

NSBOM NEWSLETTER

Nevada State Board of Osteopathic Medicine, 901 American Pacific Dr., Unit 180, Henderson, NV 89014

October, 2014 Volume 11

INSIDE THIS ISSUE
Changes in the laws
New Prescription Monitoring Profile

Be proactive when choosing CME courses

Continuing Medical Education (CME) is familiar to all physicians. CME activities can take many forms and, as lifelong learners, it is not only your duty to report your CME hours for licensure and specialty recertification, it is your professional responsibility to continue to learn how to enhance the care that you deliver to patients. Typically, physicians choose CME activities based on topic or location. Topics may be related to your scope of practice or may be chosen based on interest in a particular area for personal improvement. Also, conferences may be more appealing based on their proximity to the enrollee.

Physicians are dedicated to delivering the best care possible. However, most physicians have witnessed an occasion, whether intentional or not, where professional standards have not been met. Examples include disruptive or unprofessional behavior, demeaning or ineffective communication, incomplete or untimely record keeping, prescribing outside of accepted standards, sexual misconduct, harassment or inappropriate personal boundaries, alcohol or drug impairment, and fraud.

The Accreditation Council for Graduate Medical Education (ACGME) and the American Osteopathic Association (AOA) define six core domains of competence for physicians. They are Medical Knowledge, Patient Care, Professionalism, Interpersonal and Communication Skills, Practice-based Learning and Improvement and Systems-based Practice. Demonstrated proficiency in all areas is necessary for a

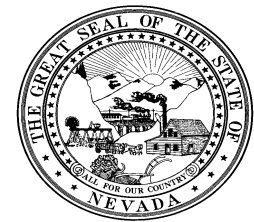
physician to be deemed competent to practice.

Currently, medical schools and residency programs incorporate formal education on professionalism and communication skills. But for many, it was “on the job training”. Hence, gaps in knowledge exist and standards may be poorly defined making it difficult to realize expectations. The Joint Commission issued new Leadership Standards in 2009 that address disruptive and inappropriate behavior, having deemed that these behaviors can foster medical errors. Therefore, similarly to physicians enrolling in traditional CME to fill a knowledge gap, consideration should be given to CME that has heretofore been considered non-traditional to avoid behaviors that can lead to discipline and contribute to poor patient care.

Next time you consider your professional development needs, contemplate education in ethics, professionalism, or leadership development. This proactive decision will enhance your competence and perhaps help you avoid pitfalls in the future.

SENATE BILL 319 now requires an Osteopathic Physician to take a minimum of two hours of CME in ethics, pain management, or addiction care. This requirement is now in effect for every odd year of your renewal application.

To read the bill in its entirety go to:
http://leg.state.nv.us/Session/77th2013/Bills/SB/SB319_EN.pdf



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IF YOU HAVE OFFICE FURNITURE you would like to donate to the Board, please contact us!

Interested in applying for a position on the Board?

The interactive Boards and Commissions application may be completed and printed from the Governor's website:

<http://gov.nv.gov/contact/>.

Contact is Annalyn Carrillo (702) 486-2500, or by email, abcarrillo@gov.nv.gov

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R040-13 REDUCTION IN SOME RENEWAL FEES -APPROVED!

On March 28, 2014, R040-13 was approved by the Legislature. The Regulation includes reducing renewal fees for Osteopaths from \$500 to \$450 and for Physician Assistants from \$400 to \$250 beginning in the 2015 renewal period.

The approved Regulation also removes the requirement for new Physician Assistant applications to go through the Federation Credentials Verification Service so that the verification will be performed by the Board staff. This will speed up the process for licensing Pass.

To read this regulation in its entirety go to: www.bom.nv.gov

Laws and Regulations - Adopted Regs.

REMINDER...

Physician assistants must be licensed with the Osteopathic Board in order to be supervised by an Osteopathic Physician. You can contact the Board to confirm the PA is licensed and in good standing All physician assistants and/or APRNs and their supervising physicians MUST sign a supervising agreement form and mail it into the Board office. REMEMBER YOU MUST NOTIFY THE BOARD IN WRITING WITHIN 10 DAYS OF TERMINATING AN AGREEMENT WITH A PA or APRN.

2014 BOARD MEETING SCHEDULE

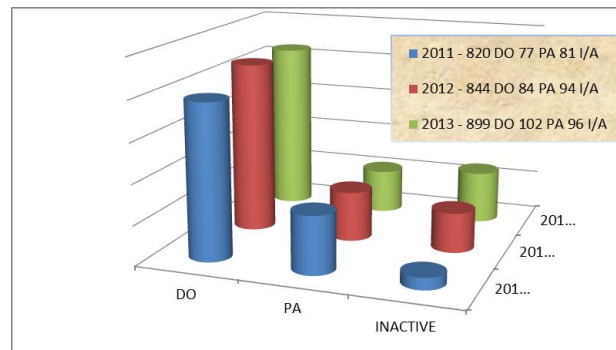
January	14
February	11
March	11
April	8
May	13
June	10
August	12
September	9
October	14
November	18
December	9

ALL MEETINGS ARE HELD AT THE BOARD OFFICE AT 6:00p.m. UNLESS OTHERWISE STATED

REMINDER: CME REQUIREMENTS

DO's need proof of 35 credits with 10 of them AOA category 1A or AMA category 1. Pass need 20 hours of CME. CMEs must be taken in the calendar year January 1, 2014 thru December 31, 2014. If you are included in the 33% CME audit, your renewal reminder will be stamped "CME PROOF REQUIRED". CME proof must be received before your license renewal is approved and your licensee card is mailed.

Check out the following stats pertaining to NSBOM's licensees per fiscal year (July 1 through June 30th):



Discipline	2011	2012	2013	2014
Settlements	15	5	8	3
Hearings	0	1	0	0
License Surrender	1	0	1	0
License Suspension	3	1	0	1
License Denial	0	1	1	0
Public Reprimands	0	0	0	0
Private Letters of Warning	26	9	26	23
Probation	2	3	2	0
License Revocation	0	1	0	1

REMINDER -WHAT YOU NEED TO KNOW... 2013 Legislation that Affects You

Assembly Bill 456

Effective January 1, 2014, all healthcare professionals must wear a name tag indicating their specific licensure or certification while providing health care services other than sterile procedures in a health care facility. All health care professionals are required to identify their type of license or certification when communicating to current and prospective patients, in advertisements, and when posting credentials at all practice sites.

To read the bill in its entirety go to: http://www.leg.state.nv.us/Session/77th2013/Bills/AB/AB456_EN.pdf

Senate Bill 21

Effective with this Board's 2015 licensure renewal cycle, all Nevada licensees will be required to indicate if they have or do not have a Nevada State Business license. This only need be reported if the business license is in YOUR NAME. The Board is required to generate a report for the State Controller to assist in the collection of debts owed to the State. The Board will begin collecting this information on the renewal forms for the 2015 renewal period. The Board is required to submit its report to the State by February 1, 2015.

To read the bill in its entirety go to: http://www.leg.state.nv.us/Session/77th2013/Bills/SB/SB21_EN.pdf

http://www.leg.state.nv.us/Session/77th2013/Bills/SB/SB21_EN.pdf

NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE:
STATEMENT OF POLICY REGARDING MEDICAL MARIJUANA AND OSTEOPATHIC
PHYSICIANS APPROVED SEPTEMBER 9, 2014

The Nevada State Board of Osteopathic Medicine has received inquiries related to various issues that arise as a result of Nevada's medical marijuana laws (Nevada Revised Statutes chapter 453A). The Board intends this document to answer and address the presently foreseeable issues related to medical marijuana and Nevada's osteopathic physicians and physician assistants.

1. An Osteopathic Physician's Personal Involvement
With Medical Marijuana

(a) The Board cannot discipline an osteopathic physician or a physician assistant who uses medical marijuana in accordance with the provisions of Nevada law.¹

(b) The Board may not discipline an osteopathic physician or a physician assistant who acts as the designated primary caregiver for another person who uses medical marijuana in accordance with the provisions of Nevada law.¹

(c) The Board declines to opine whether an ownership interest implicates the federal Stark law or similar provisions of state or federal law related to physician ownership in certain types of medical facilities.

(d) Any osteopathic physician or physician assistant who desires to use medical marijuana or to serve as a primary caregiver for another person who desires to use medical marijuana or who desires to own an interest in a marijuana dispensary, a marijuana establishment, or cultivation facility is strongly advised to familiarize himself or herself with the provisions of NRS chapter 453A and LCB File No. R004-14 (regulations related to medical marijuana) and NRS 633.111(3) and NRS 633.131(f)(2)

and (h) (Osteopathic Practice Act provisions related to practicing while under the influence of controlled substances).

(e) Medical marijuana may not be used in any public place or in any "place open to the public or exposed to public view."¹ Though there is not interpretation at this time as to what constitutes a "place open to the public," an osteopathic physician's office or practice location might be considered such a place, and so an osteopathic physician or physician assistant should consult with his or her private legal counsel as to the advisability of using medical marijuana at his or her office or practice location.

(f) An osteopathic physician is advised not to practice osteopathic medicine under the influence of medical marijuana since such conduct may constitute "professional incompetence" as defined in NRS 633.111(3) and "unprofessional conduct" as defined in NRS 633.131(f)(2) and (h).

(g) As an employer, an osteopathic physician has an obligation to reasonably accommodate the use of medical marijuana by his or her employees under certain circumstances and conditions.¹

(h) Marijuana remains a Schedule I controlled substance under federal law so an osteopathic physician or physician assistant could be subject to federal criminal arrest and prosecution for activities that might be lawful under Nevada state law. Any such federal criminal action might affect the ability to retain a DEA registration number of an osteopathic physician or physician assistant, which might thereafter detrimentally affect the practice of an osteopathic physician or physician assistant. Additionally, a federal criminal conviction could serve as the basis for a disciplinary action by the Board.¹

2. Advising Patients Regarding Medical Marijuana

(a) Only osteopathic physicians and allopathic physicians qualify as “attending physicians” who may recommend medical marijuana for patients.ⁱ A physician assistant may not recommend medical marijuana for a patient and must, therefore, refer a patient to an osteopathic physician or allopathic physician.

(b) To qualify as an “attending physician” who may recommend medical marijuana for a patient, an osteopathic physician must: (i) be licensed with the Board, and (ii) have “responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.”ⁱⁱ

(c) An osteopathic physician must make a patient’s recommendation for medical marijuana in writing. The writing must state: (i) that the patient has been diagnosed with a “chronic or debilitating medical condition,” (ii) that the medical use of marijuana “may mitigate the symptoms or effects of that condition,” and (iii) that the osteopathic physician “has explained the possible risks and benefits of the medical use of marijuana” to the patient.ⁱⁱ

(d) As used in Nevada’s medical marijuana law, “chronic or debilitating medical condition” means:

1. Acquired immune deficiency syndrome;
2. Cancer;
3. Glaucoma;
4. A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (a) Cachexia;
 - (b) Persistent muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
 - (c) Seizures, including, without limitation, seizures caused by epilepsy;
 - (d) Severe nausea; or
 - (e) Severe pain; or
5. Any other medical condition or treatment for a medical condition that is:
 - (a) Classified as a chronic or debilitating medication condition by regulation of the Division; or
 - (b) Approved as a chronic or debilitating medical condition pursuant to a petition submitted in accordance with NRS 453A.710.

(e) The Board will receive one of the five copies of all application forms from patients for whom an osteopathic physician has recommended the use of medical marijuana to a patient and the Board is thereafter required to verify the osteopathic physician’s licensure status and disciplinary history (if any) to the Division.ⁱⁱⁱ

(f) The Division of Public and Behavioral Health (Division) will register and track all osteopathic physicians who advice patients to use medical marijuana.^{iv} The tracking will include:

- (a) The number of patients whom the physician advises that the medical use of marijuana may mitigate the symptoms or effects of the patients’ medical conditions;
- (b) The chronic or debilitating medical conditions of such patients;
- (c) The number of times the physician advises each patient that the medical use of marijuana may mitigate the symptoms or effects of the patient’s medical condition;
- (d) The number of different chronic or debilitating medical conditions for which the physician advises each patient that the medical use of marijuana may mitigate the symptoms or effects of the patient’s medical conditions; and
- (e) How frequently the physician advises each patient that the medical use of marijuana may mitigate the symptoms or effects of the patient’s medical condition.

The Division will share its information regarding osteopathic physicians with the Board on an annual basis.^v Additionally, if the Division determines that an osteopathic physician is advising patients to use medical marijuana at a rate that appears unreasonably high, it will notify the Board so that the Board may investigate the notification as a complaint.^{vi}

3. Best Practices

As the above discussion demonstrates, an osteopathic physician's participation in Nevada's medical marijuana schema is intended to be closely regulated both statutorily (NRS chapter 453A has 90 sections) and regulatorily (LCB File No. R004-14 spans 114 pages of new regulations). Any osteopathic physician entering the medical marijuana arena must, therefore, read and understand all of the statutory and regulatory provisions. The Board would offer the following observations from its perspective regarding Nevada's medical marijuana laws.

- Medical marijuana is intended to be another therapy available to patients with specific diagnoses, so an osteopathic physician's recommendation for medical marijuana must be based in sound medical practices. Nothing in Nevada's medical marijuana laws modifies or lessens an osteopathic physician's obligations to establish a valid patient-physician relationship, to make diagnoses based upon the standard of care for such diagnoses, to assess the efficacy of the medical marijuana therapy like any other ordered therapy, and to make and maintain all standard and customary medical records.
- In addition to an osteopathic physician's usual and ordinary practices, Nevada's medical marijuana law contains numerous qualifications and obligations that must be met by an osteopathic physician who intends to recommend medical marijuana to a particular patient. As discussed above, these additional qualifications and obligations include:
 - That the osteopathic physician be actually and really responsible for "the care and treatment of a person diagnosed with a chronic or debilitating medical condition." Mere casual contact with a person seeking medical marijuana without a valid and real patient-physician relationship in which the physician is actually and really caring for and treating the person is legally inadequate.
 - The osteopathic physician must make one of the required diagnoses for which medical marijuana may be recommended, and the making of such a diagnosis is subject to the same standard of care whether the patient is seeking medical marijuana or any other type of treatment or care.
 - Because recommendations for medical marijuana will be monitored and tracked by the Division and may be subject to scrutiny by the Board, an osteopathic physician should seek the appropriate studies and make and maintain records that demonstrate the *bona fides* of his or her relationship with his or her patient and the sound medical grounds for his or her diagnosis and recommendation.
 - The necessary diagnoses to support a recommendation for medical marijuana are all of such a serious, debilitating, and chronic nature that it is doubtful that proper work-up, diagnostics, patient history, and other medically necessary information to support any such diagnosis could be derived without an actual physical examination of the patient by the osteopathic physician.
- As should be obvious, an osteopathic physician's recommendation of medical marijuana for a specific patient must be made with the same gravity and rigor as that osteopathic physician's recommending or prescribing any other therapy. Nothing in Nevada's medical marijuana laws lowers or otherwise modifies an osteopathic physician's professional and medical obligations to his or her patient.

ⁱ NRS 453A.030.

ⁱⁱ NRS 453A.210(2)(a).

ⁱⁱⁱ NRS 453A.210(4)(c)(4)(II).

^{iv} LCB File No. R004-14, Section 136, subsection 1.

^v LCB File No. R004-14, Section 136, subsection 3.

^{vi} LCB File No. R004-14, Section 136, subsections 2 and 4.