Ventura, David G. Walsh, and Dorothy M. Wilder. Should you know any of these people, please let them know that they need to contact the board office to obtain an application for licensure as soon as possible. Thank you for your help!

A WORD FROM THE PHYSICIAN ASSISTANT ADVISORY COMMITTEE OF THE BOARD

By: John B. Lanzillotta, P.A.-C, Physician Assistant Advisor

Treating chronic pain can be a clinical challenge for both physicians and physician assistants. The prevalence of what is considered a public health problem of major proportions is estimated to range from 2% - 40% for the general population, affecting 45% - 80 % of nursing home patients and 75% of patients with advanced cancer. Studies demonstrate that up to 50% of patients treated for chronic pain in routine practice settings fail to obtain adequate relief.

The relief of pain and treatment of chronic pain invoke many issues including prescribing, and when opioids are used, not deviating from federal and state regulations controlling the use of these drugs, and providing adequate pain relief for the patient. Preventing iatrogenic dependence is a major concern of medical providers, patients, and regulatory bodies.

The dilemma of overprescribing and underprescribing analgesics that are controlled substances is exacerbated by the fact that patients taking opioid analgesics will develop a degree of physical dependence and are at risk of withdrawal symptoms if the drug is withdrawn abruptly. This further increases the concern for prescribing these medications. Maintaining a current knowledge base of pharmacologic and non-pharmacologic modalities of pain treatment is crucial in treating chronic pain patients.

As medical practitioners, we often use accredited recommended guidelines in the evaluation and treatment of disease. Chronic pain treatment requires as diligent an evaluation as does many of the major pathologic entities we see in medical practice. In 1998 The Federation of State Medical Boards of the United States, Inc. (FSMB) established model guidelines for the use of controlled substances in treating chronic pain. These were adopted by the Nevada State Board of Medical Examiners in July of 2000 (NAC 630.180). These guidelines were written substantiating the importance of effective, methodical, up-to-date treatment modalities for chronic pain treatment in improving the quality of life for those suffering from pain and reduce the morbidity and costs from inappropriately treated pain. The guidelines, if followed, are useful for physicians and physician assistants in the clinical evaluation and management of this patient population. Record keeping and documentation are emphasized in treating chronic pain patients, and all patients should receive thorough medical workup with history and physical examination. A treatment plan, informed consent, and agreement should be established. Periodic review and consultation or referral if indicated is advised. Physician assistants as dependent practitioners must stay within the scope of practice of their supervising physician, and it is beneficial to have the physician involved in the management of these patients.

The preamble of the guidelines states that the physician or physician assistant need not fear disciplinary action from the board or other regulatory agency if controlled substances are prescribed or dispensed for legitimate medical reason, and if based on scientific knowledge and sound clinical grounds. "Each case of prescribing for pain will be evaluated on an individual basis. The board will not take disciplinary action against a physician for failing to adhere strictly to the provisions of the guidelines, if good cause is shown for such deviation."

Clinical situations may exist where practitioners may have to make a decision in what may seem to be a deviation from the guidelines. An example would be on call or cross coverage situations where a controlled substance may need to be prescribed for certain patients (advanced cancer) without a history and physical exam.

Again, reading and becoming familiar with the guidelines (The Preamble) and reading the FSMB's Special Report on Professional Conduct and Ethics section VI (5) may allay concerns.

FSMB Report of the Special Committee on Professional Conduct and Ethics

Section VI Recommendations:

5. State medical boards should consider it unprofessional conduct for a physician to provide treatment and consultation recommendations, including issuing a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient adequate to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided.

Exceptions should be defined to include:

- an emergency, as defined by the state medical board;
- treatment provided in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications; or
- on-call or cross-coverage situations in which the physician has access to patient records.

To obtain a copy of the [Model Guidelines for the Use of Controlled Substances for the Treatment of Pain](#) and the [Federation of State Medical Boards Report of the Special Committee on Professional Conduct and Ethics](#) go to www.fsmb.org/ on the Web or write: Federation of State Medical Boards of the United States, Inc., Federation Place, 400 Fuller Wiser Road, Suite 300, Euless, Texas 76039-3855

NEVADA STATE BOARD OF MEDICAL EXAMINERS DIVERSION PROGRAM

By: Carol R. Bowers, R.N., C.D., Executive Director
Nevada Health Professionals Assistance Foundation

The purpose of the Diversion Program is to provide physicians, physician assistants, and practitioners of respiratory care a confidential means of seeking and obtaining evaluation, treatment, and monitoring for addictive disease, disruptive behavior, and mental or physical impairment. We currently have 60 participants under contract with another 40 participants who have successfully completed their monitoring contracts. Diversion works. The Nevada Health Professionals Assistance Foundation is contracted by the Nevada State Board of Medical Examiners to administer the Diversion Program. The entire staffs of the Nevada State Board of Medical Examiners and the Nevada Health Professionals Assistance Foundation recognize the value of supporting physician health and have pledged support of this program.

The Nevada Health Professionals Assistance Foundation is pleased to announce that it has invited Arne D. Rosencrantz, the immediate past President and former member of the Nevada State Board of Medical Examiners, to join the Board of Directors of the foundation. Mr. Rosencrantz was extremely supportive of the work of the foundation during his more than seven years service as a member and President of the board. The foundation looks forward to his assistance as a director.

The foundation is also pleased to announce the appointment of F. Victor Rueckl, M.D. of Las Vegas as its Medical Director. Dr. Rueckl has been active with the foundation for many years, and he has assisted the Executive Director of the foundation when meeting with all physicians and for all interventions. In addition, Dr. Rueckl has been a frequent speaker at hospitals and other organizations about the work of the foundation. The foundation looks forward to its new

relationship with Dr. Rueckl as its Medical Director.

A new facilitating group has been started in Las Vegas. It currently has six participants and is composed of any new physicians or physician assistants who have completed treatment.

The foundation has made presentations on its work at Valley Hospital, Desert Springs Hospital, Sunrise Hospital, Nellis Air Force Base Hospital, the Washoe Veterans Administration Hospital, and Columbia Health Care System. The foundation makes speakers available to give presentations on addiction, disruptive behavior, or to explain the role and functioning of the Diversion Program to medical facilities throughout Nevada.

Referrals to the Diversion Program come from a variety of sources, although the majority of those referrals come from partners, colleagues and hospitals. In all cases, no records are kept at the Nevada State Board of Medical Examiners level. Confidentiality and anonymity are the goals of both the board and the foundation. Information is gathered and verified before the Diversion Program takes action. Should circumstances necessitate, appropriate intervention is planned. Every effort is made to help the physician in a kind, respectful, confidential and therapeutic manner. If evaluation or treatment is indicated, we utilize three facilities: Talbott Recovery, in Atlanta, Georgia; Farley Center in Williamsburg, Virginia; and Springbrook Northwest in Portland, Oregon. We currently have 2 caduceus groups serving Nevada, one in Las Vegas and one in Reno, and physicians and other health professionals attend these meetings on a weekly basis. Each individual is monitored for a minimum of five years. Monitoring includes random urine drug screening, weekly caduceus group, weekly therapy group, and attendance at "12-Step" meetings. The success rate for participants is very high, particularly when intervention is accomplished as early as possible and when colleagues are willing to step in and help their peers.

**Do you know a colleague who needs help?
Call the Nevada Health Professionals Assistance
Foundation for confidential, expert assistance.
Nevada Health Professionals Assistance Foundation
Carol R. Bowers, R.N., C.D., Executive Director
*(702) 233-6393 OR (702) 521-1398 fax: (702) 242-3560***

**The board appreciates the hard work and dedication of the
Nevada Health Professionals Assistance Foundation
in helping its licensees to continue safe practice in the state of Nevada.**

**Your tax deductible contribution to the
Nevada Health Professionals Assistance
Foundation to assist in its important service
to physicians, physician assistants, and
practitioners of respiratory care in
administering a diversion program
would be greatly appreciated.
Thank you for your generosity.**

**Contributions may be made payable to the foundation
and mailed to the Nevada State Board of Medical
Examiners' office in Reno.**

BOARD DISCIPLINARY ACTIONS MAY 2001 THROUGH OCTOBER 2001

LOAIZA, Augusto, M.D. (San Diego, CA)

Complaint Filed: 6/7/01 - Charged with: 1) one count of violation of NRS 630.301(3), having his license to practice medicine in California revoked, the revocation stayed, and being placed on probation for 7 years; and 2) one count of violation of NRS 630.306(11), the failure to report to the Nevada State Board of Medical Examiners the revocation of his California medical license.

