

Regulation Adoption Telephone/Conference Board meeting
**NEVADA STATE BOARD
OF
HOMEOPATHIC MEDICAL EXAMINERS**

Thursday, November 2, 2006 at 6:00 p.m.

MINUTES

1. Vice President Valerie Kilgore conducted the meeting in the absence of the President. Roll call determined a quorum of members to be present. The meeting was called to order at **6:15 p.m.**

Board and Staff Members Present:

Reno: Valerie Kilgore, Vice President; Diane Kennedy; John LaGatta; Nancy Eklof, Executive Director; Ned Reed, Deputy Attorney General

Las Vegas: Fuller Royal, Secretary-Treasurer

Las Vegas: Daniel F. Royal (Calling in from an undisclosed location)

Chicago, Ill.: Bruce Fong

Members of the Public:

Reno: Dr. James Forsythe, Michael Weber, Inge Gerber, Dr. Michael Gerber, Dr. Cora Ibarra, Tiffany van der Stoker, Jackie Waters (?), Dr. Thomas Lee

Las Vegas: Dr. Dean Friesen, Kimberly Jenkins, Michael Royal

President Kilgore declared the meeting to be conducted under Robert's Rules of Order, 10th Edition. This is a special Board meeting to receive public comment on regulation R125-06 and for the Board to discuss and take action on the regulation. John LaGatta questioned the Board's ability to conduct its business without a president. Dan Royal challenged the authority of the Vice President based upon his opinion and interpretation of the Board's Bylaws. He also disputed the fact that the President, David Edwards, had resigned. Fuller Royal said he had spoken with the governor's Secretary of Appointments, Chris Mohnar, and she had verified that David Edwards was no longer a member of the Board. This did not satisfy Dan Royal, who insisted that the Board must have a "written letter" stating such. Michael Weber, a parliamentarian attending the meeting stated that the Bylaws defer to Robert's Rules of Order in a case such as this. Dan Royal disagreed with Mr. Weber and stated President Kilgore did not have authority to be appointing Committee members (all of this was out of order, as none of these items were on this agenda).

Section 2 (Added new language): Discussion. Fuller Royal asked the Board to begin its review of the regulation with **Section 2 (1)**. He was not in favor of having the Secretary-Treasurer serve as a member of the survey or audit committee due to the heavy responsibilities he has to the Board.

Dan Royal questioned **Section 2(2)(c)**, asking why the Board would need to do a survey or audit on a licensee after he has been disciplined by the Board. Fuller Royal said this part of the

regulation was for making sure the licensee is working within the statutes and codes in all parts of his practice, including his supervision of APHs and HAs. Dan Royal felt the audit committee would have too much authority to act without Board supervision. Fuller Royal said that the Legislative Commission would review the regulation and the comments of all persons in regards to **Section 2**. The Board's counsel spoke on behalf of 2 members of the public in Reno who had concerns as to the lack of criteria to guide the audit committee.

Dr. Gerber (public member) said **Section 2** was overly broad in regards to audits. Too much power was being delegated to the audit committee by the Board. He sought some type of new language that would limit and amend the audit committee's ability to act without Board control.

Fuller Royal emphasized the regulation does not provide any financial means for the Board to accomplish the activities of the audit committee. Without funding, **Section 2** will probably not be put into action. Lack of activity by the audit committee could cause the 2007 legislature to question why the Board wanted to have such authority in the first place. He gave a brief history of the Board's problems in trying to fulfill its legislative mandate to supervise the NIRB. These problems resulted in a rapid rise in fees to the Office of Attorney General as the Board sought corrective action. Bruce Fong stated that **Section 2** was designed by the Board as a means to protect the public.

Michael Weber (public member) also felt that **Section 2** was a "disaster" and needed to be reworked. Dr. Fong felt that this section could be revisited at a future date.

Motion: Fuller Royal moved to remove **Section 2** from the regulation in its entirety.

Second: Bruce Fong

Action: Passed

Motion: Bruce Fong moved to have **Section 2** reviewed by the NRS Committee

Second: Fuller Royal

Action: Passed

Section 3: (Added new language) Discussion. Dan Royal commented on **Section 3(1) and (2)**. He had concerns as to how the qualities of applicants for appointment to the NIRB by the Board would be determined. He believed requiring the applicants to have experience in complementary integrative medicine would severely limit the Board's choices for NIRB appointments. Dan Royal did not agree with the Secretary-Treasurer being the only Board member eligible for appointment to the NIRB. Mr. Reed commented that it was not a good idea to have dual membership such as this would allow.

