



## Physician-Hospital Employment Agreements

Guest Authors: Erin R. Barnett, Esq. & Frank Flansburg, Esq.

The enactment of the federal Affordable Care Act, and subsequent upholding of the act by the US Supreme Court, is ushering in some major changes for the American health care industry. Many of the changes create incentives for team-approach, results-oriented care. This, along with the already burdensome necessity of obtaining reimbursements from insurance companies, Medicaid, and Medicare, are contributing to the growth of employment relationships between hospitals and physicians. Thus, both hospitals and physicians are faced with a relatively new task: entering into employment agreements which are suitable in the hospital-physician context. Many physicians are accustomed to running their own practices and operating in hospitals as independent contractors, while the traditional hospital structure treats the physician akin to a revenue-generating client. Thus, drafting an employment agreement that successfully navigates a transition into an employer-employee relationship will be crucial to the industry's adaptation to the reforms ushered in by the Affordable Care Act. When agreeing upon an employment contract, both hospitals and physicians should try to keep in mind that employment agreements are not one-size-fits-all. Rather, an employment contract shall be negotiated to suit the needs and expectations of both parties. Particular consideration should be given to the following provisions:

**Term and Termination:** In Nevada, all employees are hired on an at-will basis and may be terminated at any time for any reason (other than for a discriminatory reason). Physicians who are hired as employees are no different, although in practice a set term of employment is often specified, with set reasons why the employment relationship may be terminated early (i.e. terminated for cause). These provisions should be reviewed carefully, particularly as they may impact a physician's compensation, severance package, or bonus structure. And in general, termination provisions written in certain and definite terms should be favored over provisions that allow for significant discretion by either party. *(article continued - page 2)*

### FEATURED IN THIS ISSUE:

<u>License Renewal Information</u>	page 3
<u>Mandatory In-Office Reporting 2011-2012</u>	pages 4-5
<u>Physicians &amp; Social Networking</u>	
By: Michael Siva, License Specialist	page 6
<u>ACPE Survey Findings Regarding Online</u>	
<u>Physician Ratings</u>	page 7
<u>Uncovering the Mysteries of the Silver State</u>	
<u>Health Insurance Exchange</u>	pages 8-9
<u>Update: ARRA HITECH Act &amp; NV H.I.E.</u>	page 10
<u>Regulation Update: <i>Medical Assistants</i></u>	pages 12-13
<u>Investigations Per Specialty 2011 &amp; 2012</u>	pages 14-15

### ALSO IN THIS ISSUE:

Proper Sharps Disposal.....	11
Board Disciplinary Action Report.....	17-18
Board Public Reprimands.....	19

### MISSION STATEMENT

The Nevada State Board of Medical Examiners serves the state of Nevada by ensuring that only well-qualified, competent physicians, physician assistants, respiratory therapists and perfusionists receive licenses to practice in Nevada. The Board responds with expediency to complaints against our licensees by conducting fair, complete investigations that result in appropriate action. In all Board activities, the Board will place the interests of the public before the interests of the medical profession and encourage public input and involvement to help educate the public as we improve the quality of medical practice in Nevada.

**Non-Competition Clauses:** Hospital-Physician Employment Agreements will often contain non-competition agreements aimed at preventing a physician from competing with the employing hospital during, and sometimes after, the term of employment. Unlike some states which hold non-competition clauses to be unenforceable as a matter of public policy, Nevada courts will enforce such provisions provided that they are reasonable in terms of duration and geographic scope (a two-year non-competition provision limited to a fifteen-mile radius of a particular hospital would be an example of a geographic/time limit that is generally thought to be reasonable). Because non-competition provisions directly impact a physician's career during (and perhaps even after) the termination of employment, these provisions should be reviewed with a critical eye, and consideration should be given to the following questions: Exactly what activity is prohibited, and what is the geographic scope of the provision? Does the clause purport to limit the physician's activity even after the term of employment has expired? Does the non-competition clause prevent the physician from working in competing hospitals entirely, or only in the capacity of an employee? Put another way, does the clause allow the physician to return to private practice even while the non-competition restriction is in effect? Again, the noncompetition clause can impact a physician's career even once the hospital paychecks have stopped. Therefore, this provision should be given particular attention by a physician, and negotiated accordingly.

**Compensation:** A physician's compensation structure is often based upon a combination of a base salary and bonus provisions. The ideal compensation will align both physician and hospital incentives, so that efficient, patient-centered care is awarded rather than volume of services. Physician incentives may also be defined in terms of cost-savings the physician achieves for the hospital in being resourceful with both hospitals and use of staff. In any case, particular attention should be paid by the physician to any provisions which allow for a claw-back of salary by the hospital should certain targets not be met.

**Insurance:** An employment agreement should clearly identify who, as between the physician and the hospital, will be responsible for paying for the physician's malpractice insurance. Further, whether or not the insurance will be on a claims-made basis (i.e. claims made against the physician during the term of the policy are covered regardless of when the grounds for such claims arose) or occurrence-based (i.e. claims are covered if the grounds for such claims occurred during the term of the policy) should be addressed in the employment agreement as well. If a claims-made insurance policy is chosen, a physician should attempt to negotiate for "tail coverage", which would provide the physician coverage even after the expiration of the term of such a policy. Physicians are highly-trained professionals, many of whom have been groomed to run their own practices. However, as the industry begins to favor hospital-physician employment arrangements, it is important that suitable employment agreements are used. While many of the industry changes are being ushered in by the federal Affordable Care Act, employment contracts are governed by state law; a large chain of hospitals will find that an employment agreement suitable for one state may not be suitable for a neighboring state. Both hospitals and the physicians they employ should retain competent and experienced local counsel to review and discuss any employment agreement before signing.

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***Disclaimer: The opinions expressed in the Guest Author's article are those of the authors, and do not necessarily reflect the opinions of the Nevada State Board of Medical Examiners, its Board members or its staff.***

# LICENSE RENEWAL INFORMATION

## BEFORE YOU RENEW!

**MEDICAL DOCTORS:** Pursuant to Nevada Revised Statute 630.30665, you are required to submit to the Board of Medical Examiners the requisite in-office surgery reporting form for the period of January 1, 2011 through December 31, 2012, **prior** to renewing your license in 2013, and you will be required to attest on your renewal application that you have submitted the form. Forms are available on the Board's website. Further information can be found on pages 4 and 5 of this Newsletter for reporting instructions.

## HOW TO RENEW!

This year's licensing renewal process will run April 1 through June 30. Please ensure the Board has your current mailing address! Licensees will receive a postcard which includes **individual** renewal information. Please retain your postcard for renewal purposes, as you will need the information contained thereon (such as your Renewal I.D.) in order to renew your license online. There is a \$15 administrative processing fee for online renewals and a \$50 administrative processing fee for renewals by paper application. The administrative processing fee will be waived for those licensees who are not eligible to renew online in 2013. Once renewed, licenses are valid from July 1, 2013 – June 30, 2015\*.

### Fees are as follows:

	Online Renewal Fee	Paper Renewal Fee
Active Medical Doctors	\$815	\$850
Inactive Medical Doctors	\$415	\$450
Physician Assistants	\$415	\$450
Perfusionists	N/A	\$400
Practitioners of Respiratory Care	\$215	\$250

Online, you can pay with American Express, Discover, MasterCard or Visa. By paper, you can pay with personal check, money order, cashier's check or the above-listed credit cards (no cash please).

Perfusionists are not eligible for online renewal in 2013 and will receive their renewal applications in the mail. The administrative processing fee will be waived for these licensees in 2013.

If you are selected to provide proof of completion of your continuing medical education (CME)/continuing education (CE) at the time you renew online, and cannot satisfy the CME/CE requirement, your license **will not** be renewed, and will be mandatorily audited the next renewal period. Word to the wise: please have your CME/CE up to date. Further information regarding CME/CE requirements can be found on the Board's website: [www.medboard.nv.gov](http://www.medboard.nv.gov). All licensees are subject to a random audit of their CME/CE, which includes licensees who are renewing by paper application.

