

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

LCB File No. R125-06

August 30, 2006

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

AUTHORITY: §§1 and 2, NRS 630A.200; §3, NRS 630A.200 and 630A.900, §4, NRS 630A.155, 630A.200 and 630A.240; §§5 and 9, NRS 630A.155, 630A.200, 630A.295 and 630A.299; §6, NRS 630A.200 and 630A.330; §7, NRS 630A.155, 630A.200 and 630A.510; §8, NRS 630A.155, 630A.200, 630A.295, 630A.299 and 630A.330.

A REGULATION relating to homeopathic medicine; requiring the President of the Board of Homeopathic Medical Examiners to appoint a committee of members of the Board to conduct audits or surveys of homeopathic physicians, advanced practitioners of homeopathy and homeopathic assistants under certain circumstances; establishing the procedures for which the Board must appoint certain members to the Nevada Institutional Review Board; requiring the Board of Homeopathic Medical Examiners to establish a committee of the Board to review matters pertaining to the Nevada Institutional Review Board; requiring the Board of Homeopathic Medical Examiners to approve, deny or suggest amendments to regulations proposed by the Nevada Institutional Review Board; revising requirements relating to approval of courses or programs for postgraduate training in homeopathy; revising fees for annual renewal for a license to practice homeopathic medicine and a certificate as an advanced practitioner of homeopathy or homeopathic assistant; prohibiting homeopathic physicians from engaging in certain practices; providing additional grounds for initiating disciplinary action against or denying certification of advanced practitioners of homeopathy and homeopathic assistants; and providing other matters properly relating thereto.

Section 1. Chapter 630A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *The President of the Board shall appoint a committee composed of the Secretary-Treasurer and two other members of the Board. The committee shall conduct any audit or survey which the committee deems necessary to:*

(a) Assess whether a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant is in compliance with the provisions of this chapter and chapter 630A of NRS;

(b) Monitor the quality of the provision of homeopathic medicine by a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant;

(c) Monitor the quality of training provided by a homeopathic physician who supervises a person who is engaged in:

(1) The postgraduate training required pursuant to paragraph (c) of subsection 1 of NAC 630A.240; or

(2) The training required pursuant to NAC 630A.420; and

(d) Assess any other duties or responsibilities of a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant.

2. Except as otherwise provided in this subsection, the committee shall conduct an audit or survey of a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant at least once every 3 years. The committee may conduct an audit or survey of a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant any time the committee determines that any of the following actions have been taken against the homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant:

(a) Any judgment for a claim involving malpractice;

(b) Any settlement of any action or claim involving malpractice in which the amount of the settlement is more than \$50,000; or

(c) Any disciplinary action taken by the Board.

3. The Board may accept, reject or alter any recommendation of the committee.

Sec. 3. 1. Each member of the Nevada Institutional Review Board who is appointed by the Board of Homeopathic Medical Examiners pursuant to paragraph (a) of subsection 3 of NRS 630A.865 must:

(a) Be appointed by a majority vote of the members of the Board of Homeopathic Medical Examiners; and

(b) Except as otherwise provided in subsection 3, possess the following qualities and qualifications as determined by the Board of Homeopathic Medical Examiners:

- (1) Good communication skills;**
- (2) Ability to work cooperatively with others;**
- (3) Experience in the application of complementary integrative medical modalities;**
- (4) Interest in alternative and complementary integrative medicine;**
- (5) Interest in integrative biomedical research;**
- (6) Scientific expertise or experience with clinical practice in integrative medicine;**
- (7) Academic qualifications in complementary integrative medicine; and**
- (8) Any additional qualities or qualifications which the Board deems appropriate.**

2. No member of the Board may serve concurrently as a member of the Nevada Institutional Review Board, except for the Secretary-Treasurer of the Board.

3. Any physician licensed pursuant to this chapter or chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, or pharmacist who is in good standing with his respective

licensing board shall be deemed by the Board to be qualified for appointment to the Nevada Institutional Review Board.

4. The Board of Homeopathic Medical Examiners will:

(a) Make recommendations to the Governor, the Majority Leader of the Senate and the Speaker of the Assembly concerning the appointment and qualifications of persons who wish to serve as members of the Nevada Institutional Review Board and who are required to be appointed by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly pursuant to paragraph (b) of subsection 3 of NRS 630A.865; and

(b) Establish a committee of the Board of Homeopathic Medical Examiners to screen, review, deliberate and make recommendations to the Board of Homeopathic Medical Examiners concerning all matters pertaining to the Nevada Institutional Review Board for which the Board of Homeopathic Medical Examiners has authority to review and approve.

