

LCB File No. T004-03

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

Filed with the Secretary of State on 1/21/2003

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

Authority: NRS 630A.200

Section 1. Chapter 630A of NAC (Nevada Administrative Code) is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec 2. *Nothing set forth in Sections 2 through 9, inclusive, shall be construed to allow any person not licensed pursuant to NRS chapter 630A to engage in the intrastate practice of homeopathic medicine using electronic means.*

Sec 3. *Nothing set forth in Section 2 through 9, inclusive, shall be construed to regulate the interstate practice of homeopathic medicine using electronic means.*

Sec 4. *“Practice of homeopathic medicine using electronic means” is defined as performing any of the acts specified in NRS 630A.040 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics, including through the internet.*

Sec 5. *1. As used in section 4 of this temporary regulation, the term “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 chatroom.

Sec 6. *As used in sections 2 and 7 through 9 of this temporary regulation, “intrastate” means any contact between a homeopathic physician or advanced practitioner of homeopathic medicine and a patient where the homeopathic physician or advanced practitioner of homeopathic medicine and the patient are all located in the State of Nevada.*

Sec 7. 1. Subject to the limitations set forth herein, a homeopathic physician may engage in the intrastate practice of homeopathic medicine using electronic means.

2. A homeopathic physician may not in the intrastate practice of homeopathic medicine using electronic means:

(a) Prescribe any controlled substance without first personally examining the patient and conducting appropriate testing.

(b) Prescribe any controlled substance without complying with all other applicable state and federal laws.

(c) Provide any homeopathic service without obtaining, in accordance with all applicable federal and state laws, a reasonable homeopathic history of the patient.

(d) Provide any homeopathic service to a patient without personally examining the patient if a homeopathic physician in the community would ordinarily personally examine the patient prior to providing the homeopathic service.

Sec. 8. An advanced practitioner of homeopathic medicine shall not engage in the intrastate practice of homeopathic medicine using electronic means unless a written protocol allowing such practice is approved by the Board pursuant to 630A.490 of the Nevada Administrative Code. Any application for approval of a written protocol involving the intrastate practice of homeopathic medicine shall, at a minimum, incorporate all the requirements that apply to homeopathic physicians engaging in the intrastate practice of homeopathic medicine using electronic means.

Sec 9. Any homeopathic physician engaging in the intrastate practice of homeopathic medicine by electronic means shall:

1. Reasonably ensure that the electronic transfer of information is secure and done in accordance with all applicable federal and state laws.

2. Keep medical records in accordance with the requirements of Chapter 629 of the Nevada Revised Statutes.

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

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

5. Discuss with the patient various treatment alternatives that are available.

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

NOTICE OF ADOPTION OF TEMPORARY REGULATION
LCB File No. T004-03

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 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. The minutes from the workshop and hearing held on the regulation are attached as a summary of the public response. Interested persons may obtain a copy of the minutes from the Board of Homeopathic Medical Examiners by mailing a request to the Board at 4475 S. Pecos Rd., Las Vegas, NV 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:	December 14, 2002	5
(b) Attended each hearing:	December 14, 2002	10
(c) Testified at each workshop:	December 14, 2002	4
(d) Testified at each hearing:	December 14, 2002	1
(e) Submitted written comments to the agency:		None

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 and by posting the proposed regulation at public libraries throughout the state of Nevada. The minutes from the workshop and hearing are attached as a summary of the public response. Interested persons may obtain a copy of the minutes from the Board of Homeopathic Medical Examiners by mailing a copy to Board at 4475 S. Pecos Rd., 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.

Only two changes were made to the proposed regulation based on the public comment and board member comment at the workshop and hearing. Section 7(2)(c) of the proposed regulation was shortened to eliminate the requirement that to engage in the intrastate practice of homeopathic medicine using electronic means the homeopathic physician had to ensure that the patient had had a physical examination within the proceeding 12 months acceptable to a reasonable homeopathic physician in the community. The Board members who considered and approved this deletion came to the conclusion that it was impractical to require a physical examination under all circumstances, and that obtaining a reasonable homeopathic history of the patient was sufficient.

The other change to the original proposed regulation was to add the word “Reasonably” to the beginning of Section 9(1). This was proposed by a Board member because the original wording, which required the homeopathic physician to “[e]nsure that the electronic transfer of information is secure and done in accordance with all applicable federal and state laws” was too broad and that there was no way a physician could completely ensure that the transfer of information was secure. Therefore, the word “reasonably” was added before the word “ensure.”

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 the temporary 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 temporary 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.