After discussion, **Section 3(1)** was reworked with a change in the wording to make the regulation more liberal in determining the qualities the Board is seeking in an applicant for appointment to the NIRB.

Motion: John LaGatta moved to accept the language change in **Section 3(1)(a)(b)**.

Second: Diane Kennedy

Action: Passed

Dan Royal did not approve of **Section 3(3-6)**, saying it was giving too much authority to the NIRB Committee. Fuller Royal expressed his belief that this committee had a very important function in assisting the Board and the NIRB.

Dean Friesen (public member) stressed the need for the NIRB to have “arms length” (from Homeopathic Board supervision and control). He stated that the (legislative) intent was for the Board to watch over the NIRB while that board was “getting its feet on the ground, not violating any laws, etc.” He said the Homeopathic Board was to be a “parenting Board.” He believes the NIRB has been set up as a “separate board,” and sees the Homeopathic Board as trying to “take over control of the NIRB.”

John LaGatta stated he believed the NIRB had misbehaved terribly.

Dean Friesen (public member) stressed the need for the NIRB to be at “arms length” in order to be acceptable within the research community.

Section 4: (NAC 630A.0125) No discussion/action.

Section 5: (NAC 630A.020) Discussion/action. Dan Royal disagreed with the language added to **Section 5**, “*lines approved by the United States Food and Drug Administration.*” Fuller Royal also voiced disapproval of this new language being added to NAC 630A.020.

Dean Friesen (public member) stated that the Homeopathic Board does not have control or authority over “legend items,” which he said are under the jurisdiction of the allopathic and osteopathic Boards. He said the terms in **Section 5** could be misconstrued to be “legend items, and therefore conflictatory.”

Michael Gerber (public member) said the new language (in NAC 630A.020), “. . . *any and all cell or organ trophic factors, growth factors, hormones, biological response modifiers and cell or organ products derived from human, microbial or animal cell sources, including. . .*” should remain in **Section 5**. Dr. Gerber requested the Board to exclude, “. . . *lines approved by the United States Food and Drug Administration. . .*”

Motion: Bruce Fong moved to strike the language, “. . . *lines approved by the United States Food and Drug Administration. . .*”

Second: Fuller Royal

Action: Passed

James Forsythe (public member) requested the Board add language that pertained to oxygen therapies and human growth hormone factors. The Board’s legal counsel reminded the Board that discussion/action could not occur because the subject matter had not been placed on the agenda. Bruce Fong suggested that these items could be brought before the NAC Committee for consideration.

Motion: Dr. Fong moved to refer Dr. Forsythe’s request relating to oxygen therapy and Human growth hormone to the NAC Committee for discussion/action.

Second: Fuller Royal

Action: Passed

Section 6: (NAC 630A.025) Discussion. Fuller Royal stated that **Section 6** is a deletion of NAC 630A.025. This regulation requires the Board to elect officers at a specific time annually. Election of Board officers will be pursuant to NRS 630A.140, which is similar to the allopathic Board (NRS 630.090). No further discussion/action.

Section 7: (NAC 630A.060) Discussion. Fuller Royal explained the new language is necessary for standardizing the examination procedure for an applicant for a license, an applicant for a certificate to practice homeopathy as an APH (see **Section 14**), and for an applicant for a certificate to practice homeopathy as a HA. No further discussion/action.

Section 8: (NAC 630A.072) Discussion/action. John LaGatta objected to the added language and deletions in paragraph 4. Only two regular Board meetings are required annually (NRS 630A.150). Therefore, **Section 8(4)** is an unnecessary restriction, and could become a burden, for persons applying for a license or a certificate to practice homeopathy as a physician or as an APH. Applicants should not be required to obtain *prior* permission from the Board for courses or programs required to satisfy the 6 months postgraduate training in homeopathy requirement (NRS 630A.240(1)(c) for license; NAC 630A.420(3) for APH certificate). He recommended NAC 630A.072 (4) not be changed.

Motion: John LaGatta moved to remove the new language and restore the original language to **Section 8 paragraph 4** (NAC 630A.072 (4)).