5. The committee established pursuant to subsection 4 shall:

(a) Screen and review any person who applies to the Board of Homeopathic Medical Examiners to serve as a member of the Nevada Institutional Review Board and make recommendations concerning the qualifications and appointment of such persons to the Nevada Institutional Review Board; and

(b) Review and make recommendations to the Board of Homeopathic Medical Examiners concerning all proposed permanent regulations of the Nevada Institutional Review Board:

(1) After the Nevada Institutional Review Board has received the approved or revised text of the proposed permanent regulations from the Legislative Counsel in the form to be adopted pursuant to NRS 233B.064;

(2) After the conclusion of at least one workshop of the Nevada Institutional Review Board concerning the regulations which is required pursuant to NRS 233B.061; and

(3) Before the Nevada Institutional Review Board has adopted the regulations at a public hearing which is required pursuant to NRS 233B.061.

6. The Board of Homeopathic Medical Examiners will consider the recommendations of the committee established pursuant to subsection 4 concerning the regulations of the Nevada Institutional Review Board and:

(a) Approve the proposed permanent regulations;

(b) Deny the proposed permanent regulations; or

(c) Suggest amendments concerning the proposed permanent regulations to the Nevada Institutional Review Board.

Sec. 4. NAC 630A.072 is hereby amended to read as follows:

630A.072 1. The 6 months of postgraduate training in homeopathy required of an applicant for a license to practice homeopathic medicine pursuant to NRS 630A.240 must consist of courses, instructors or programs which are approved by the Board. In determining whether to approve a course or program, the Board will consider:

(a) The textbooks and other instructional aids used in the course or program;

(b) The institution offering the course or program;

(c) The qualifications of the instructor teaching the course or program; and

(d) Whether the course or program includes instruction on:

(1) The diagnostic and therapeutic principles referred to in NRS 630A.040;

(2) The procedure for evaluating a patient;

(3) The procedure for selecting an appropriate treatment based upon the evaluation of the patient;

(4) Homeopathic *posology and* pharmacology; and

(5) The methodology of prescribing homeopathic medicines and therapies.

2. The Board may revoke approval of a course or program it has previously approved, *without notice*, if ~~it~~ *the Board* determines that the course or program no longer complies with the considerations set forth in subsection 1.

3. The Board will maintain a list of courses and programs that are currently approved by the Board.

4. ~~If an~~ *An* applicant for a license to practice homeopathic medicine ~~has completed~~ *may not receive credit for* a course or program that has not been approved by the Board. ~~he may submit the~~ *An applicant may submit a written request for approval of a* course or program to the Board ~~for approval. The Board will~~ *before participating in the course or program. If the Board receives a written request from an applicant for approval of a course or program pursuant to this subsection, the committee appointed pursuant to NAC 630A.031 must* review the course or program based upon the considerations set forth in subsection 1 ~~and~~ *and submit a recommendation to the Board concerning approval or denial of the course or program.* If the Board approves the course or program, the applicant ~~will~~ *may* receive credit for the postgraduate training.

Sec. 5. NAC 630A.096 is hereby amended to read as follows:

630A.096 1. Except as otherwise provided in subsection 2, each homeopathic physician, homeopathic assistant or advanced practitioner of homeopathy applying for renewal of his license or certificate must, at the time of annual ~~registration,~~ *renewal*, submit to the Board

evidence, in such form as the Board requires, that he has completed during the preceding year 20 credits of continuing homeopathic medical education in courses approved by the Board, including, without limitation, courses in complementary and alternative medical education.

2. A homeopathic physician who has completed a full year of residency or fellowship in allopathic, osteopathic or homeopathic medicine any time during the period for annual ~~registration~~ *renewal* immediately preceding the submission of the application for annual ~~registration~~ *renewal* is exempt from the requirements set forth in subsection 1.

3. If a homeopathic physician, homeopathic assistant or advanced practitioner of homeopathy fails to submit evidence of his completion of continuing homeopathic medical education within the time and in the manner set forth in subsection 1, his license or certificate will not be renewed. Such a person may not resume the practice of homeopathic medicine pursuant to this chapter and chapter 630A of NRS unless he:

(a) Pays a fee to the Board which is twice the fee for renewal of:

(1) A license as set forth in subsection 1 of NAC 630A.120;

(2) A certificate to practice as a homeopathic assistant as set forth in paragraph (c) of subsection 2 of NAC 630A.550; or

(3) A certificate to practice as an advanced practitioner of homeopathy as set forth in paragraph (c) of subsection 2 of NAC 630A.550;

(b) Submits to the Board, in such form as it requires, evidence that he has completed the 20 credits of continuing homeopathic medical education required by subsection 1; and

(c) Is found by the Board to be otherwise qualified for active status pursuant to the provisions of this chapter and chapter 630A of NRS.