*\*Renewing licensees who currently hold a Visa, Employment Authorization or Conditional Resident Alien Card are required to fax proof of extension of their immigration status to licensing staff at (775) 688-2551, prior to renewal of their licenses. Licenses are only valid for the duration of the existing immigration status, which is verified through USCIS, and if extended by USCIS may be valid until June 30, 2015.*

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### COMMUNITY OUTREACH PROGRAM

If you are interested in discussing the community outreach program or scheduling a presentation, please contact: Douglas C. Cooper, CMBI, Executive Director of the Nevada State Board of Medical Examiners, at [dccnsbme@medboard.nv.gov](mailto:dccnsbme@medboard.nv.gov) or by calling 775-688-2559.

# Mandatory In-Office Surgery Reporting 2011-2012

## INSTRUCTIONS FOR REPORTING IN-OFFICE SURGERIES OR PROCEDURES INVOLVING CONSCIOUS SEDATION, DEEP SEDATION OR GENERAL ANESTHESIA, AND ANY ASSOCIATED SENTINEL EVENTS, FOR 2011-2012

[http://www.medboard.nv.gov/New\\_In\\_Office\\_Surgery\\_Forms.htm](http://www.medboard.nv.gov/New_In_Office_Surgery_Forms.htm)

All allopathic physicians licensed in the state of Nevada are required by Nevada Revised Statute 630.30665 to report to the Nevada State Board of Medical Examiners, **prior** to licensure renewal, all in-office surgeries or procedures that involved the use of conscious sedation, deep sedation or general anesthesia, and the occurrence of any sentinel event arising from any such surgeries or procedures, between January 1, 2011 and December 31, 2012.

This reporting requirement, to include negative reporting, is mandatory. Your failure to submit a report or knowingly filing false information in a report is grounds for disciplinary action under Nevada's Medical Practice Act. You will be required to attest on your 2013 license renewal application that you have completed the applicable reporting form, either:

**Form A:** Which is to be completed and signed by you if you DID perform surgeries or procedures which involved the use of conscious sedation, deep sedation or general anesthesia, and any associated sentinel events, in your office or other location within the state of Nevada, other than those excepted facilities which are listed on page 5.

**Form A Link:** <http://www.medboard.nv.gov/Forms/In-Office%20Surgery%20Reporting/2011-2012%20Forms/Form%20A.pdf>

**Form B:** Which is to be completed and signed by you if you DID NOT perform any surgeries or procedures which involved the use of conscious sedation, deep sedation or general anesthesia, in your office or other location within the state of Nevada, other than those excepted facilities which are listed on page 5. Again, negative reporting is required by law.

**Form B Link:** <http://www.medboard.nv.gov/Forms/In-Office%20Surgery%20Reporting/2011-2012%20Forms/Form%20B.pdf>

### **Definitions:**

#### **Conscious Sedation**

"Conscious sedation" means a minimally-depressed level of consciousness, produced by a pharmacologic or non pharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

*You must report the number (how many) and type (name of the surgery or procedure) of surgeries/procedures in which you used **conscious sedation** on a patient on Form A.*

*You must also report any sentinel event associated with any surgery or procedure, while a patient was under **conscious sedation**, on Form A.*

#### **Deep Sedation**

"Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or non-pharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

*You must report the number (how many) and type (name of the surgery or procedure) of surgeries/procedures in which you used **deep sedation** on a patient on Form A.*

*You must also report any sentinel event associated with any surgery or procedure, while a patient was under deep sedation, on Form A.*

#### **General Anesthesia**

"General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or non-pharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

*You must report the number (how many) and type (name of the surgery or procedure) of surgeries/procedures in which you used **general anesthesia** on a patient on Form A.*

*You must also report any sentinel event associated with any surgery or procedure, while a patient was under **general anesthesia**, on Form A.*

## Sentinel Event

A "sentinel event" is an unexpected occurrence involving death or serious physical or psychological injury, or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function, and includes any case in which the patient requires hospitalization within 72 hours after the conclusion of the in-office procedure.

### Examples of reportable sentinel events:

1. Death that is related to a procedure or surgery that takes place in the office setting or within 14 days of discharge.
2. Transfer to a hospital or emergency center for a period exceeding 24 hours.
3. Unscheduled hospital admission for longer than 24 hours, within 72 hours of an office procedure and which is related to that procedure.
4. Other serious events: A serious or life-threatening event, occurrence or situation in the office setting, involving the clinical care of a patient that compromises patient safety and results in unanticipated injury requiring the delivery of additional health services to the patient.

### These events include, but are not limited to, the following examples:

- surgery performed on the wrong body part
- surgery performed on a wrong patient
- wrong surgical procedure performed on a patient
- unintentional retention of a foreign object in a patient after surgery or other procedure
- perforation or laceration of a vital organ
- serious disability associated with a medication error
- serious disability associated with a burn incurred from any source
- serious disability associated with equipment malfunction
- anesthesia-related complication/event, such as anaphylaxis, shock, prolonged hypoxia, hypertensive crisis, malignant hyperthermia, severe hyperthermia, renal failure, aspiration, severe transfusion reaction or unanticipated anesthesia awareness
- cardiac or respiratory complication/event, such as cardiac arrest, respiratory arrest, myocardial infarction, prolonged life-threatening arrhythmia, pneumothorax or pulmonary embolism
- neurological complication/event, such as CVA, prolonged seizure, prolonged unresponsiveness, significant nerve injury, coma, paralysis, brain or spinal injury
- infectious complication/event such as septic shock or deep site wound abscess/infection
- fracture or dislocation of bone or joints.

### Reminders:

The physician's signature is required, whether you submit Form A or Form B. Do not provide a report for a group practice as a whole - a report is required from each and every physician within a group practice. Report only those surgeries/procedures performed within the state of Nevada, **as you do not have to report any surgeries or procedures performed at one of the following facilities, or outside the state of Nevada:**

1. A surgical center for ambulatory patients;
2. An obstetric center;
3. An independent center for emergency medical care;
4. An agency to provide nursing in the home;
5. A facility for intermediate care;
6. A facility for skilled nursing;
7. A facility for hospice care;
8. A hospital;
9. A psychiatric hospital;
10. A facility for the treatment of irreversible renal disease;
11. A rural clinic;
12. A nursing pool;
13. A facility for modified medical detoxification;
14. A facility for refractive surgery;
15. A mobile unit; and
16. A community triage center.

### Submission of Forms:

Please submit all completed applicable forms to the Nevada State Board of Medical Examiners:

By mail to: P.O. Box 7238  
Reno, NV 89510

By hand delivery: 1105 Terminal Way, Suite 301  
Reno, NV 89502

By fax to: (775) 688-2553

By email to: [surgeryreport@medboard.nv.gov](mailto:surgeryreport@medboard.nv.gov)

# Social Networking: Possible Hazard to Career Health

By: Michael Siva, License Specialist, Nevada State Board of Medical Examiners

With technology in the palm of our hands and the widely expanded use of social networking websites and applications, such as Facebook, Twitter, LinkedIn, Pinterest, MyLife or Instagram, it is important to remain conscientious about posting information that may violate The Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security rules. Care and caution must be observed at all times so as not to betray the inherent trust of patients, staff members and colleagues.

Last year, an emergency room physician was dismissed from a hospital and reprimanded by her state medical board for posting information on a social networking site about a patient. Even though the physician did not disclose the patient's name, enough information was disseminated to allow some viewers to identify the patient. Doctors are not the only possible violators of HIPAA when it comes to social networking. Hospital nurses and staff members in Wisconsin and several California hospitals were dismissed for talking about patients and posting hospital setting pictures on Facebook.

Most hospitals, institutions and medical practices have established social media policies as the world becomes more technologically connected. Physicians employed by hospitals and other organizations may want to seek out the on-site staff social media policy in order to be compliant. In turn, private practice physicians need to employ their own social media policy as well, if one is not in place.

Potential social website or application posting hazards may be as simple as:

- Posting positive or negative comments and pictures without realizing until too late a patient's privacy has been violated.
- Accidentally "tweeting" (Twitter) something meant as a text message to one person, but went out to all followers.
- Posting/Tweeting revealing communications amongst colleagues by use of social networking websites or applications.

Health Care Practitioners also need to be careful sending and accepting "Friend Requests" on Facebook and followers on Twitter. Becoming a "Friend" with a patient could lead to a set of unforeseen problems and issues. A "Friend" can see "Likes" and personal photos (depending on security settings), which may adversely affect the licensee-patient relationship. As technologically savvy as many licensees may be, Facebook's privacy settings are tricky to navigate, so erring on the side of caution is always best.

Having stated the possible pitfalls, there is one positive and new emerging factor with physicians and social networking: More doctors are using online 'physician only' communities to share and scan for informative articles, data and research. A 2012 paper in the *Journal of Medical Internet Research* entitled 'Understanding the Factors That Influence the Adoption and Meaningful Use of Social Media by Physicians to Share Medical Information' (see link below) concluded, "the use of social media applications may be seen as an efficient and effective method for physicians to keep up-to-date and to share newly acquired medical knowledge with other physicians within the medical community and to improve the quality of patient care."

The Nevada State Board of Medical Examiners urges licensees to use social-networking websites/applications responsibly and with vigilance.

**For more information please see:**

**HIPAA** - <http://www.hhs.gov/ocr/privacy/index.html>

**American Medical Association (AMA)** - <http://www.ama-assn.org/ama/pub/physician-resources/solutions-managing-your-practice/coding-billing-insurance/hipaahealth-insurance-portability-accountability-act/hipaa-violations-enforcement.page>

**Journal of Medical Internet Research** 'Understanding the Factors That Influence the Adoption and Meaningful Use of Social Media by Physicians to Share Medical Information' - <http://www.jmir.org/2012/5/e117/>

**Federation of State Medical Boards**, Model Policy for the Appropriate Use of Social Media and Social Networking in Medical Practice (2012) - <http://fsmb.org/pdf/pub-social-media-guidelines.pdf>

# ACPE FINDS MOST PHYSICIAN LEADERS SKEPTICAL OF ONLINE RATINGS

By: *Carrie Johnson, ACPE Public Relations Manager*

TAMPA – Google a physician’s name and you’re likely to come up with a dozen consumer websites that claim to rate doctors. But a new survey found that physician leaders view online physician ratings as inaccurate, unreliable and not widely used among patients.

The survey found that physicians much prefer internal organizational ratings based on actual performance, as opposed to the consumer websites that many physicians consider to be nothing more than “popularity contests.”

The survey, conducted by the American College of Physician Executives (ACPE) was sent to 5,624 ACPE members and 730 responded.

Results showed most physician leaders are frustrated with consumer online ratings. They complained the sites contain sampling bias and invalid measurements of competency.

“Health care, like most all other industries, has clearly entered an era where measurement and reporting have increasing importance,” said Peter Angood, MD, CEO of ACPE. “This important new survey illustrates the strong concern among physician leaders about the quality and integrity of current reporting strategies and the data they are based upon.”

Only 12 percent of respondents believe patient online reviews are helpful. A far greater number (29 percent) said they are not used very much by patients and don’t affect their organization; 26 percent called them a nuisance.

Most of the survey respondents (69 percent) admitted they checked their profile on an online consumer website, but 55 percent believed few of their patients have used an online physician rating site.

Of the physicians who checked their online profiles, 39 percent said they agreed with their ratings and 42 percent said they partially agreed. Nineteen percent didn’t agree.

The survey also revealed skepticism about ratings conducted by health care organizations such as the National Committee for Quality Assurance (NCQA), The Joint Commission and Press Ganey, too, although they are viewed more favorably than online consumer sites. Most (41 percent) described their feelings about them as neutral. Another 29 percent said the systems were helpful, while 14 percent said they were a waste of time.

**For complete survey results and related articles:** [www.acpe.org/measures](http://www.acpe.org/measures)

For more information, contact *Carrie Johnson, ACPE Public Relations Manager* - [cjohnson@acpe.org](mailto:cjohnson@acpe.org) or 800-562-8088

## ***About The American College of Physician Executives:***

*ACPE is the nation’s oldest and largest medical management educational association for physicians. The organization represents nearly 11,000 high level physician leaders from health care organizations across the U.S. and throughout the world. Find out more: [www.acpe.org](http://www.acpe.org)*

# UNCOVERING THE MYSTERIES BEHIND THE SILVER STATE HEALTH INSURANCE EXCHANGE

In June of 2011, the Nevada Legislature passed SB 440 on a bipartisan basis. This legislation created the Silver State Health Insurance Exchange as an independent State agency to help the citizens and small businesses of Nevada comply with the provisions of the Patient Protection and Affordable Care Act (PPACA). The Exchange is governed by a ten-member board. The seven voting members are appointed by the Governor and the Legislature and the three non-voting members are ex-officio State executives who provide guidance and assistance as needed.

**What is a Health Insurance Exchange?** To answer the question simply, an Exchange is a place that you can compare and buy health insurance. The main goal of the Exchange is to make the process of purchasing health insurance easy. To accomplish this task, the Exchange will offer a full function Internet web portal that will help consumers enter all required eligibility information quickly and easily. The single streamlined application will guide Nevadans to the coverage option(s) they qualify for (subsidized and non-subsidized health insurance coverage or Medicaid). There are many methods of assistance available to the consumer including live Internet chat and telephone call center support.

After the required information has been entered, the Exchange will communicate with multiple secure data sources (much like credit report companies do today) to calculate the amount of Advance Premium Tax Credit (APTC) you may be eligible to receive. The APTC is a subsidy that the Federal Government will make available to individuals who make less than \$44,680, or families of four who make less than \$92,200, to help pay for health insurance. Table 1 shows income levels (2012 data) that are eligible for a tax credit to help defray the cost of health insurance coverage. (*FPL used in the Tables below reflect 'Federal Poverty Level'*)

**Table 1**

Family Size	100% FPL	133% FPL	200% FPL	300% FPL	400% FPL
1	\$11,170	\$14,856	\$22,340	\$33,510	\$44,680
2	\$15,130	\$20,123	\$30,260	\$45,390	\$60,520
3	\$19,090	\$25,390	\$38,180	\$57,270	\$76,360
4	\$23,050	\$30,657	\$46,100	\$69,150	\$92,200
5	\$27,010	\$35,923	\$54,020	\$81,030	\$108,040
For each additional person add	\$3,960	\$5,267	\$7,920	\$11,880	\$15,840

Table 2 provides the estimated monthly premium for individuals and families who purchase a Silver level insurance plan with an estimated \$2,000 to \$3,000 deductible. These rates are based on the estimated incomes provided in Table 1 and assume the consumer enrolls in coverage through the Exchange and uses the maximum amount of APTC available to offset his premium cost.

**Table 2 (Silver Level Insurance Plan)**

Family Size	100% FPL	133% FPL	200% FPL	300% FPL	400% FPL
Percent of Income	2.0%	3.0%	6.3%	9.5%	9.5%
1	\$18.62	\$37.14	\$117.29	\$265.29	\$353.72
2	\$25.22	\$50.31	\$158.87	\$359.34	\$479.12
3	\$31.82	\$63.47	\$200.45	\$453.39	\$604.52
4	\$38.42	\$76.64	\$242.03	\$547.44	\$729.92
5	\$45.02	\$89.81	\$283.61	\$641.49	\$855.32
For each additional person add	\$6.60	\$13.17	\$41.58	\$94.05	\$125.40



After the eligibility determination is completed, the consumer will be able to view a variety of Qualified Health Plans (QHP) to see if the plans meet his needs. Consumers will be able to shop for plans that have their doctors, hospitals, prescription drugs and specialty medical care. The web portal will allow consumers to:

- Choose the correct health insurance plan for their needs. Specialized sorting tools will allow the consumer to sort through the available plans and find the plan that covers the medical services they use.
- Find out how much health insurance coverage will cost. The amount of subsidy the consumer is eligible for will be displayed and offset the premium price. The consumer will also have access to an out-of-pocket cost calculator that will help them compare plans and choose a plan that fits their expected use patterns.
- Find out what benefits are provided, and
- Enroll in and pay for coverage all at one easy location. The Exchange will provide aggregate billing for individuals. If the consumer enrolls family members in more than one plan or supplemental product, they will receive one easy to read bill for the entire family.

For those consumers who do not have internet access, the Exchange will offer numerous telephone and in-person assistance options. The customer service center (call center) is located in Las Vegas and will be staffed by Nevadans. The customer service professionals will be able to guide the consumer through the eligibility and purchasing process in an efficient manner. The Customer Service Center will also handle enrollment appeals, complaints and eligibility documentation.

Consumers will have three options to turn to for in-person assistance with enrollment in QHP:

1. Navigators, a new class of consumer assister, will provide culturally and linguistically appropriate education and enrollment assistance to groups of consumers who are uninsured or underinsured.
2. Enrollment Assisters will provide access to enrollment resources. This includes providing access to locations, mobile computing centers or other resources that will facilitate access to the Exchange's web portal, call center, or fax line or provide the ability to print and mail hard copies of enrollment documents to the Exchange processing center. Navigators and Enrollment Assisters will be available in multiple geographic locations in the state.
3. Nevadans may use any insurance broker/agent that has been appointed by the Exchange. The broker and agent community has served the health insurance purchasing population of Nevada for many years. These insurance professionals have the knowledge and ability to help consumers find and enroll in the right plan.

Each of the in-person assistance classifications will be licensed or certified by the Nevada Division of Insurance. This licensure and certification will ensure that all consumers are protected from predatory enrollment practices.

The Exchange will also provide the opportunity for small businesses in Nevada to purchase expanded health plan choices for their employees. The Small Business Health Options Program (SHOP Exchange) will give businesses with 50 or fewer employees in 2014 and 100 or fewer employees in 2016 a much larger selection of Qualified Health Plans to offer to their employees than was available in the past. The employer may choose to offer many plans administered by multiple carriers or a single plan by a single carrier. The decision is completely up to the employer.

Once the employer's account is set up, the eligible employees may log into the Exchange and choose the best option for themselves and their families. Tax credits are currently available for small employers (less than 25 employees with average firm wages less than \$50,000) and will increase in 2014. Tax credits for employers will only be available through the SHOP Exchange starting in 2014.

**Enrollment in Qualified Health plans will start in October of 2013 for coverage starting January 1, 2014.**

*One last important detail to note is the consumer facing name for the Silver State Health Insurance Exchange will be changing in April. The Exchange is in the first phase of its Marketing and Outreach campaign, rebranding of the Exchange. You will see the new name, logo and taglines in multiple media formats starting in July 2013 when the Education and Awareness campaign kicks off.*

The Affordable Care Act changed the way the insurance industry issues coverage and operates on a national level. The Silver State Health Insurance Exchange will change the way Nevada's individuals and small businesses shop for, compare and purchase health insurance.

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Enrollment Video Demonstration Link - [http://exchange.nv.gov/Resources/Video\\_Demonstrations/](http://exchange.nv.gov/Resources/Video_Demonstrations/)

# Update: ARRA HITECH Act, Health Information Exchange & Nevada

Nevada's Department of Health and Human Services (DHHS) has been making progress toward establishing the Statewide Health Information Exchange (HIE) system and administering the financial incentives program for the adoption of electronic health records (EHRs). As required by Nevada's ARRA HITECH State HIE Cooperative Agreement, the Silver State's federally-approved State Health Information Technology Strategic and Operational Plan (State Health IT Plan) outlines how stimulus funds are being used to establish Nevada's statewide system for the electronic exchange of health information. Total electronic management of health information and its secure exchange among and between health care consumers, providers and payers is expected to enhance care coordination and ultimately reduce medical costs. Nevada's State Health IT Plan is available online at: <http://dhhs.nv.gov/Hit.htm>.

Senate Bill 43 (SB 43), passed by the Nevada Legislature in 2011, provides the framework for meeting the requirements of the HITECH Act and implementing the State Health IT Plan. Codified as NRS 439.581-595, the legislation designates the DHHS Director as the State Health IT Authority, with the ability to adopt regulations and certify the HIEs wishing to participate in the statewide system. There are also provisions to safeguard protected health information contained in EHRs and to provide certain liability protections for health care providers in connection with EHRs and the statewide HIE system. DHHS will begin the administrative rule-making process during Spring 2013. Coordination and collaboration with the state's medical licensing boards will be an important part of the process.

Nevada's statewide HIE System is now moving to implementation in accordance with NRS 439.581-595 and Nevada's State Health IT Plan. Pursuant to NRS 439.588, the non-profit Nevada Health Information Exchange (NHIE) and its seven-member Board of Directors have been established. The NHIE is the designated governing entity that will assist DHHS with oversight and governance of the statewide HIE system. The NHIE Board meets under Open Meeting Law, and members represent physicians, hospitals, health plans, public health, pharmacies, consumers, and Medicaid. Standing committees are in the process of being established, and will include additional stakeholders. For more information visit: <http://dhhs.nv.gov/NHIE.htm>.

In addition to providing this oversight and governance, the NHIE will provide core HIE services that enhance continuity of care across organizational boundaries (both within Nevada and across state borders) to assure patient data is at the place and point of care when needed, to support clinical decision processes, and to enhance patient care coordination. A phased approach is being used to implement HIE, with secure point-to-point messaging available initially in Spring 2013, until the more robust set of HIE services can be implemented in late 2013.

The first phase of HIE implementation deploys *Nevada DIRECT (NV DIRECT)* services as an HIE proof of concept and grant requirement. Available Spring 2013, *NV DIRECT* does NOT require users to purchase additional software or have an EHR/EMR, and supports meeting Meaningful Use requirements. The only requirement is a connection to the Internet. *NV DIRECT* uses a secure clinical messaging protocol and acts much like email, allowing providers to type messages, attach patient summaries and images, and send the information to known *DIRECT* recipients using secure transaction standards. Like composing a regular email, the *NV DIRECT* web portal will allow providers to send a message to another provider. The transport of that message, along with any attachments, is done securely. The provider receiving the electronic health information does not need to be in the same practice or health system or use the same EHR/EMR system. More information is available online: <http://dhhs.nv.gov/HIT.htm>.

The State Health IT Plan supports Meaningful Use Requirements for eligible professionals and hospitals that implement federally-certified EHR technology and wish to pursue the CMS reimbursement incentives authorized under HITECH. The Medicare and Medicaid EHR Incentive Programs provide incentive payments to eligible professionals and eligible hospitals as they adopt, implement, upgrade or demonstrate meaningful use of certified EHR technology. The Centers for Medicare and Medicaid Services (CMS) is the federal agency administering the Medicare incentive program, and state Medicaid agencies are administering the Medicaid program equivalent. The CMS website is the official federal source for facts about the incentive programs: <http://www.cms.gov/EHRIncentivePrograms/>. Providers should visit the site often to learn what is considered meaningful use and for information about who is eligible for the programs, how to register, EHR training and events, and more.

The Nevada Division of Health Care Financing and Policy (DHCFP) kicked off the Nevada Medicaid EHR Incentive Program in August 2012. The program provides incentive payments to eligible professionals, eligible hospitals and critical access hospitals as they adopt, implement, upgrade or demonstrate meaningful use of certified EHR technology. As of January 2013, a total of over \$11.3 million in incentive payments has been received by 131 providers and 13 hospitals. More information is available on the DHCFP Web site: <https://dhcfp.nv.gov/EHRIncentives.htm>.

HITECH includes funding, through the Health IT Regional Extension Center (REC) program, to provide hands-on technical assistance for physicians adopting certified EHRs and using HIE. *HealthInsight* is the designated REC for Nevada and Utah, and has been assisting over 2,000 providers with adopting and effectively using EHRs. A private, non-profit organization incorporated in Nevada and Utah, *HealthInsight* is vendor neutral. Available REC services include workflow assessment, process improvement, certified EHR vendor selection, system implementation and assistance meeting all meaningful use requirements. More information about the REC program is available at: <http://www.healthinsight.org/Internal/REC.html>.

**If you have questions, please contact Lynn O'Mara, 775-684-7593 or [lgomara@dhhs.nv.gov](mailto:lgomara@dhhs.nv.gov).**

# Proper Sharps Disposal in Nevada

Sharps are needles, syringes or similar devices used for injection. The Southern Nevada Health District and the Washoe County Health District require residents to properly contain sharps prior to disposal.

## DISPOSAL OPTIONS AVAILABLE TO NEVADA RESIDENTS

Nevada state regulators do not provide written recommendations to syringe users for disposing of sharps. However, individuals who use syringes at home are responsible for ensuring that their used syringes are stored in a way that does not cause a health hazard. To safely dispose of used sharps in the state of Nevada, you may use one of the options listed below:

### Republic Services

#### (2 Locations)

333 Gowan Rd.  
N. Las Vegas, NV 89032  
702-735-5151

550 Cape Horn Dr.  
Henderson, NV 89011  
800-752-8719

Dispose of your needles, syringes and sharps containers. Gate Hours for household hazardous waste are:

Wednesday – Saturday: 9 am – 1 pm

Limit five gallons per drop off. Please place waste in tin can similar to coffee can. Please seal and label "Needles" on the container. The container will not be returned. A copy of your last Republic Services residential bill and valid photo identification are required.

#### **Proper Disposal Procedures:**

<http://www.republicservicesvegas.com/Documents/Needle%20and%20Medication%20Disposal.pdf>

#### **Disposal Calendar:**

<http://www.republicservicesvegas.com/Documents/Hazardous%20Waste%20Flyer.pdf>

### Washoe County Health District (WCHD) Residential Sharps Collection Program

How the Program Works: When a resident contacts the WCHD requesting assistance with the disposal of household generated sharps, the WCHD will offer the resident sharps containers for proper disposal of their sharps. When full, the resident is to contact the waste management program to have the full containers replaced with empty ones and ensure the used sharps are properly disposed of. Resources are limited and the Health District reserves the right to end the program if funding is eliminated.

Contact for more information:

Environmental Health Services Division at  
775-328-2434 or email at [healthweb@washoecounty.us](mailto:healthweb@washoecounty.us).

### Waste Management Washoe County Drop-Off Center

1390 E Commercial Row  
Reno, NV 89512  
775-326-2409

\* Any resident of Washoe County can bring in a sharps container and they will dispose of it for FREE! No questions asked.

\* Any business can drop off a sharps container and they will dispose of it for a fee (5-6 gallon = \$18.54, 32 gallon = \$32.01)

### Northern Nevada HOPES

580 W. 5th St.  
Reno, NV 89503  
775-348-2893

(free drop off site of loose syringes with no questions asked)

#### **Mail-back Programs**

Includes everything needed to collect and dispose of medical sharps such as syringes and lancets, or other small quantities of medical waste. This sharps container disposal system includes a prepaid return-mailing box (USPS).

### Public Health Alliance for Syringe Access

In conjunction with Northern Nevada Outreach Team (NNOT), if you find a dirty syringe in the community call the Northern Nevada Outreach Team at 775-203-6519

### Needle Destruction Devices

- Devices or containers with mechanisms that bend, break, incinerate (destroy by high heat), or shear needles are called **sharps needle destruction devices**.
- A destruction device that **incinerates** needles and lancets can be used at home to destroy needles immediately after use. These devices use a few seconds of high heat to melt needles and reduce them to BB-size balls. Once the needle or lancet is destroyed by heat in a destruction device, the remaining syringe and melted metal can be safely disposed of in the garbage (not the recycling container). A **needle cutter** that automatically stores the cut needles is also useful while away from home when a disposal container is not available. The remains of the syringe after the needle has been clipped can be placed in either a household container or a sharps container (if there is a site available to drop off the sharps container). When the needle clipper is full, simply place it in the storage container (household or sharps container) and dispose of properly.

#### **To read more:**

### Regulations Governing Medical & Bio-hazardous Waste Management:

[http://www.southernnevadahealthdistrict.org/download/public\\_notices/medical-waste-regs.pdf](http://www.southernnevadahealthdistrict.org/download/public_notices/medical-waste-regs.pdf)

# REGULATION UPDATE

During its normal course of business, the Nevada State Board of Medical Examiners (Board) makes regular amendments or additions to Chapter 630 of the Nevada Administrative Code (NAC), the Board's administrative rulemaking chapter, via the statutorily mandated regulatory adoption process. In many instances, amendments or additions to Board regulations are of minimal interest to the plurality of Board licensees. Recently though, a regulation of significant import to medical doctor and physician assistant licensees became law.

On February 19, 2013, the Legislative Commission's Subcommittee to Review Regulations considered R094-12, a regulation advanced by the Board which is intended to create clarifying language for the delegation and supervision of medical assistants by Board licensees under Chapter 630 of the NAC. The regulation was approved by the Subcommittee and became effective on February 20, 2013.

The full text of the new regulation, which is found below and which can also be obtained via the Board's website, encapsulates the significant and protracted efforts by the Board, and the considerable contributions of various interested stakeholders, to offer further clarity to the supervisory responsibilities of those who employ and/or supervise medical assistants. The Board expresses its thanks to all those who offered input towards the promulgation of this most important regulation. Questions regarding the new regulation can be directed to Edward O. Cousineau, J.D., Deputy Executive Director or Douglas C. Cooper, CMBI, Executive Director.

New language in blue.

Redacted language in red.

**Section 1.** Chapter 630 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

**Sec. 2.** *As used in sections 2 to 5, inclusive, of this regulation, unless the context otherwise requires, "delegating practitioner" means a person who is licensed as a physician or physician assistant and who delegates to a medical assistant the performance of a task pursuant to the provisions of section 3 or 4 of this regulation.*

**Sec. 3. 1.** *A delegating practitioner may delegate to a medical assistant the performance of a task if:*

*(a) The delegating practitioner knows that the medical assistant possesses the knowledge, skill and training to perform the task safely and properly;*

*(b) The medical assistant is not required to be certified or licensed to perform that task; and*

*(c) The medical assistant is employed by the delegating practitioner or the medical assistant and the delegating practitioner are employed by the same employer.*

*2. Except as otherwise provided in section 4 of this regulation, if a medical assistant is delegated a task which involves an invasive procedure, the delegating practitioner must be immediately available to exercise oversight in person while the medical assistant performs the task.*

**Sec. 4. 1.** *A delegating practitioner may supervise remotely a medical assistant to whom the practitioner has delegated the performance of a task if:*

*(a) The patient is located in a rural area;*

*(b) The delegating practitioner is physically located a significant distance from the location where the task is to be performed;*

*(c) The delegating practitioner determines that the exigent needs of the patient require immediate attention;*

*(d) The patient and the delegating practitioner previously established a practitioner-patient relationship; and*

*(e) The delegating practitioner is immediately available by telephone or other means of instant communication during the performance of the task by the medical assistant.*

*2. As used in this section, "rural area" means any area in this State other than Carson City or the City of Elko, Henderson, Reno, Sparks, Las Vegas or North Las Vegas.*

**Sec. 5.** *A delegating practitioner retains responsibility for the safety and performance of each task which is delegated to a medical assistant. A delegating practitioner shall not:*

*1. Delegate a task that is not within the authority, training, expertise or normal scope of practice of the delegating practitioner;*

*2. Transfer to another physician or physician assistant the responsibility of supervising a medical assistant during the performance of a task unless the physician or physician assistant knowingly accepts that responsibility;*

*3. Authorize or allow a medical assistant to delegate the performance of a task delegated to the medical assistant to any other person; or*

*4. Delegate or otherwise allow a medical assistant to administer an anesthetic agent which renders a patient unconscious or semiconscious.*

**Sec. 6.** NAC 630.230 is hereby amended to read as follows:

*1. A person who is licensed as a physician or physician assistant shall not:*

*(a) Falsify records of health care;*

*(b) Falsify the medical records of a hospital so as to indicate his or her presence at a time when he or she was not in*

attendance or falsify those records to indicate that procedures were performed by him or her which were in fact not performed by him or her;

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

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

(e) Prescribe anabolic steroids for any person to increase muscle mass for competitive or athletic purposes;

(f) Make an unreasonable additional charge for tests in a laboratory, radiological services or other services for testing which are ordered by the physician or physician assistant and performed outside his or her own office;

(g) Allow any person to act as a medical assistant in the treatment of a patient of the physician or physician assistant, unless the medical assistant has sufficient training to provide the assistance;

(h) Fail to provide adequate supervision of a medical assistant who is employed or supervised by the physician or physician assistant ~~§~~, **including, without limitation, supervision provided in the manner described in section 3 or 4 of this regulation;**

(i) If the person is a physician, fail to provide adequate supervision of a physician assistant or an advanced practitioner of nursing;

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

(k) Engage in the practice of writing prescriptions for controlled substances to treat acute pain or chronic pain in a manner that deviates from the policies set forth in the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

2. As used in this section:

(a) "Acute pain" has the meaning ascribed to it in section 3 of the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

(b) "Chronic pain" has the meaning ascribed to it in section 3 of the *Model Policy for the Use of Controlled Substances for the Treatment of Pain* adopted by reference in NAC 630.187.

~~§(c) "Medical assistant" means any person who:~~

- ~~—(1) Is employed by a physician or physician assistant;~~
- ~~—(2) Is under the direction and supervision of the physician or physician assistant;~~
- ~~—(3) Assists in the care of a patient; and~~
- ~~—(4) Is not required to be certified or licensed by an administrative agency to provide that assistance.}~~

**Sec. 7.** NAC 630.380 is hereby amended to read as follows:

1. A physician assistant is subject to disciplinary action by the Board if, after notice and hearing in accordance with this chapter, the Board finds that the physician assistant:

(a) Has willfully and intentionally made a false or fraudulent statement or submitted a forged or false document in applying for a license;

(b) Has held himself or herself out as or permitted another to represent the physician assistant to be a licensed physician;

(c) Has performed medical services otherwise than:

(1) Pursuant to NAC 630.375; or

(2) At the direction or under the supervision of the supervising physician of the physician assistant;

(d) Has performed medical services which have not been approved by the supervising physician of the physician assistant, unless the medical services were performed pursuant to NAC 630.375;

(e) Is guilty of gross or repeated malpractice in the performance of medical services for acts committed before October 1, 1997;

(f) Is guilty of malpractice in the performance of medical services for acts committed on or after October 1, 1997;

(g) Is guilty of disobedience of any order of the Board or an investigative committee of the Board, **any** provision in the regulations of the State Board of Health or the State Board of Pharmacy or **any** provision of this chapter;

(h) Is guilty of administering, dispensing or possessing any controlled substance otherwise than in the course of legitimate medical services or as authorized by law and the supervising physician of the physician assistant;

(i) Has been convicted of a violation of any federal or state law regulating the prescribing, possession, distribution or use of a controlled substance;

(j) Is not competent to provide medical services;

(k) Failed to notify the Board of an involuntary loss of certification by the National Commission on Certification of Physician Assistants within 30 days after the involuntary loss of certification;

(l) Is guilty of violating a provision of NAC 630.230 ~~§~~ **or section 3, 4 or 5 of this regulation;**

(m) Is guilty of violating a provision of NRS 630.301 to 630.3065, inclusive; or

(n) Is guilty of violating a provision of subsection 2 or 3 of NAC 630.340.

2. To institute disciplinary action against a physician assistant, a written complaint, specifying the charges, must be filed with the Board by the investigative committee of the Board.

3. A physician assistant is not subject to disciplinary action solely for prescribing or administering to a patient under the care of the physician assistant a controlled substance which is listed in schedule II, III, IV or V by the State Board of Pharmacy pursuant to NRS 453.146.

# Investigations Per Specialty 2011 & 2012

The numbers reported below may include multiple providers on one complaint; therefore, reported case counts and reported totals by specialty will not match. A "no mention" indicates no complaints for a specialty in that year.

## 2011 INVESTIGATIONS

### Specialty:

Addiction Medicine	3
Ambulatory Medicine	1
Anesthesiology	41
Cardiovasc Diseases	33
Child Psychiatry	1
Dermatology	12
Emergency Medicine	45
Endocrinology	4
Family Medicine	9
Family Practice	82
Gastroenterology	30
General Practice	10
Geriatrics	1
Gynecology	7
Hospitalist	1
Infectious Diseases	5
Infertility	3
Internal Medicine	145
Maternal/Fetal Medicine	3
Neo/Perinatal Med	6
Nephrology	6
Neurology	16
Neuroradiology	1
Nuclear Medicine	1
Obstetrics/Gynecology	78
Obstetrics	1
Oncology	1
Oncology, Gynecologic	3
Oncology, Hematology	6
Oncology, Radiation	6
Ophthalmology	24
Otolaryngology	7
Pain Management	27
Pathology	1
Pathology, Anatomic	2
Pathology, Forensic	1

## 2012 INVESTIGATIONS

### Specialty:

Alternative Medicine	1
Anesthesiology	22
Cardiology, Interventional	1
Cardiovasc Diseases	22
Child Psychiatry	2
Cosmetic Medicine	1
Critical Care	1
Dermatology	20
Emergency Medicine	51
Endocrinology	2
Family Medicine	17
Family Practice	78
Gastroenterology	10
General Practice	10
Geriatrics	3
Gynecology	8
Hospitalist	1
Infectious Diseases	5
Infertility	3
Internal Medicine	112
Nephrology	1
Neurology	13
Obstetrics/Gynecology	35
Occupational Medicine	1
Oncology	3
Oncology, Gynecologic	9
Oncology, Hematology	2
Oncology, Radiation	4
Ophthalmology	31
Orthopaedics	1
Otolaryngology	12
Pain Management	30
Pathology	1
Pathology, Anatomic	4
Pathology, Clinical	1
Pediatrics	29

## 2011 INVESTIGATIONS

### Specialty:

Pediatrics	29
Peds/Critical Care	2
Peds, Emergency Medicine	1
Peds, Hemat/Oncology	1
Peds, Neurology	2
Physical Med/Rehab	20
Physician Assistant	39
Practitioner of Respiratory Care	28
Psychiatry	17
Public Health	2
Pulmonary Diseases	9
Radiology	4
Radiology, Diagnostic	24
Radiology, Interventional	3
Radiology, Therapeut	1
Rheumatology	1
Surgery, Cardiothoracic	2
Surgery, Cardiovasc	8
Surgery, Colon/Rectal	2
Surgery, Cosmetic	1
Surgery, General	57
Surgery, Hand	2
Surgery, Maxillofac	3
Surgery, Neurological	18
Surgery, Oncologic	1
Surgery, Orthopedic	52
Surgery, Plastic	15
Surgery, Traumatic	2
Surgery, Urologic	4
Surgery, Vascular	6
Urgent Care	2
Urology	39
No Specialty Listed/Not Licensed	8
TOTAL	1028

