

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE NEWSLETTER

Nevada State Board of Osteopathic Medicine, 2275 Corporate Circle, Suite 210, Henderson, NV 89074

January, 2019 Volume 17

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NEW STATE GOVERNMENT/NEW LEGISLATURE MEDICAL RECORDS MANAGEMENT—A LEGAL REFRESHER

PREPARING FOR THE NEW STATE GOVERNMENT AND 2019 LEGISLATIVE SESSION

By Susan Fisher, Board Government Affairs Representative



For the first time in 20 years, a Democratic Governor delivered a State of the State address on January 16, 2019. And for the first-time in the history of our nation, a sitting Governor addressed a female-majority Legislature!

Governor Steve Sisolak outlined his vision and priorities for the upcoming biennium, which included a myriad of health-care related initiatives:

- Increased funding for graduate medical education by \$2M per year
- The construction of a new health and science building at the College of Southern Nevada
- Commitment to increasing women's health care, including cervical cancer screenings or other forms of family planning by \$3M per year.
- Increasing Medicaid reimbursement rates for Neonatal and Pediatric Intensive Care Units
- Expanding the number of Community Behavioral Health Centers in the state from three to ten
- The creation of a Patient Protection Commission that will be tasked with evaluating the state of health care in a comprehensive way across the state
- Recommendation of a 3% pay increase for all state employees

The budget numbers are subject to change over the 120-day Legislative Session which begins February 4, 2019; but, the Budget Subcommittee begins meeting on Jan. 22, 2019, to ensure a head start on the process. With a Democratic controlled legislature, it is unlikely that there will be much deviation from the Executive Budget. *Article continued on Page 3, below.*

BOARD/STAFF NEWS...

Board: In December 2018, **Samir Pancholi, D.O.**, was elected to serve as Board Secretary/Treasurer. **Nicole Cavenagh, Ph.D.**, left service with the Board as the Secretary/Treasurer and Public Member in December 2018. We thank Dr. Cavenagh for her distinguished service to the Board since September 2012. **Carla Perlotto, Ph.D.** was appointed in December 2018 to serve as a Public Member of the Board, replacing Dr. Cavenagh's position. Dr. Perlotto brings many years of experience as a psychologist. Currently, she works at Touro University.

Staff: In January 2019, **Wilford "Wil" Jarred** was hired as the new Board Investigator. Wil brings to the Board nearly 20 years of private investigative experience. He is also an Army Veteran.

NSBOM BOARD MEMBERS

Ronald Hedger, D.O.

President;

Paul Mausling, D.O.

Vice President

Samir Pancholi, D.O.

Secretary/Treasurer;

Ricardo Almaguer, D.O.

C. Dean Milne, D.O.

Swadeep Nigam

Carla Perlotto, Ph.D.

■STAFF

Sandra Reed

Executive Director

Wilford Jarred

Investigator

Tammy Sine

Licensing Specialist/Bookkeeper

Nikki Montano

Administrative Assistant

Mission: The Nevada State Board of Osteopathic Medicine's mission is to protect and safeguard the public by licensing and disciplining well-educated and competent Doctors of Osteopathy and Physician Assistants.

**CURRENT MEMBER LIST- INTERSTATE
MEDICAL LICENSURE COMPACT (IMLC)**

- **NEVADA**
- ALABAMA
- ARIZONA
- COLORADO
- DISTRICT OF COLUMBIA
- U.S. Territory of GUAM
- IDAHO
- ILLINOIS
- IOWA
- KANSAS
- KENTUCKY
- MAINE
- MARYLAND
- MICHIGAN
- MINNESOTA
- MISSISSIPPI
- MONTANA
- NEBRASKA
- NEW HAMPSHIRE
- NEW MEXICO
- NORTH DAKOTA
- PENNSYLVANIA
- SOUTH DAKOTA
- UTAH
- VERMONT
- WASHINGTON
- WEST VIRGINIA
- WISCONSIN
- WYOMING

For more info on our web site go to:
<http://nsbom.org/LicensingPublic/licensurecompact.jsp>;

To apply for an interstate medical
license (DOs only), go to:
<http://www.imlcc.org/>

Closing your practice?

The statute requires practitioners to
notify the Board in writing **30 days**
before closing your practice. See **NRS
633.291; NAC 633.260(1)(2))** for full
details.

Also Note: Malpractice settlements involving minors (under 18 years old), must be approved by the courts. However, the NPDB may receive settlement notification by an insurance carrier prior to court approval, starting the reporting timeline in our statute. Be sure to communicate with your insurance company to comply with the reporting timeline.

Reaching Out...The Board will be speaking to students of Doctors of Osteopath (DO) at Touro University in April, 2019, about licensing application requirements, statutes and regulations in preparation for their future practice as a DO.