Sec. 6. NAC 630A.120 is hereby amended to read as follows:

630A.120 The Board will charge and collect the following fees:

1. For the *annual* renewal of a license to practice homeopathic medicine.....~~[\$550]~~ **\$600**
2. For the reexamination of an applicant who fails the examination for a license to practice homeopathic medicine\$330
3. For the reexamination of an applicant who fails the examination for a certificate to practice as an advanced practitioner of homeopathy\$165
4. For the reexamination of an applicant who fails the examination for a certificate to practice as a homeopathic assistant\$83
5. For a temporary, special or limited license or certificate.....\$150

Sec. 7. NAC 630A.132 is hereby amended to read as follows:

630A.132 1. A homeopathic physician shall:

(a) Complete and return any official practice surveys, questionnaires or other necessary information required by the Board to protect the public within 30 days after the date the survey, questionnaire or other necessary information is postmarked; and

(b) Maintain a legible, written record, including, without limitation, a record that is typed, printed or generated by a computer, for each patient attended, as required by chapter 629 of NRS, and keep this record available for copying or inspection, as necessary, upon receipt of a written request for records authorized pursuant to chapter 629 of NRS.

2. A homeopathic physician shall not:

(a) Falsify records of health care or insurance;

(b) Falsify medical records of a patient, including, without limitation, altering records to indicate the presence of the homeopathic physician at a time when the homeopathic physician

was not in attendance or to indicate that procedures were performed on the patient by the homeopathic physician that were in fact not performed by him;

(c) Render professional service to a patient while under the influence of alcohol or any controlled substance or while in any other impaired mental or physical condition;

(d) Acquire any controlled substance from a pharmacy or other source by misrepresentation, fraud, deception or subterfuge;

(e) Allow any person who is unlicensed and uncertified to treat a patient by means of homeopathy;

(f) Fail to provide adequate supervision of a homeopathic assistant or advanced practitioner of homeopathy who is employed or supervised by him;

(g) Fail to honor the advance directive of a patient without informing the patient, the surrogate or the guardian of the patient, and without documenting in the records of the patient the reasons for failing to honor the advance directive of the patient contained therein;

(h) Fail to prescribe adequately therapies or substances allowed in NRS 630A.040 for the control of pain;

(i) Enter into a multilevel marketing agreement with a patient or an immediate family member of the patient; ~~or~~

(j) Submit false or fraudulent information to the Board ~~or~~;

(k) Withhold or fail to report any information which is required to be submitted to the Board pursuant to any provision of NRS or NAC; or

(l) Act or behave in any disruptive, belligerent, uncooperative or threatening manner at a meeting of the Board.

3. A homeopathic physician is not subject to disciplinary action solely for prescribing, administering or dispensing to a patient under his care:
- (a) Amygdalin (laetrile), if the patient has consented in writing to the use of the substance;
 - (b) Procaine hydrochloride with preservatives and stabilizers (Gerovital GH3);
 - (c) A controlled substance or controlled substance analog which is listed in the official *Homeopathic Pharmacopoeia of the United States* (HPUS) or any supplement thereto or which is approved by the State Board of Pharmacy pursuant to NRS 453.146, if the homeopathic physician is authorized by law to prescribe the substance;
 - (d) A device or agent approved by the United States Food and Drug Administration in a manner that is not approved by the United States Food and Drug Administration if:
 - (1) The device or agent has not been scientifically proven to be of greater morbidity or mortality than the prevailing method of treatment;
 - (2) The device or agent is within the scope of practice of homeopathic medicine; and
 - (3) The patient has consented in writing to the use of the device or agent;
 - (e) Homeopathy for the treatment of chronic degenerative disease, cancer or intractable pain;
 - (f) Preventive or early intervention using homeopathy; or
 - (g) Homeopathic medicines:
 - (1) In single, alternating or sequential doses, or a combination of these methods; or
 - (2) From material doses and tinctures through low, medium, high and ultrahigh potencies relating to the specialty, subspecialty, school, method or style of homeopathy used.
4. If a homeopathic physician fails to complete and return a survey, questionnaire or other necessary information as required pursuant to paragraph (a) of subsection 1, the Board may by order, after a formal hearing held pursuant to NRS 630A.480 and , except as otherwise provided

in this subsection, impose an administrative fine. If the homeopathic physician waives his right to the hearing set forth in NRS 630A.480, the Board will impose an administrative fine in the amount of \$20 for each day a survey, questionnaire or other necessary information required to be completed and returned pursuant to paragraph (a) of subsection 1 is overdue, up to a maximum of \$500.