Board Action: 10/10/01 - The board revoked Dr. Loaiza's license to practice medicine in Nevada and ordered that he pay all administrative costs incurred in the investigation and prosecution of the case against him in the amount of \$2,165.41.

MCFARLAND, John Z., M.D. (Moran, WY)

Complaint Filed: 07/01/01 - Charged with: 1) one count of violation of NRS 630.304(1), engaging in the act of attempting to renew a license to practice medicine by fraud or misrepresentation or by false, misleading, inaccurate or incomplete statement by answering "no" to question no. 11 of his application for renewal of his inactive status medical license in Nevada, when he knew that his license to practice medicine in Colorado was under investigation; and 2) one count of violation of NRS 630.306(2)(a), engaging in conduct intended to deceive by answering "no" to question no. 11 of his application for renewal of his inactive status medical license in Nevada.

Board Action: 10/01/01 - The board found Dr. McFarland guilty of count 1 and not guilty of count 2 of the Complaint filed against him, and ordered that he pay all administrative costs incurred in the investigation and prosecution of the case against him in the amount of \$1,973.38 and that he be issued a public reprimand.

NOEL-UYLOAN, Catherine N., M.D. (Cypress, CA)

Complaint Filed: 6/7/01 - Charged with one count of violation of NRS 630.301(3), having her license to practice medicine in California revoked, the revocation stayed, and being placed on probation for 7 years.

Board Action: 10/10/01 - The board found Dr. Noel-Uyloan guilty of the count of the Complaint filed against her, and ordered that she pay all administrative costs incurred in the investigation and prosecution of the case against her in the amount of \$1,815.98.

ROBERTS, Gary F., M.D. (Mesquite, TX)

Complaint Filed: 12/6/00 - Charged with one count of violation of NRS 630.304(1), engaging in the act of attempting to renew a license to practice medicine by fraud or misrepresentation or by false, misleading, inaccurate or incomplete statement.

Board Action: 6/4/01 - The board found Dr. Roberts guilty of the count of the Complaint filed against him, and ordered that he pay all administrative costs incurred in the investigation and prosecution of the case against him in the amount of \$1,927.30 and that he be issued a public

reprimand.

SCHMERLER, Elliott D., M.D. (Reno & Incline Village, NV)

Complaint Filed: 11/6/00 - Charged with: 1) two counts of violation of NRS 630.301(4), performing tumescent liposuction on 2 patients in a manner which constituted malpractice; and 2) four counts of violation of NRS 630.306(2)(a), engaging in conduct intended to deceive by having 2 patients enter into agreements and executing documents pertaining to their tumescent liposuction procedures.

Board Action: 9/10/01 - The board accepted and approved a Stipulation for Settlement of the Complaint filed against Dr. Schmerler, and ordered that he - having not contested the allegations in the Complaint - be issued a public reprimand and pay all administrative costs incurred in the investigation of the case against him in the amount of \$11,700.35, and further ordered that his license be limited, excluding from his practice, for a period of 2 years, any and all liposuction procedures, and ordered that he shall never use any form for patient signature such as the forms entitled "Office Surgery Discount," and that he shall complete 10 hours of continuing medical education in the area of medical ethics.

SURMAN, Dusan J., M.D. (Portland, OR)

Complaint Filed: 6/4/01 - Charged with one count of violation of NRS 630.301(3), voluntarily withdrawing from the practice of medicine in Oregon while under investigation by Oregon's medical board.

Board Action: 9/10/01 - The board found Dr. Surman guilty of the count of the Complaint filed against him, and ordered that he be issued a public reprimand and pay all administrative costs incurred in the investigation and prosecution of the case against him in the amount of \$1,152.62.

VON DIPPE, Christopher J., M.D. (Fallon, NV)

Complaint Filed: 6/4/01 - Charged with two counts of violation of NRS 630.301(4), treating 2 patients in a manner which constituted malpractice.