## 2012 INVESTIGATIONS

### Specialty:

Peds/Critical Care	5
Peds, Emergency Medicine	4
Peds, Gastroenterology	1
Peds, Hemat/Oncology	4
Peds, Urology	1
Physical Med/Rehab	15
Physician Assistant	34
Preventative Medicine	2
Psychiatry	24
Pulmonary Diseases	8
Radiology	2
Radiology, Diagnostic	20
Radiology, Therapeut	1
Radiology, Vascular	2
Practitioner of Respiratory Care	18
Rheumatology	6
Surgery, Cardiothoracic	2
Surgery, Cardiovasc	2
Surgery, Colon/Rectal	3
Surgery, General	42
Surgery, Hand	2
Surgery, Maxillofac	1
Surgery, Neurological	13
Surgery, Orthopedic	43
Surgery, Plastic	22
Surgery, Thoracic	2
Surgery, Transplant	1
Surgery, Urologic	1
Surgery, Vascular	2
Urology	21
Non Medical License	5
TOTAL	856

**NOTIFICATION OF ADDRESS  
CHANGE, PRACTICE CLOSURE  
AND LOCATION OF RECORDS**

Pursuant to NRS 630.254, all licensees of the Board are required to "maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent." A licensee must notify the Board in writing of a change of permanent mailing address within 30 days after the change. Failure to do so may result in the imposition of a fine or initiation of disciplinary proceedings against the licensee.

Please keep in mind that the address you provide will be viewable by the public on the Board's website.

Additionally, if you close your practice in Nevada, you are required to notify the Board in writing within 14 days after the closure, and for a period of 5 years thereafter, keep the Board apprised of the location of the medical records of your patients.

**WHOM TO CALL IF YOU  
HAVE QUESTIONS**

Management: Douglas C. Cooper, CMBI  
Executive Director  
Edward O. Cousineau, J.D.  
Deputy Executive Director/Legal  
Donya Jenkins  
Financial Manager

Administration: Laurie L. Munson, Chief

Legal: Bradley O. Van Ry, J.D.  
General Counsel  
Erin L. Albright, J.D.  
Deputy General Counsel

Licensing: Lynnette L. Daniels, Chief

Investigations: Pamela J. Castagnola, CMBI, Chief

**Nevada State Medical Association**

3660 Baker Lane #101  
Reno, NV 89509  
775-825-6788  
702-798-6711

**Clark County Medical Society**

2590 East Russell Road  
Las Vegas, NV 89120  
702-739-9989 phone  
702-739-6345 fax

**Washoe County Medical Society**

3660 Baker Lane #202  
Reno, NV 89509  
775-825-0278 phone  
775-825-0785 fax

**2013 BME MEETING &  
HOLIDAY SCHEDULE**

**January 1** – New Year's Day holiday  
**January 21** – Martin Luther King, Jr. Day holiday  
**February 18**– Presidents' Day holiday  
**March 8-9** – Board meeting  
**May 27** – Memorial Day holiday  
**June 7-8** – Board meeting  
**July 4** – Independence Day holiday  
**September 2** – Labor Day holiday  
**September 6-7** – Board meeting  
**October 25** – Nevada Day holiday  
**November 11** – Veterans' Day holiday  
**November 28 & 29** – Thanksgiving/family day holiday  
**December 6-7** – Board meeting  
**December 25** – Christmas holiday

*Unless otherwise noted, Board meetings are held at the Reno office of the Nevada State Board of Medical Examiners and videoconferenced to the conference room at the offices of the Nevada State Board of Medical Examiners/Nevada State Board of Dental Examiners, 6010 S. Rainbow Blvd., Building A, Suite 1, in Las Vegas.*

*Hours of operation of the Board are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.*



# DISCIPLINARY ACTION REPORT

## ADAMSON, Kim, M.D. (CR1035)

### Fallon, Nevada

Summary: Alleged prescribing of schedule II and IV controlled substances to individuals who were not patients within the area to which his license was restricted and failure to disclose an arrest/conviction on license renewal forms.

Charges: Two violations of NRS 630.304(1) [obtaining, maintaining or renewing a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading inaccurate or incomplete statement]; one violation of NRS 630.306(5) [practicing beyond the scope permitted by law]; one violation of NRS 630.306(2)(a) [engaging in conduct which is intended to deceive].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Adamson violated NRS 630.304(1) (two counts) and imposed the following discipline against him: (1) public reprimand; (2) \$2,000 fine; (3) reimbursement of the Board's fees and costs of investigation and prosecution.

## ARCOTTA, Karen, M.D. (4896)

### Las Vegas, Nevada

Summary: Alleged inability to safely practice medicine and failure to report an arrest/conviction to the Board as required.

Charges: One violation of NRS 630.306(13) [failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318]; one violation of NRS 630.306(12) [failure to report in writing, within 30 days, any criminal action taken or conviction obtained against her, other than a minor traffic violation]; NRS 630.304(1) [obtaining, maintaining or renewing a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading inaccurate or incomplete statement].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Arcotta violated NRS 630.306(12) and NRS 630.304(1) and imposed the following discipline against her: (1) public reprimand; (2) continue with her participation in, and remain fully compliant with, the contractual

terms enunciated in her monitoring agreement with the Nevada Professionals Assistance Program; (3) reimbursement of the Board's fees and costs of investigation and prosecution.

## BUCKWALTER, Kevin R., M.D. (8476)

### Las Vegas, Nevada

Summary: Alleged malpractice, failure to maintain appropriate medical records and inappropriate prescribing of controlled substances related to Dr. Buckwalter's treatment of four patients.

Charges: Four violations of NRS 630.301(4) [malpractice]; four violations of NRS 630.306(2)(1) [failure to maintain, timely, legible, accurate and complete records relating to the diagnosis, treatment and care of a patient]; one violation of NRS 630.306(3), NAC 630.187 and NAC 630.230(1)(1) [administering, dispensing or prescribing any controlled substance to others except as authorized by law].

Disposition: On September 11, 2012, a settlement agreement was approved and accepted by the Nevada State Board of Medical Examiners in which the Board entered into an agreement that Dr. Buckwalter accepted, though denying culpability, pursuant to Nevada Revised Statutes 630.306(2)(1) of the Medical Practice Act, to wit: three (3) counts of incomplete medical records relating to the treatment and diagnoses of patients. The Board further ordered Dr. Buckwalter to receive a public reprimand and reimburse to the Board the costs and expenses incurred.

## NGO, Renee, M.D. (10905)

### Las Vegas, Nevada

Summary: Alleged failure to maintain appropriate medical records related to Dr. Ngo's treatment of five patients.

Charges: Five violations of NRS 630.306(2)(1) [failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Ngo violated NRS 630.306(2)(1) (five counts) and imposed the following

discipline against him: (1) \$2,500 fine; (2) reimbursement of the Board's fees and costs of investigation and prosecution.

## SANDERS, Thomas, M.D. (5393)

### Reno, Nevada

Summary: Suspension of Dr. Sanders' DEA certificate of registration and alleged self-prescribing of controlled substances and potentially diverting controlled substances to others.

Statutory Authority: NRS 630.326(1) [risk of imminent harm to the health, safety or welfare of the public or any patient served by the physician].

Disposition: On November 14, 2012, the Investigative Committee summarily suspended Dr. Sanders' medical license until further order of the Investigative Committee or the Board of Medical Examiners.

## SHARDA, Navneet, M.D. (8200)

### Las Vegas, Nevada

Summary: Alleged abandonment of privileged and confidential medical records for numerous patients.

Charges: One violation of NRS 630.306(2)(1) [failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient]; one violation of NRS 630.306(5)(1) [willful disclosure of a communication privileged pursuant to a statute or court order]; one violation of NRS 630.306(3) [willful failure to perform a statutory or other legal obligation imposed upon a licensed physician].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Sharda violated NRS 630.306(2)(1) and imposed the following discipline against him: (1) \$500 fine; (2) reimbursement of the Board's fees and costs of investigation and prosecution.

**IEGLER, John, M.D. (10534)**

**Henderson, Nevada**

Summary: Involvement in an incident at the Specialty Surgery Center, an evaluation related thereto and Dr. Siegler's voluntary surrender of privileges while under investigation at the Specialty Surgery Center.

Statutory Authority: NRS 630.326(1) [risk of imminent harm to the health, safety or welfare of the public or any patient served by the physician].

Disposition: On November 27, 2012, the Investigative Committee summarily suspended Dr. Siegler's medical license until further order of the Investigative Committee or the Board of Medical Examiners.

**VENGER, Benjamin, M.D. (5573)**

**Fort Mohave, Arizona**

Summary: Alleged malpractice related to Dr. Venger's treatment of a patient.

Charges: One violation of NRS 630.301(4) [malpractice].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Venger violated NRS 630.3062(1) [failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient] and imposed the following discipline against him: (1) perform 100 hours of community service without compensation; (2) \$5,000 donation to charity; (3) reimbursement of the Board's fees and costs of investigation and prosecution.

**WALKER, Bradley, M.D. (7042)**

**Las Vegas, Nevada**

Summary: Disciplinary action taken against Dr. Walker's medical license in Idaho, and alleged failure to report said disciplinary action to the Nevada State Board of Medical Examiners.

Charges: One violation of NRS 630.301(3) [disciplinary action taken against his medical license in another state]; one violation of NRS 630.306(11), failure to report in writing, within 30 days, disciplinary action taken against him by another state].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Walker violated NRS 630.301(3) and

imposed the following discipline against him: (1) public reprimand; (2) remain compliant with the probationary terms set forth by the Idaho State Board of Medicine in Case No. 2011-BOM-6844, adopted on February 14, 2012; (3) reimbursement of the Board's fees and costs of investigation and prosecution.

**WELCH, Andrew, M.D. (3713)**

**Las Vegas, Nevada**

Summary: Alleged malpractice related to Dr. Welch's treatment of a patient.

Charges: One violation of NRS 630.301(4) [malpractice].

Disposition: On November 30, 2012, the Board accepted a settlement agreement by which it found Dr. Welch violated NRS 630.301(4) and imposed the following discipline against him: (1) perform 40 hours of community service without compensation; (2) reimbursement of the Board's fees and costs of investigation and prosecution.



# Public Reprimands Ordered by the Board

## **KIM A. ADAMSON, M.D.**

December 4, 2012

Kim A. Adamson, M.D.  
430 Pintail Drive  
Fallon, NV 89406

Dr. Adamson:

On November 30, 2012, the Nevada State Board of Medical Examiners (Board) accepted the Settlement Agreement proposed between you and the Board's Investigative Committee in relation to the formal Complaint filed against you regarding Case Number 11-7036-1.

In accordance with its acceptance, the Board has entered an Order which indicates that you were found guilty of a two-count violation of Nevada Revised Statutes 630.304(1), that you are to be publicly reprimanded, that you are to be fined in the amount of \$2,000.00, and that you shall reimburse the Board the costs and expenses incurred in the investigation and prosecution of this case, that amount being \$1,355.48.

It is now my unpleasant duty as President of the Board to formally and publicly reprimand you for your conduct which has brought professional disrespect upon you and which also reflects unfavorably upon the medical profession as a whole.

Sincerely,

Benjamin J. Rodriguez, M.D.  
President  
Nevada State Board of Medical Examiners

## **KAREN ARCOTTA, M.D.**

December 4, 2012

Karen Arcotta, M.D.  
3695 E. Quail Avenue  
Las Vegas, NV 89120

Dr. Arcotta:

On November 30, 2012, the Nevada State Board of Medical Examiners (Board) accepted the Settlement, Waiver and Consent Agreement (Agreement) proposed between you and the Board's Investigative Committee in relation to the formal Complaint filed against you regarding Case Number 11-5972-1.

In accordance with its acceptance, the Board has entered an Order which indicates

that you were found guilty of two violations of Nevada's Medical Practice Act; specifically, one count of failing to report in writing, within 30 days, any criminal action taken or conviction obtained against you, a violation of Nevada Revised Statutes (NRS) 630.306(12); and one count of obtaining, maintaining, or renewing a license to practice medicine by an inaccurate or incomplete statement, a violation of NRS 630.304(1). For the same, you are to be publicly reprimanded, reimburse the Board the costs and expenses incurred in the investigation and prosecution of this case, that amount being \$1,355.48, and to comply with all other essential terms included in the Agreement.

It is now my unpleasant duty as President of the Board to formally and publicly reprimand you for your conduct which has brought professional disrespect upon you and which also reflects unfavorably upon the medical profession as a whole.

Sincerely,

Benjamin J. Rodriguez, M.D.  
President  
Nevada State Board of Medical Examiners

## **KEVIN BUCKWALTER, M.D.**

October 22, 2012

Kevin Buckwalter, M.D.  
6032 Sundial Crest CT  
Las Vegas, NV 89120

Dr. Buckwalter:

On September 7, 2012, the Nevada State Board of Medical Examiners (Board) accepted the proposed Settlement Agreement between you and the Investigative Committee in relation to the formal Complaint filed against you, Case #08-12069-1.

You accepted, though denying culpability, three (3) counts of incomplete medical records relating to the treatment and diagnoses of patients in violation of Nevada Revised Statutes 630.3062(1).

As a result of the Settlement Agreement, the Board entered an Order as follows: that you shall be issued a public reprimand and that you shall reimburse the Nevada State Board of Medical Examiners the reasonable costs and expenses of this matter within

thirty-six (36) months of the acceptance of the Settlement Agreement.

Accordingly, it is my unpleasant duty as President of the Nevada State Board of Medical Examiners to publicly reprimand you.

Sincerely,

Benjamin J. Rodriguez, M.D., President  
Nevada State Board of Medical Examiners

## **BRADLEY S. WALKER, M.D.**

December 4, 2012

Bradley S. Walker, M.D.  
6547 Candy Apple Circle  
Las Vegas, NV 89142

Dr. Walker:

On November 30, 2012, the Nevada State Board of Medical Examiners (Board) accepted the Settlement, Waiver and Consent Agreement (Agreement) proposed between you and the Board's Investigative Committee in relation to the formal Complaint filed against you regarding Case Number 12-7910-1.

In accordance with its acceptance, the Board entered an Order that indicates you were found guilty of committing a violation of the Medical Practice Act; specifically that you committed one violation of NRS 630.301(3) based solely on the disciplinary action taken by the Idaho State Board of Medicine, as set forth in Count I of the formal Complaint. For the same, you are to be publicly reprimanded, reimburse the Board the reasonable costs of investigation and prosecution of this matter in the current amount of \$512.31, and remain compliant with the probationary terms set forth by the Idaho State Board of Medicine in Case No. 2011-BOM-6844.

Accordingly, it is my unpleasant duty as President of the Board to formally and publicly reprimand you for your conduct which has brought personal and professional disrespect upon you, and which reflects unfavorably upon the medical profession as a whole.

Sincerely,

Benjamin J. Rodriguez, M.D.  
President  
Nevada State Board of Medical Examiners

NEVADA STATE BOARD OF MEDICAL EXAMINERS

1105 Terminal Way, Ste. 301

Reno, NV 89502-2144

**ADDRESS SERVICE REQUESTED**