

**ADOPTED REGULATION OF THE BOARD OF
HOMEOPATHIC MEDICAL EXAMINERS**

LCB File No. R043-03

Effective September 24, 2003

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

AUTHORITY: §§1-10, NRS 630A.200.

Section 1. Chapter 630A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. 1. *“Internet” means:*

(a) The computer network commonly known as the Internet and any other computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. *The term includes, without limitation:*

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 3. “Intrastate practice of homeopathic medicine using electronic means” means the practice of homeopathic medicine using electronic means by a homeopathic physician located in this state to treat a patient located in this state or an advanced practitioner of homeopathy located in this state to treat a patient located in this state.

Sec. 4. “Practice of homeopathic medicine using electronic means” means the practice of homeopathic medicine by using equipment that transfers information concerning the medical condition of a patient electronically, telephonically or by fiber optics, including, without limitation, through the Internet.

Sec. 5. 1. Except as otherwise provided in subsection 2, a homeopathic physician may engage in the intrastate practice of homeopathic medicine using electronic means.

2. While engaging in the intrastate practice of homeopathic medicine using electronic means, a homeopathic physician shall not:

(a) Provide any homeopathic service to a patient unless the homeopathic physician:

(1) Obtains a reasonable homeopathic history of the patient before providing the homeopathic service to the patient;

(2) Personally examines the patient before providing the homeopathic service to the patient if homeopathic physicians in the community in which the homeopathic physician practices would ordinarily personally examine such a patient before providing the homeopathic service; and

(3) Complies with all applicable state and federal laws; or

(b) Prescribe any controlled substance to a patient unless the homeopathic physician:

(1) Personally examines the patient and conducts any appropriate tests concerning the patient before prescribing the controlled substance to the patient; and

(2) Complies with all applicable state and federal laws.

Sec. 6. *A homeopathic physician engaging in the intrastate practice of homeopathic medicine by electronic means shall:*

1. Ensure that the electronic transfer of information is reasonably secure and conducted in accordance with all applicable state and federal laws;

2. Retain health care records in accordance with the requirements of chapter 629 of NRS;

3. Discuss with each patient the risks and benefits of medication and any homeopathic services;

4. Conduct follow-up contact with each patient in a timely manner after recommending any homeopathic services;

5. Discuss with each patient various treatment alternatives that are available; and

6. Disclose to each patient that a physical examination or assessment by a homeopathic physician is always recommended before the use of homeopathic services.

Sec. 7. *An advanced practitioner of homeopathy shall not engage in the intrastate practice of homeopathic medicine using electronic means unless a written protocol authorizing such practice is submitted to and approved by the Board pursuant to NAC 630A.490.*

Sec. 8. *Nothing in sections 2 to 7, inclusive, of this regulation shall be construed to:*

1. Authorize any person not licensed or certified pursuant to chapter 630A of NRS to engage in the intrastate practice of homeopathic medicine using electronic means; or

2. Regulate the practice of homeopathic medicine using electronic means by a homeopathic physician or advanced practitioner of homeopathy if:

(a) The homeopathic physician or advanced practitioner of homeopathy is not located in this state; or

(b) The patient who is being treated by the homeopathic physician or advanced practitioner of homeopathy is not located in this state.

Sec. 9. NAC 630A.010 is hereby amended to read as follows:

630A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 630A.0105 to 630A.013, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 10. NAC 630A.490 is hereby amended to read as follows:

630A.490 1. An advanced practitioner of homeopathy and his supervising homeopathic physician shall prepare and sign a written protocol, demonstrating agreement to the terms and content of the protocol. The protocol must include, without limitation:

(a) A description of the scope of practice of the advanced practitioner as authorized by the supervising homeopathic physician;

(b) A statement from the supervising homeopathic physician that he has determined that the advanced practitioner is qualified and competent to provide the services authorized in the scope of practice;

(c) A list of any programs of training from which the advanced practitioner has graduated; and

(d) A list of conditions under which the advanced practitioner agrees to refer a patient to the supervising homeopathic physician.

2. *If an advanced practitioner of homeopathy intends to engage in the intrastate practice of homeopathic medicine using electronic means, the written protocol must incorporate all the*

requirements and prohibitions that apply to homeopathic physicians engaging in the intrastate practice of homeopathic medicine using electronic means.

3. The protocol must reflect established national or customary standards for the practice of homeopathic medicine.

~~[3.]~~ 4. Before an advanced practitioner *of homeopathy* may provide a medical service to a patient, he must obtain the signature of the patient on a form which discloses to the patient that he is an advanced practitioner of homeopathy and is not a licensed homeopathic physician.