5. As used in this section:

(a) “Controlled substance analog” means:

(1) A substance whose chemical structure is substantially similar to the structure of a controlled substance listed in schedule III pursuant to NAC 453.530; or

(2) A substance ~~that~~ *which* is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a person treated with a controlled substance listed in schedule III pursuant to NAC 453.530 ~~and~~ and which has, is represented as having or is intended to have a stimulant, depressant or hallucinogenic effect on the central nervous system of a person.

(b) “Intractable pain” means a condition of discomfort for which the cause cannot be removed or otherwise treated and for which a method of providing relief or a cure for the cause has not been found after reasonable efforts have been taken, including, without limitation, evaluation by an attending homeopathic physician and one or more physicians specializing in the treatment of the area, system or organ of the body which is believed to be the source of the discomfort.

Sec. 8. NAC 630A.550 is hereby amended to read as follows:

630A.550 1. A certificate to practice as a homeopathic assistant or advanced practitioner of homeopathy which is issued by the Board must be renewed each year before January 1.

2. To renew a certificate, a homeopathic assistant or advanced practitioner must:

(a) Submit an application for renewal to the Board;

(b) Submit proof that he has completed the required annual continuing education; and

(c) Pay to the Board:

(1) An annual renewal fee of ~~[\$165]~~ \$200 for a certificate to practice as a homeopathic assistant.

(2) An annual renewal fee of ~~[\$330]~~ \$300 for a certificate to practice as an advanced practitioner of homeopathy.

3. A homeopathic assistant or advanced practitioner of homeopathy who fails to submit proof to the Board, before January 1, that he has completed the required annual continuing education may not renew his certificate until:

(a) He submits proof that he has completed the continuing education;

(b) The Board determines that he is otherwise qualified to practice as a homeopathic assistant or advanced practitioner of homeopathy; and

(c) He pays to the Board a renewal fee which is equivalent to two times the fee set forth in subsection 2.

4. The Board may revoke the certificate of a homeopathic assistant or advanced practitioner who does not pay the renewal fee before January 1. A homeopathic assistant or advanced practitioner whose certificate is revoked for this reason may request, within 2 years after revocation, that the Board restore his certificate.

Sec. 9. NAC 630A.560 is hereby amended to read as follows:

630A.560 The Board may initiate disciplinary action against a homeopathic assistant or an advanced practitioner of homeopathy or may deny the issuance or renewal of a certificate if the

Board finds after providing notice and a hearing that the homeopathic assistant or advanced practitioner of homeopathy:

1. Willfully and intentionally made a false or fraudulent statement or submitted a forged or false document to the Board;
2. Represented to another that the homeopathic assistant or advanced practitioner of homeopathy was a licensed physician or knowingly permitted another person to represent him as such;
3. Performed medical services which were not directed or supervised by a homeopathic physician as required by NAC 630A.350 and 630A.470;
4. Provided medical services when he did not have the ability to provide such services with reasonable skill and safety because:
 - (a) He was under the influence of alcohol or a controlled substance; or
 - (b) He had a mental or physical illness;
5. Provided medical services in a negligent manner;
6. Failed to obey an order of the Board or an investigative committee of the Board, a law or a regulation which relates to the provision of health care or dispensing of drugs, including, without limitation, a regulation of the Board or the State Board of Health;
7. Administered, dispensed or possessed a controlled substance, except as authorized by law in the course of providing medical services;
8. Is not competent to provide the services required of a homeopathic assistant or advanced practitioner of homeopathy;
9. Has been convicted of a felony or any offense involving moral turpitude;
10. Falsified records of health care or insurance;

11. Falsified medical records of a patient, including, without limitation, altering records to indicate the presence of the homeopathic assistant or advanced practitioner of homeopathy at a time when the homeopathic assistant or advanced practitioner of homeopathy was not in attendance or to indicate that procedures were performed on the patient by the homeopathic assistant or advanced practitioner of homeopathy that were in fact not performed by him;

12. Acquired any controlled substance from a pharmacy or other source by misrepresentation, fraud, deception or subterfuge;

13. Allowed any person who is unlicensed and uncertified to treat a patient by means of homeopathy;

14. Failed to honor the advance directive of a patient without informing the patient, the surrogate or the guardian of the patient, and without documenting in the records of the patient the reasons for failing to honor the advance directive of the patient contained therein;

15. Entered into a multilevel marketing agreement with a patient or an immediate family member of the patient; ~~or~~

16. *Failed to report to the Board a judgment or settlement on a claim involving malpractice as required pursuant to NAC 630A.136; or*

17. Has had disciplinary action taken against him in another jurisdiction or by another board that regulates health care in this State if the disciplinary action was taken against the homeopathic assistant or advanced practitioner of homeopathy in his capacity as the holder of a license or certificate which authorizes him to provide medical services.