2019 BOARD MEETINGS

- January 8
- February 12
- March 12
- April 9
- May 14
- June 11
- August 13
- September 10
- October 8
- November 12
- December 10

**ALL MEETINGS ARE HELD
AT THE BOARD OFFICE AT
5:30 p.m. UNLESS
OTHERWISE STATED**

Licensing Applications

Calendar Year 2018

- DO - 187
- PA - 58
- Residents – 128
- Other Special - 0
- Compact (IMLC) 29
- Total licensees - 1842

BOARD LICENSE/RENEWAL FEES

INITIAL LICENSE FEE: DO-\$650*; PA-\$450*; FEE INCLUDES FINGERPRINT CARDS

MILITARY DISCOUNT: 50%- DO-\$300; PA-\$200

RENEWAL FEE: DO-\$450; PA-\$250

ACTIVE MILITARY RENEWAL FEE: \$0 (NO COST)

***Fingerprint/background fees are now \$50.**

Enforcement Stats Total - 2018

Complaints Reviewed/Investigated	116
Settlement/Remediation Agreements	03
Complaints resulting in a Letter of Caution	14
Complaints Authorized for Closure	84
Fulfilled Agreements	05

Types of Complaints*- 2018

Medical Malpractice – 9
Prescribing – 19
Standard of Care – 43
Unprofessional Conduct – 61
Non – Reporting – 5

*Some types of complaints overlap

Reporting Disciplinary/Malpractice Actions

Please Note: As per **NRS 633.527**, all licensees are **required** to report all actions in which they are named, including disciplinary, malpractice claims, fulfillment and removal, within 45 days of the action. The National Practitioner Data Bank (NPDB) reports to the Board all disciplinary, malpractice and positive settlement fulfillments and disciplinary action removals.

“Preparing for New State Government...” Continued from Page One

Governor Sisolak also pledged during his speech that no new taxes will be needed to cover the increased expenses. The Governor vowed support collective bargaining rights for state employees, and signaled that he would like to maintain the current Modified Business Tax rate, which was on schedule to decrease this year. However, Senate Democrats are one-vote shy of having the requisite 2/3 majority to raise any revenue and Senate Republican leadership has already indicated opposition. Nearly 21,000 businesses in Nevada were expecting to receive a Modified Business Tax reduction over the upcoming biennium, but that may not happen under Governor Sisolak’s plan.

Appointments to lead key state agencies include the retention of Director Richard Whitley, who will continue to head the Department of Health and Human Services. Whitley has served in that role since June of 2015.

Legislators have begun to submit bill draft requests (BDR), with many bills already pre-filed; therefore, the full language of those bills is currently available for review. Access the BDR list and the pre-filed bill list at: <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bdrs/List>

On the upper left side of the page, click on the tab for “BDRs” and search by BDR number, topic, or by requesting legislator. Another method: click on the word “Bills,” to access the full list of pre-filed bills.

MEDICAL RECORDS - A LEGAL REFRESHER

By Louis Ling, Board Counsel to the Nevada State Board of Osteopathic Medicine

Recently, the Board has received several complaints concerning patient medical record keeping practices. The information below is intended to provide guidance on the creation and management of patient medical records.

(1) **You must create patient medical records.** Nevada Revised Statutes (NRS) 633.131(1)(m) defined as "unprofessional conduct" the "[f]ailure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient." Similarly, Nevada Administrative Code (NAC) 633.350(1)(e) defined "unethical conduct" to be when a Doctor of Osteopathy (DO) or Physician Assistant (PA) "[f]ails to generate or create medical records relating to the diagnosis, treatment and care of a patient." The simple point is that a DO or PA must make records regarding diagnosis, treatment, and care of each patient for each patient encounter.

(2) **Control of patient medical records.** Medical records must be kept by either the medical provider or by a "medical facility" if the provider works for one. If the provider is not working from a "medical facility," such as a private practice, an employee or employees may be designated to assist with the keeping of medical records; but, that person must be an employee who is overseen by the provider. Note that the provider (you) are ultimately responsible for all such medical records. The list of the definition of medical facilities is located at: NRS 449.0151. The medical record management issue has occurred typically at businesses that need a DO or a PA to serve as the "medical director," so that the proprietor of the business can provide certain medical services or provide prescription drugs to the business' clientele. These businesses are **NOT** "medical facilities" as defined in NRS 449.0151; and, therefore, the DO or PA in whose name the services are provided **MUST** be the person responsible for the making and keeping of the records. Remember, if, as a provider, you are involved, it is a medical practice for which the DO or the PA is responsible to assure the following: 1) the services provided are medical; 2) the services provided are according to the law and the prevailing standard of care; and, 3) the services are properly recorded.