~~[4.]~~ 5. The supervising physician shall submit a copy of the protocol to the Board for approval. If the Board does not approve the protocol, it will return the protocol to the physician with an explanation for the denial. The supervising homeopathic physician shall rewrite the protocol to conform with any suggestion of the Board and resubmit it to the Board for consideration at the next regularly scheduled meeting of the Board.

~~[5.]~~ 6. A copy of the protocol must be maintained at each location where the advanced practitioner provides medical services.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R043-03**

The Board of Homeopathic Medical Examiners adopted regulations assigned LCB File No. R043-03 which pertain to chapter 630A of the Nevada Administrative Code on September 13, 2003.

Notice date: 8/14/2002
Hearing date: 9/13/2003

Date of adoption by agency: 9/13/2003
Filing date: 9/24/2003

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 630A.

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

Public comment was solicited by sending notices of the workshop and hearings to all of the licensed homeopathic physicians in the state of Nevada. Public comment was also solicited by posting notices of the hearings at public libraries throughout the state and several other locations. There was no public response to this proposed regulation. Interested persons may obtain a copy of the minutes of the workshop and hearing from the Board of Homeopathic Medical Examiners by mailing a request to the Board at 3663 Pecos McLeod Int., Las Vegas, Nevada 89121, or by telephone to (702) 451-3332.

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation:

A. The number of persons who:

(a) Attended each workshop:	September 13, 2003	10
(b) Attended each hearing:	September 13, 2003	10
(c) Testified at each workshop:	September 13, 2003	2
(d) Testified at each hearing:	September 13, 2003	2
(e) Submitted written comments to the agency:		0

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

Public comment was solicited by sending notices to the all of the licensed homeopathic physicians in the state of Nevada with a copy of the proposed regulation changes and by posting the proposed regulation at public libraries throughout the state of Nevada. There was no public

comment on this regulation because there were no substantive changes in the proposed permanent regulation from the temporary regulation, LCB File No. T004-03, filed January 21, 2003. Two Board members spoke in support of the regulation and the requirement to see a patient before treating the patient over the internet. Interested persons may obtain a copy of the minutes of the workshop and hearing from the Board of Homeopathic Medical Examiners by mailing a copy to Board at 3663 Pecos McLeod Int., Las Vegas, NV 89121, or by telephone to (702) 451-3332 .

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation proposed.

The reason the regulation was not changed from the proposed regulation, LCB File No. R043-03, was that at the temporary regulation hearing in December 2002, all of the interested individuals had made their comments as to the proposed regulation, which had been incorporated into the temporary regulation. The proposed permanent regulation was substantially unchanged from the temporary regulation.

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately, and each case must include: (a) both adverse and beneficial effects and (b) both immediate and long-term effects:

A. Estimated economic effect on homeopathic physicians or other licensees:

It is estimated that this regulation has a negligible economic effect on homeopathic physicians or other licensees. The regulation does not increase any fees.

(a) Adverse and beneficial effects:

The adverse effects of the temporary regulation on licensed homeopathic physicians and other licensees is minimal. There are no apparent adverse economic affects on homeopathic physicians or other licensees. Homeopathic physicians and advanced practitioners of homeopathic medicine will simply have to take more care in treating patients over the internet or over the phone, and may have to require the patient to come in to the office for examination prior to treatment or prescribing medications. Prior to adoption of the temporary regulation the physician may have not required this personal examination. The effect such a requirement may have on the physician's practice is very difficult to gage. There are no beneficial economic effects from this regulation for a homeopathic physician.

(b) Immediate and long-term effects:

The immediate effects and the long-term effects of this regulation are very negligible in either case. There may be some immediate economic effects to a homeopathic physician's practice which are of a minor nature, such as requiring a patient to come in to the office and be examined before any medication can be prescribed or treatment given. It is very difficult to gage how many such patients any homeopathic physician may have or the economic effect of such a

requirement on the physician's practice. The long-term effects are those immediate effects just multiplied over a longer period of time.

B. Estimated economic effect on the public:

It is estimated that the proposed regulation to be adopted and amended will not have any significant negative or positive economic effect on the public.

(a) Adverse and beneficial effects:

There are no adverse effects to the public other than possible transportation costs for certain patients who may have to come in to a homeopathic physician's office and be examined, whereas before adoption of the regulation such a patient may not have had to come in to the office. It is difficult to gage how many such patients there may be, but the number is estimated to be very small. The beneficial effects to the public are also estimated to be very negligible, but include better treatment through more personal examination by a homeopathic physician.

(b) Immediate and long-term effects:

The temporary regulation has similar immediate and long-term effects for the public, which are stated immediately above.

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

There is no cost to the Board of Homeopathic Medical Examiners for enforcement of the proposed regulation.

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

The regulation does not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of those provisions.

Not applicable.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable.