



Nevada State Board of Osteopathic Medicine

WHAT YOU NEED TO KNOW TO ABOUT AB 474

PRESENTED BY:

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

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Nevada State Board of Osteopathic Medicine

PRESENTERS:

Ronald Hedger, D.O.
President

Sandra Reed
Executive Director

Louis Ling
Board Counsel



Nevada State Board of Osteopathic Medicine

HOW DID WE GET HERE?

1986 - Portnoy & Foley paper

1995 - Nevada PMP Program created

2000 – JCAHO Guidelines

May 2015 - Governor Sandoval creates Drug Abuse Prevention Task Force

March 2016 - CDC Guidelines published

June 2016 - Board creates regulations regarding the prescribing and use of opioids by its licensees

August 2016 – Governor Sandoval convenes two-day Prescription Drug Abuse Prevention Summit

December 2016 – Board’s regulation put on hold

January 1, 2018 – AB 474 Effective



Nevada State Board of Osteopathic Medicine

'Monster with a stethoscope':

Reno pill mill doctor Robert Rand gets 10 years in prison

[Anjeanette Damon](#) Updated 9:03 a.m. PT Nov. 21, 2017

Final update: Dr. Robert Rand, whose pain pill prescribing practices led to the death of at least one patient and helped fuel a rampant pill mill run out of the Jones West Ford dealership, was sentenced to 10 years in federal prison on Monday.

In handing down the sentence, Judge Miranda Du said doctors like Rand, who show ignorance and a reckless disregard for life, are fueling addiction and illegal distribution of pain pills.

"Doctors like Dr. Rand...are enablers and contribute to the opioid crisis in this community," Du said.

Du's decision overruled an earlier plea agreement reached by Rand's lawyers and federal prosecutors, in which he pleaded guilty to reduced charges of involuntary manslaughter and illegal distribution of a controlled substance. Each side had agreed to recommend Rand spend 6 years and 6 months in prison.

But prosecutor James Keller said Rand failed to take adequate responsibility for his crime, which was a condition of the plea agreement. Judge Du agreed and upped his sentence to 10 years.

Rand must also pay a \$25,000 fine and pay \$11,000 in restitution to the family of Michael Yenick, his patient who died of an overdose in October 2015.



Nevada State Board of Osteopathic Medicine

PHILOSOPHY UNDERLYING AB 474

**Treat patients with real
pain appropriately.**



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Nevada State Board of Osteopathic Medicine

TIP FOR COMPLYING WITH AB 474

**Think before you
prescribe a controlled
substance.
Show your thinking in
your records.**



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Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

- Mandatory CME
- Mandatory Registration With PMP
- Prescription Changes
- Physician-Patient Relationship
- Rules Related to an Initial Prescription
- Rules Related to Additional Prescriptions
- New Usage of PMP



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Mandatory CME

Beginning in 2018, you must obtain two hours annually of CME relating to the misuse and abuse of controlled substances, the prescribing of opioids, or addiction.



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AB 474 AND YOUR PRACTICE

Mandatory Registration With PMP

Beginning in 2018, you must be registered with the PMP to renew your Nevada Controlled Substances Registration (CSR). NRS 453.226(1).



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Prescription Changes

Beginning in 2018, you must include on your controlled substances prescriptions the following information:

- 1) DEA Number
- 2) Practitioner address
- 3) Date of birth of patient
- 4) The number of days for which the drug is to be used, beginning on the day the prescription is filled
- 5) Directions for use, which must include the dose prescribed, the route of administration, and the number of authorized refills (if any)
- 6) The ICD10 code that corresponds to the diagnosis for which the controlled substance is prescribed.

NRS 639.2353(2).



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AB 474 AND YOUR PRACTICE

Prescription Changes

Beginning in 2018, a practitioner may raise the dosage of a controlled substances prescription once, but before a second raising of the dosage, the practitioner must meet with the patient in person or by telehealth to evaluate the treatment plan.

Sec. 53(2) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Physician-Patient Relationship

Mandatory Reporting of Overdose

“A provider of health care who knows of, or provides services to, a person who has suffered or is suspected of having suffered a drug overdose shall report that fact to the Chief Medical Officer or his or her designee in the manner prescribed by the regulations of the Board.”

NRS 441A.150(2).



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE *Physician-Patient Relationship*

General Considerations for All Controlled Substances Prescribing

1. Whether there is reason to believe that the patient is not using the controlled substance as prescribed or is diverting the controlled substance for use by another person.
2. Whether the controlled substance has had the expected effect on the symptoms of the patient.
3. Whether there is reason to believe that the patient is using other drugs, including, without limitation, alcohol, controlled substances listed in schedule I or prescription drugs, that:
 - (a) May interact negatively with the controlled substance prescribed by the practitioner; or
 - (b) Have not been prescribed by a practitioner who is treating the patient.
4. The number of attempts by the patient to obtain an early refill of the prescription.
5. The number of times the patient has claimed that the controlled substance has been lost or stolen.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE *Physician-Patient Relationship*

General Considerations for All Controlled Substances Prescribing

6. Information from the database of the program established pursuant to NRS 453.162 that is irregular or inconsistent or indicates that the patient is inappropriately using a controlled substance.

7. Whether previous blood or urine tests have indicated inappropriate use of controlled substances by the patient.

8. The necessity of verifying that controlled substances, other than those authorized under the treatment plan established pursuant to paragraph (c) of subsection 1 of section 53 of this act, are not present in the body of the patient.

9. Whether the patient has demonstrated aberrant behavior or intoxication.

10. Whether the patient has increased his or her dose of the controlled substance without authorization from the practitioner.

11. Whether the patient has been reluctant to stop using the controlled substance or has requested or demanded a controlled substance that is likely to be abused or cause dependency or addiction.



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AB 474 AND YOUR PRACTICE *Physician-Patient Relationship*

General Considerations for All Controlled Substances Prescribing

12. Whether the patient has been reluctant to cooperate with any examination, analysis or test recommended by the practitioner.
13. Whether the patient has a history of substance abuse.
14. Any major change in the health of the patient, including, without limitation, pregnancy, or any diagnosis concerning the mental health of the patient that would affect the medical appropriateness of prescribing the controlled substance for the patient.
15. Any other evidence that the patient is chronically using opioids, misusing, abusing, illegally using or addicted to any drug or failing to comply with the instructions of the practitioner concerning the use of the controlled substance.
16. Any other factor that the practitioner determines is necessary to make an informed professional judgment concerning the medical appropriateness of the prescription. Sec. 57 of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

”Initial Prescription” Defined

“Initial prescription’ means a prescription originated for a new patient of a practitioner, other than a veterinarian, or a new prescription to begin a new course of treatment for an existing patient of a practitioner, other than a veterinarian. The term does not include any act concerning an ongoing prescription that is issued by a practitioner to continue a course of treatment for a new or existing patient of the practitioner.” Sec. 51 of AB 474.



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AB 474 AND YOUR PRACTICE

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Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

Before writing an initial prescription and at least every 90 days thereafter, a practitioner must:

- “(a) Review the patient utilization report to assess whether the prescription for the controlled substance is medically necessary; and
- (b) Determine whether the patient has been issued another prescription for the same controlled substance that provides for ongoing treatment using the controlled substance. If the practitioner determines from the patient utilization report or from any other source that the patient has been issued such a prescription, the practitioner shall not prescribe the controlled substance.”

NRS 639.23507(1).



Nevada State Board of Osteopathic Examiners

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

Limits on Initial Prescription – An initial prescription for a controlled substance in schedules II, III, or IV for acute pain is limited to:

- 1) A 14-day supply; and
- 2) If the prescription is for an opioid and the patient has not before had an opioid or was not prescribed one within 19 days before the prescription at issue, then the dose may not exceed 90 morphine milligram equivalents (MME) per day.

Sec. 52(2) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

Before writing the initial prescription for a controlled substance for the treatment of pain, the practitioner must:

- 1) Establish a bona fide patient-physician relationship;
- 2) Perform an evaluation and risk assessment for the patient;
- 3) Establish a preliminary diagnosis and treatment plan tailored toward treating the patient and the cause of the pain;
- 4) Document in the record the reason(s) for selecting the controlled substance instead of an alternative treatment; and
- 5) Obtain a written informed consent from the patient or appropriate agent for the patient.

Sec. 53(1) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

An evaluation and risk assessment of a patient must include:

- 1) Obtaining and reviewing the patient's medical history;
- 2) Conducting a physical examination of the patient;
- 3) Making a good faith effort to obtain records from other or preceding practitioners and documenting those efforts;
- 4) Assessing the mental health and risk of abuse, dependency and addiction of the patient using methods supported by peer- reviewed scientific research and validated by a nationally recognized organization.

Sec. 54(1) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to the Initial Prescription

The informed consent must include:

- 1) The potential risks and benefits of the controlled substance selected;
- 2) Proper use of the controlled substance;
- 3) Any alternative means of treating symptoms and the cause of the symptoms;
- 4) A clear and simple explanation of the important provisions of the treatment plan;
- 5) The risks of dependency, addiction, or overdose;
- 6) Methods to safely store and legally dispose of the controlled substances;
- 7) The manner in which the practitioner will address refill requests;
- 8) If the patient is a female between 15 and 45 years of age, the risk to a potential fetus;
- 9) If the controlled substance is an opioid, the availability of an opioid antagonist;
- 10) If the patient is an unemancipated minor, the risks that the minor abuse, misuse, or divert the controlled substance.

Sec. 54(2) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to Additional Prescriptions

"Prescribe 365" Rule

1. If a practitioner, other than a veterinarian, prescribes or dispenses to a patient for the treatment of pain a quantity of controlled substance that exceeds the amount prescribed by this subsection, the practitioner must document in the medical record of the patient the reasons for prescribing that quantity. A practitioner shall document the information required by this subsection if the practitioner prescribes for or dispenses for the treatment of pain:

(a) In any period of 365 consecutive days, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 365 days if the patient adheres to the dose prescribed; or

(b) At any one time, a larger quantity of a controlled substance listed in schedule II, III or IV than will be used in 90 days if the patient adheres to the dose prescribed. Sec. 52(1) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to Additional Prescriptions

After 30 Days of Treatment – if treatment with a controlled substance will exceed 30 days, then within 30 days of the originating prescription, the practitioner and the patient must enter into a prescription medication agreement that contains:

- 1) The goals of the treatment of the patient;
- 2) Consent by the patient to testing to monitor the patient's usage;
- 3) A requirement that the patient use the controlled substance only as directed;
- 4) A prohibition of sharing the controlled substance with anyone else;
- 5) A requirement that the patient inform the practitioner (a) of any other controlled substances prescribed or taken by the patient, (b) whether the patient drinks alcohol or uses cannabis, (c) whether the patient has experienced an overdose or been treated for side effects or complications related to controlled substances, and (d) each state in which the patient has resided and obtained controlled substances;
- 6) Authorization for the practitioner to perform random counts; and
- 7) Any other condition the practitioner might impose.

Sec. 56(2) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to Additional Prescriptions

Treatment in Excess of 90 Days – Before issuing a prescription that will continue treatment beyond 90 days from initiation, the practitioner must:

- “(a) Require the patient to complete an assessment of the patient’s risk for abuse, dependency and addiction that has been validated through peer-reviewed scientific research;
- (b) Conduct an investigation, including, without limitation, appropriate hematological and radiological studies, to determine an evidence-based diagnosis for the cause of the pain;
- (c) Meet with the patient, in person or using telehealth, to review the treatment plan established pursuant to paragraph (c) of subsection 1 of section 53 of this act to determine whether continuation of treatment using the controlled substance is medically appropriate; and
- (d) If the patient has been prescribed a dose of 90 morphine milligram equivalents or more of an opioid per day for 90 days or longer, consider referring the patient to a specialist.” Sec. 55(1) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