(3) **Providing medical records according to law.** Who controls the records is important because NRS 629.061 provides a list of persons to whom medical records must be provided by the "custodian of records." If you are a provider who is not employed by a "medical facility," you are considered one of the

custodians of the records; and, you must assure that if the records are requested pursuant to NRS 629.061, they must be provided. Additionally, the failure to provide the records pursuant to NRS 629.061 is "unprofessional conduct" per NRS 633.131(1)(q) and is "unethical conduct" per NAC 633.350(1)(j).

(4) **Remember HIPAA.** Medical records made by a DO or a PA are subject to HIPAA, so as the provider, you must assure that the records are only made available to or kept by persons authorized per HIPAA. Again, in businesses which are not "health facilities," a DO or a PA who is serving as the "medical director" for such a facility should assure that the medical records are created and maintained in correlation with the services provided at such a business; and, are only available and are managed pursuant to HIPAA. Any questions regarding HIPAA compliance should be directed to a legal advisor.

The purpose of this information is to provide guidance to assist the provider in proper record creation and management. Please see the links below to view related statutes and regulations.

Nevada State Board of Osteopathic Medicine Statutes/Regulations:

<https://www.leg.state.nv.us/NRS/NRS-633.html#NRS633Sec131>

<https://www.leg.state.nv.us/NAC/NAC-633.html#NAC633Sec350>

Nevada Healing Arts Statute on Medical Records:

<https://www.leg.state.nv.us/NRS/NRS-629.html#NRS629Sec051>

FSMB RELEASES 2018 U.S. MEDICAL REGULATORY TRENDS AND ACTIONS REPORT

The report features physician licensure statistics and aggregated national disciplinary. The report is published every two years, and serves as a public resource to raise awareness about the work of the nation's state medical boards. The FSMB represents the 70 medical boards within the United States, its territories and the District of Columbia. It assists these boards as they go about their mandate of protecting the public's health, safety and welfare through proper licensing and discipline of physicians and, in many jurisdictions, physician assistants and other health care professionals. The FSMB offers relevant policy, programs, education and services to state medical boards that result in improved patient care and safety through effective and fair medical regulation. The FSMB also strives to enhance the role of state medical boards in an evolving health care environment by leading, anticipating and responding to trends in medical regulation at the federal and state government level. For further information about the FSMB, please see the link at the end of this newsletter.

To view the FSMB report, click on the link below:

<https://www.fsmb.org/siteassets/advocacy/publications/us-medical-regulatory-trends-actions.pdf>

REFRESHER OF THE RESOURCES FOR THE REQUIREMENTS OF AB474 (CONTROLLED SUBSTANCE PRESCRIBING ACT)

- **AB474 Webinar Recording for 12/18/17:**
[http://www.nsbom.org/LicensingPublic/docs/WEBINARAB474\(121817\).mp4](http://www.nsbom.org/LicensingPublic/docs/WEBINARAB474(121817).mp4)
- **Link to AB474 law on BOM website at:** www.bom.nv.gov
- **Nevada State Medical Association:** www.nvdoctors.org

- Nevada Division of Public and Behavioral Health web page, general info, and info on AB474 and Requirement for Reporting an Overdose:
http://dpbh.nv.gov/Resources/opioids/Prescription_Drug_Abuse_Prevention/

CME REGULATION REQUIREMENTS FOR CONTROLLED SUBSTANCES R116-17 (EFFECTIVE FEBRUARY 2018)

- **Osteopathic Physicians:** Ten hours of category A-1 courses
- **Osteopathic Physicians:** Two hours that relate to the misuse and abuse of controlled substances, the prescribing of opioids or addiction .
- **Physician Assistants:** Included in the completion of **20 hours** of annual continuing medical education completion of at least **2 hours** which must relate to the misuse and abuse of controlled substances, the prescribing of opioids or addiction.

REMINDER

As of January 2016, physicians are required to sign Death Certificates electronically.

http://dpbh.nv.gov/Programs/BirthDeath/dta/Publications/Vital_Records_Publications/

OCCUPATIONAL RESOURCES

Nevada Osteopathic Medical Association (NOMA)

2255 Springdale Court, Reno, NV 89523

(702) 434-7112

nvoma@earthlink.net www.nevadaosteopathic.org

Federation of State Medical Boards (FSMB)

www.fsmb.org

American Osteopathic Association

<https://www.osteopathic.org/Pages/default.aspx>

DO YOU HAVE NEWSLETTER TOPIC SUGGESTIONS?

Please email Sandy Reed at: sreed@bom.nv.gov

PLEASE NOTE that the contents of this newsletter constitute official notice from the Board to its licensees. All licensees are responsible to read and understand the contents of this newsletter.