Board Action: 9/10/01 - The board found Dr. Von Dippe guilty of 1 count of malpractice and the second alleged count of malpractice was dismissed with prejudice. The board accepted and approved a Stipulation for Settlement of the Complaint filed against Von Dippe, and ordered that he pay all administrative costs incurred in the investigation of the case against him in the amount of \$500.00, and further ordered that he be placed on probation until such time that he completes 10 hours of continuing medical education in the area of post-surgical complications offered in the 24th Annual Review Course in Clinical Obstetrics and Gynecology sponsored by the University of California.

WAGMAN, Philip G., M.D. (Columbus, OH)

Complaint Filed: 12/6/00 - Charged with one count of violation of NRS 630.301(3), having his license to practice medicine in the state of Ohio suspended by the medical board in Ohio for an indefinite period of time but not less than 6 months.

Board Action: 6/4/01 - The board accepted and approved a Stipulation for Settlement of the Complaint filed against Dr. Wagman, and ordered that he be placed on probation on terms and conditions and for the length of time as set out in the Step II Consent agreement entered into between him and the State Medical Board of Ohio.

PUBLIC REPRIMANDS ORDERED BY THE BOARD

JOHN Z. MCFARLAND, M.D.

Dear Dr. McFarland:

*On October 10, 2001, the Nevada State Board of Medical Examiners entered its order finding you **Guilty** of a violation of the medical practice act of the state of Nevada, specifically NRS 630.301(3), wherein they found, by a preponderance of the evidence, that you were or had been under investigation by a medical licensing board when you checked "NO" to question No. 11 on the renewal application, and that by answering "NO" to question No. 11, you engaged in the act of attempting to renew a license to practice medicine by fraud or misrepresentation or by false, misleading, inaccurate or incomplete statement, a violation of the provisions of the statute.*

*As a result of their finding of **Guilty**, the Board entered its **ORDER** as follows:*

- 1. That you be issued a public reprimand; and,*
- 2. That you be pay all costs incurred by the Board in these disciplinary proceedings within sixty (60) days of the date of the order in the amount of ONE THOUSAND NINE HUNDRED SEVENTY THREE DOLLARS AND THIRTY EIGHT CENTS (\$1,973.38).*

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.

*CHERYL A. HUG-ENGLISH, M.D.,
President*

GARY F. ROBERTS, M.D.

Dear Dr. Roberts:

*On June 15, 2001, the Nevada State Board of Medical Examiners entered its order finding you **Guilty** of a violation of the medical practice act of the state of Nevada, specifically NRS 630.304 (1), wherein they found, by a preponderance of the evidence, that you had been charged by the Texas State Board of Medical Examiners with possible violations of the Texas Medical Practice Act, arising out of a complaint which you had responded to several months prior to April 14, 1999, when you answered "NO" to question No. 11 on your application for registration renewal, and that by answering "NO" to question No. 11, you engaged in the act of attempting to renew a license to practice medicine by fraud or misrepresentation or by false, misleading, inaccurate or incomplete statement, a violation of the provisions of the statute.*

As a result of their finding of **Guilty**, the Board entered its **ORDER** as follows:

1. That your license to practice medicine in the state of Nevada be **REVOKED**;
2. That you pay all costs incurred by the Board in the disciplinary proceedings within sixty (60) days of the date of the order in the amount of **ONE THOUSAND NINE HUNDRED TWENTY SEVEN DOLLARS AND THIRTY CENTS (\$1,927.30)**; and,
3. 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.

CHERYL A. HUG-ENGLISH, M.D.,
President

ELLIOTT D. SCHMERLER, M.D.

Dear Dr. Schmerler:

On September 10, 2001, pursuant to stipulation for settlement entered into on September 7, 2001, and pursuant to your plea of no contest, the Nevada State Board of Medical Examiners entered its order finding you **Guilty** of six (6) violations of the medical practice act of the state of Nevada, specifically:

1. **Count One:** That you, in performing tumescent liposuction on Patient A's abdomen, performed it in such a manner as to cause an abdominal wall infectious hematoma, with spotty necrosis of subcutaneous tissue and fascia in Patient A, in a manner which constituted malpractice as it is defined in NAC 630.245, a violation of the provisions of NRS 630.301(4).
2. **Count Two:** That you, in performing tumescent liposuction on Patient B's abdomen, hips, upper back, proximal arms, inner thighs and inner knees, performed it in such a manner as to cause at least four (4) bladder perforations, with some fat protruding into the bladder emanating from the perforations, in a manner which constituted malpractice as it is defined in NAC 630.245, a violation of the provisions of NRS 630.301(4).
3. **Count Three:** That you entered into an agreement with Patient A entitled "Surgery Discount Agreement", wherein it was represented that the full price for the surgery Patient A received was \$15,200.00, but that in consideration for a \$10,000.00 deduction in price, Patient A waived any right to bring any complaint or medical lawsuit against you, and that said presentation of this "Surgery Discount Agreement" to Patient A by you was the act of engaging in conduct intended to deceive, a violation of the provisions of NRS 630.306(2)(a).
4. **Count Four:** That you entered into an agreement with Patient B entitled "Surgery Discount Agreement", wherein it was represented that the full price for the surgery Patient B received was \$15,500.00, but that in consideration for a \$10,000.00 deduction in price, Patient B waived any right to bring any complaint or medical lawsuit against you, and that said presentation of this "Surgery Discount Agreement" to Patient B by you was the act of engaging in conduct intended to deceive, a violation of the provisions of NRS 630.306(2)(a).

5. Count Five: That you had Patient A execute a document entitled "Office Surgery Consent", wherein Patient A stated that you had fully explained the difference between hospital and office surgery, and that Patient A elected to have office surgery, of Patient A's own choosing, and that by having Patient A sign this "Office Surgery Consent" document, you engaged in conduct intended to deceive, a violation of the provisions of NRS 630.306(2)(a).

6. Count Six: That you had Patient B execute a document entitled "Office Surgery Consent", wherein Patient B stated that you had fully explained the difference between hospital and office surgery, and that Patient B elected to have office surgery, of Patient B's own choosing, and that by having Patient B sign this "Office Surgery Consent" document, you engaged in conduct intended to deceive, a violation of the provisions of NRS 630.306(2)(a).

As a result of their finding of **Guilty**, the Board entered its **ORDER** as follows:

1. That your license to practice medicine in the state of Nevada be limited and that there shall be excluded from your practice, for a period of two (2) years from and after the date of the Order, any and all procedures performed at any location in the state of Nevada, commonly known as "liposuction", of any form, type, or nature. That you may, at any time after expiration of the two (2) year period, apply to the Board for removal of this limitation from your license to practice medicine in the state of Nevada;
2. That you shall never use, in the future, so long as you are practicing medicine in the state of Nevada, any form for patient signature such as the forms entitled "Office Surgery Discount", as used and executed by Patients A and B;
3. That you shall attend, within twelve (12) months of the date of the Order, a course which lasts for a period of time for you to accumulate ten (10) hours of continuing medical education in the area of medical ethics, which ten (10) hours shall be in addition to the forty (40) hours required of all licensees for biennial registration;
4. That you pay the sum of ELEVEN THOUSAND SEVEN HUNDRED DOLLARS AND THIRTY FIVE CENTS (\$11,700.35) as and for all administrative costs incurred in the investigation and hearing process, to be paid in full, within SIXTY (60) days of the date of the Order; and,
5. 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.

CHERYL A. HUG-ENGLISH, M.D.,
President

DUSAN J. SURMAN, M.D.

Dear Dr. Surman:

On October 10, 2001, the Nevada State Board of Medical Examiners entered its order finding you **Guilty** of a violation of the medical practice act of the state of Nevada, specifically NRS 630.301(3), wherein they found, by a preponderance of the evidence, that the voluntary

suspension of your license to practice medicine in the state of Oregon constituted a violation of the provisions of the statute.

As a result of their finding of **Guilty**, the Board entered its **ORDER** as follows:

1. *That you be issued a public reprimand; and,*
2. *That you pay all costs incurred by the Board in these disciplinary proceedings within sixty (60) days of the date of the order in the amount of ONE THOUSAND ONE HUNDRED FIFTY TWO DOLLARS AND SIXTY TWO CENTS (\$1,152.62).*

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.

CHERYL A. HUG-ENGLISH, M.D.,
President



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