Rules Related to Additional Prescriptions

Treatment in Excess of 90 Days

2. If, after conducting a review of the treatment plan and considering referral of the patient to a specialist pursuant to paragraphs (c) and (d) of subsection 1, the practitioner decides to continue to prescribe a dose of 90 morphine milligram equivalents or more of the opioid per day, the practitioner must develop and document in the medical record of the patient a revised treatment plan, which must include, without limitation, an assessment of the increased risk for adverse outcomes.

3. For the purposes of this section, the daily dose of a controlled substance must be calculated in accordance with the most recent guidelines prescribed by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. Sec. 55(2) and (3) of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

New Usage of PMP

Boards May Access to Search for Inappropriate Prescriber Behaviors

“An occupational licensing board that is provided access to the database pursuant to this section may access the database to investigate a complaint, report or other information that indicates fraudulent, illegal, unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance.” NRS 453.164(1).

Mandatory Reporting by PMP to the Board

“Except as otherwise provided in subsection 4, the Board or the Division shall report any activity it reasonably suspects may:

(a) Indicate fraudulent, illegal, unauthorized or otherwise inappropriate activity related to the prescribing, dispensing or use of a controlled substance to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.” NRS 453.164(3).



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

New Usage of PMP

Mandatory Processing by Board of Complaints From PMP, Other Board, or Law Enforcement

“(a) A licensee has issued a fraudulent, illegal, unauthorized or otherwise inappropriate prescription for a controlled substance listed in schedule II, III or IV;

(b) A pattern of prescriptions issued by a licensee indicates that the licensee has issued prescriptions in the manner described in paragraph (a); or

(c) A patient of a licensee has acquired, used or possessed a controlled substance listed in schedule II, III or IV in a fraudulent, illegal, unauthorized or otherwise inappropriate manner.” Sec. 33 of AB 474.



Nevada State Board of Osteopathic Medicine

AB 474 AND YOUR PRACTICE

New Usage of PMP

Mandatory Review of Self in PMP Every Six Months

“7. Each practitioner who is authorized to write prescriptions for human consumption of controlled substances listed in schedule II, III or IV shall, to the extent the program allows, access the database of the program established pursuant to NRS 453.162 at least once each 6 months to:

(a) Review the information concerning the practitioner that is listed in the database , including, without limitation, information concerning prescriptions issued by the practitioner, and notify the Board if any such information is not correct; and

(b) Verify to the Board that he or she continues to have access to and has accessed the database as required by this subsection.” NRS 453.164(7).



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RESOURCES BELOW AVAILABLE AT:

WWW.BOM.NV.GOV OR WWW.NSBOM.ORG

- AB 474
- White Paper Regarding AB 474
- AB474 Summary Table
- CDC MME Publication/Simple CDC Table
- “The Model Policy for the Use of Opioid Analgesics in the Treatment of Chronic Pain” (July 2013 edition) published by the Federation of State Medical Boards
- “The Clinical Guidelines for the Use of Chronic Opioid Therapy in Chronic Noncancer Pain” published in the Journal of Pain, Volume 10, Number 2 (February 2009)
- “The CDC Guideline for Prescribing Opioids for Chronic Pain – United States, 2016” published by the Center for Disease Control and Prevention of the United States Department of Health and Human Services.
- “First Do No Harm: Marshaling Clinician Leadership to Counter the Opioid Epidemic” published by the National Academy of Medicine in 2017



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ADDITIONAL RESOURCES AVAILABLE AT: DPBH.NV.GOV

Step #1 – Go to website: dpbh.nv.gov

Step #2 – Click on first link on right side bar – “Opioid Abuse”

Step #3 – Scroll down to “Downloadable Sample Forms”

Step #4 – Adapt the forms to your particular practice



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QUESTIONS?

Send To:

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