Second: Bruce Fong

Action: Passed

Section 9: (NAC 630A.096) No discussion/action

Section 10(1): (NAC 630A.120) Discussion; no action taken. Dan Royal stated NRS 630A.330 did not allow the Board to increase the registration/renewal fee from \$500.00 to \$600.00. Fuller Royal said Dan Royal was confusing the application fee (NRS 630A.330(1)(a))with the Board's right to raise a registration/renewal (NRS 630A.330(7)).

In a discussion of **Section 10** pertaining to deleting the term "renewal" and adding the term "registration," the Secretary-Treasurer said deleting "renewal" of a license and adding "registration" of a license, is similar to language in NRS 630.253(2). These terms were discussed with the LCB Deputy Attorney prior to the NAC Committee meeting. The NAC Committee unanimously recommended the language change during its review of the regulation.

No further discussion/action.

Section 11 (2)(l): (NAC 630A.136) Discussion/no action taken. Dan Royal objected the **Section 11(2)(l)** believing it would cause Board members and members of the public to be fearful of expressing themselves.

Motion: Dan Royal moved to strike (remove) **Section 11(2)(l)**
(Died for lack of a second)

Section 12: No discussion/action.

Section 13: (NAC 630A.146) Discussion/no action taken. Deputy Attorney General Ned Reed questioned why the term "homeopathic" was being replaced with new language, "complementary integrative medicine." Fuller Royal referred Mr. Reed to NRS 630A.155, a mandate from the 2005 Legislature that uses this term. The Board is mandated to "Submit an annual report to the Legislature and make recommendations to the Legislature concerning the enactment of legislation relating to *alternative and complementary integrative medicine*, including, without limitation, homeopathic medicine."(Emphasis added) The regulation needs to reflect the intent of the legislature pursuant to NRS 630A.

Section 14: (NAC 630A.320) Discussion/no action taken. Fuller Royal explained the new language is necessary for standardizing the examination procedure for an applicant for a certificate to practice homeopathy as an APH, for an applicant for a homeopathic license (see **Section 7**), and for an applicant for a certificate to practice homeopathy as a HA.

Section 15: No discussion/action

Section 16: No discussion/action

Section 17: No discussion/action

Motion: Diane Kennedy moved to approve the regulations as amended.

Action: Passed

6. **Public comment.** None

7. **Announcements;** The regular Board meeting immediately follows this meeting.

8. **Adjournment.**

Motion: Fuller Royal moved to adjourn the meeting.

Second: Bruce Fong

Action: Passed

Meeting ended at 8:00 p.m.



F. Fuller Royal, Secretary-Treasurer

November 22, 2006

Date:

**PROPOSED REGULATION OF THE BOARD OF
HOMEOPATHIC MEDICAL EXAMINERS
LCB File No. R125-06**

November 2, 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; 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 fees for annual **registration** to practice complementary integrative and alternative medicine as a homeopathic medical doctor, 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 section 2 of this regulation.

Sec. 2. 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 be appointed by a majority vote of the members of the Board of Homeopathic Medical Examiners; and except as otherwise provided in subsection 3, should ideally possess the following qualities and qualifications as determined by the Board of Homeopathic Medical Examiners:*

- (a) Good communication skills;*
- (b) Ability to work cooperatively with others;*
- (c) Experience in the application of complementary integrative medical modalities;*
- (d) Interest in complementary integrative and alternative medicine;*
- (e) Interest in integrative biomedical research;*
- (f) Scientific expertise or experience with clinical practice in integrative medicine;*
- (g) Academic qualifications in complementary integrative medicine; and*
- (h) 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. 3. NAC 630A.0125 is hereby amended to read as follows:

NAC 630A.0125 “Homeopathic medicine” or “homeopathy” has the meaning ascribed to it in [NRS 630A.040](#). The terms include:

1. The methods of practicing homeopathy described in subsection 1 of NRS 630A.040; ~~and~~

2. The complementary *integrative* and alternative methods of diagnosing and treating a patient described in subsection 2 of NRS 630A.040; *and*

3. The use of any and all diagnostic services and modalities required for proper clinical assessment, diagnosis, public safety and medical legal standards, including,

but not limited to diagnostic laboratory, imaging, ultrasound and contemporary clinical pathological diagnostic methods.

Sec. 4. NAC 630A.020 is hereby amended to read as follows:

NAC 630A.020 The use of sarcodes in macro dosage includes *any and all cell or organ trophic factors, growth factors, hormones, biological response modifiers and cell or organ products derived from human, microbial or animal cell sources, including the use of stem cell and is called “cell therapy.”*

Sec. 5. NAC 630A.025 is hereby deleted as follows:

~~**[NAC 630A.025 The Board will elect its officers annually before June 30]. The term of an officer begins on July 1 after the election and ends on June 30 of the succeeding year.]**~~

Sec. 6. NAC 630A.060 is hereby amended as follows:

NAC 630A.060 1. The Board will administer an examination to practice homeopathic medicine at least two times each year at the dates and times established by the Board. An applicant for a license to practice homeopathic medicine must submit the completed application required pursuant to [NAC 630A.050](#) to the Secretary-Treasurer of the Board not later than 60 days before the date scheduled for the examination to be eligible to take that examination.

2. The examination will consist of written examination that is based upon the principles of homeopathy as defined in [NRS 630A.040](#). The time allowed for completing the examination must not exceed 3 hours.

3. The Secretary-Treasurer shall notify the applicant of the time and place of the examination not later than 20 days before the date scheduled for the examination.

4. Any book, computer, note or other material approved by the Secretary-Treasurer of the Board before the examination may be used during the written examination.

5. To pass the examination, an applicant must receive score of at least 76 percent on the written examination.

6. A majority of Board members present may vote to administer an oral examination to an applicant that fails the written exam by five (5%) percentage points or less. The oral examination:

(a) Will be graded on a “pass/fail” basis; and

(b) Shall be counted as a six (6%) percentage point addition to the applicant's written examination score.

Sec. 7. 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 applicant for a license to practice homeopathic medicine has completed a course or program that has not been approved by the Board, he may submit the course or program to the Board for approval. The Board will review the course or program based upon the considerations set forth in subsection 1. If the Board approves the course or program, the applicant will receive credit for the postgraduate training.

Sec. 8. 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 renewal,~~ *unless the licensee, homeopathic assistant certificate, or advanced practitioner certificate has*

been suspended for nonpayment of the fee for registration, any person licensed or certified to practice by the Board shall pay the full fee for registration and 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 *integrative* 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 *registration* ~~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. 9. 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 registration* ~~renewal~~ of a license to practice homeopathic *and complementary integrative and alternative* medicine~~1550~~ **\$600**

- 2. For the reexamination of an applicant who fails the examination for a license to practice homeopathic *and complementary integrative and alternative* 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. 10. 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 ~~H~~;

(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 or Board committee.

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 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 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. 11. NAC 630A.136 is hereby amended to read as follows:

NAC 630A.136 1. If a judgment is entered against a homeopathic physician or advanced practitioner of homeopathy in any court, or a settlement is reached, on a claim involving malpractice *in which the amount of the settlement is \$50,000 or more*, the homeopathic physician or advanced practitioner of homeopathy shall report that fact to the Board within 60 days after the judgment is entered or the settlement is reached.

2. As used in this section:

(a) "Community" embraces the entire area customarily served by homeopathic physicians and advanced practitioners of homeopathy among whom a patient may reasonably choose, not merely the particular area inhabited by the patients of that individual homeopathic physician or advanced practitioner of homeopathy or the particular city or place where the homeopathic physician or advanced practitioner of homeopathy has his office.

(b) "Malpractice" means failure on the part of a homeopathic physician or advanced practitioner of homeopathy to exercise the degree of care, diligence and skill ordinarily exercised by homeopathic physicians and advanced practitioners of homeopathy in good standing in the community in which he practices.

Sec. 12. NAC 630A.146 is hereby amended to read as follows:

NAC 630A.146 A homeopathic physician engaging in the intrastate practice of *complementary integrative and alternative* ~~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 *complementary integrative and alternative* ~~homeopathic~~ services.

Sec. 13. NAC 630A.320 is hereby amended to read as follows:

NAC 630A.320 An applicant for a certificate to practice as a homeopathic assistant must possess the qualifications required by the Board, including, without limitation:

1. Graduation from high school.
2. Successful completion of at least one training program approved by the Board.

This training may include, without limitation, a program to become certified or licensed to practice as:

- (a) A medical assistant;
- (b) A physician assistant;
- (c) A registered nurse;
- (d) A licensed practical nurse;
- (e) An emergency medical technician;
- (f) A medic in the Armed Forces; or
- (g) A medical technician.

3. Successful completion of not less than 40 hours of training in homeopathic medicine from a program approved by the Board, including, without limitation, a program concerning complementary *integrative* and alternative medicine.

4. Successful completion of not less than 160 hours of training under the supervision of a homeopathic physician.

5. Successful completion of the examination administered by the Board pursuant to [NAC 630A.330](#).

Sec. 13. NAC 630A.430 is hereby amended as follows:

~~NAC 630A.430 [To practice as an advanced practitioner of homeopathy, a person must successfully complete the examination given by the Board to applicants to practice as a homeopathic physician pursuant to NAC 630A.060 which is administered by the Board at least two times each year. An applicant will be notified and his examination administered and scored in the same manner as set forth in that section.]~~

1. The Board will administer an examination to practice as an advanced practitioner of homeopathic medicine at least two times each year at the

dates and times established by the Board. An applicant for a certificate to practice as an advanced practitioner of homeopathic medicine must submit the completed application required pursuant to NAC 630A.050 to the Secretary-Treasurer of the Board not later than 60 days before the date scheduled for the examination to be eligible to take that examination.

2. The examination will consist of a written examination that is based upon the principles of homeopathy as defined in NRS 630A.040. The time allowed for completing the examination must not exceed 3 hours.

3. The Secretary-Treasurer shall notify the applicant of the time and place of the examination not later than 20 days before the date scheduled for the examination.

4. Any book, computer, note or other material approved by the Secretary-Treasurer of the Board before the examination may be used during the written examination.

5. To pass the examination, an applicant must receive a score of at least 76 percent on the written examination.

6. A majority of Board members present may vote to administer an oral examination to an applicant that fails the written exam by five (5%) percentage points or less. The oral examination:

(a) Will be graded on a "pass/fail" basis; and

(b) Shall be counted as a six (6%) percentage point addition to the applicant's written examination score.

Sec. 14. NAC 630A.480 is hereby amended as follows:

NAC 630A.480 1. An advanced practitioner of homeopathy may perform only those acts which he is:

(a) Authorized by the Board to perform pursuant to subsection 2; and

(b) Authorized to perform pursuant to the protocol established pursuant to NAC 630A.490.

2. The Board may authorize an advanced practitioner of homeopathy to:

(a) Systematically assess the health of a person or family by:

(1) Taking, recording and interpreting a medical history;

(2) Performing a physical examination; and

(3) Performing or initiating any specific diagnostic procedure which is authorized in the protocol established pursuant to [NAC 630A.490](#).

(b) Manage the care of a person who has a common, acute, recurrent or chronic health-related problem, based on an assessment of the health of that person by:

(1) Initiating a program of treatment;

(2) Evaluating the response to health-related problems and programs of treatment;

(3) Informing a patient or a member of his family about the health of the patient and the alternatives for treatment;

(4) Evaluating the compliance of a patient with the program of treatment that was agreed upon by him or his family and the advanced practitioner;

(5) Modifying a program of treatment based upon the response of the patient to that treatment;

(6) Referring a patient to an appropriate provider of health care, if necessary;

(7) Treating minor lacerations which do not involve damage to a nerve, tendon or major blood vessel; and

(8) Commencing care which is necessary to stabilize the condition of a patient during an emergency until a physician can be consulted or the patient can be transported to a facility where emergency medical care is available.

(c) Perform any other procedure related to the practice of *complementary integrative and alternative medicine* [**homeopathy**] if:

(1) The advanced practitioner is certified to perform that procedure by an organization which is recognized by the Board;

(2) The advanced practitioner learned how to perform the procedure in a program of education which he attended;

(3) The advanced practitioner learned how to perform the procedure during the successful completion of a comprehensive program of instruction which included clinical experience; or

(4) The act is within the authorized scope of practice of an advanced practitioner of homeopathy as determined by the Board.

3. The Board may require an advanced practitioner of homeopathy to perform any measure the Board determines is necessary to protect the public safety or to ensure that the advanced practitioner provides high quality services.

Sec. 15. 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 *registration* ~~{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 *registration* ~~{renewal}~~ fee of ~~[\$165]~~ \$200 for a certificate to practice as a homeopathic assistant.

(2) An annual *registration* ~~{renewal}~~ fee of ~~[\$330]~~ \$400 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 *registration* ~~{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 *registration* ~~{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. 16. 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 *registration*

{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.