

# NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE NEWSLETTER

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

July, 2019 Volume 18

## INSIDE THIS ISSUE

### OVERVIEW OF THE 80<sup>TH</sup> (2019) LEGISLATIVE SESSION New Changes to Controlled Substance Prescribing (AB 239)

### OPINION ARTICLE: “New law is an important step in eliminating surprise medical bills...”

#### *New Law: AB239: Revisions to Controlled Substance Prescribing By Louis Ling, Board Counsel*

As a result of the passage of AB 239 in the most recent Legislative session, effective June 3, 2019 certain changes were made to Nevada law related to the prescribing of controlled substances. Following are synopses of the various changes made by AB 239:

**Cancer, Sickle Cell, Hospice, or Palliative Care Patients** – Several important changes were made related to the treatment with controlled substances of patients with cancer or sickle cell disease or who are in hospice or are receiving palliative care.

First, the extensive requirements put in place in the 2017 Legislative session related to the prescribing of controlled substances in schedules II, III, or IV **do not apply** to controlled substances prescribed for patients (1) with cancer, (2) with sickle cell disease or any of its variants, (3) receiving hospice care, or (4) receiving palliative care. [See new language in Sec. 7.6 of AB 239.]

Second, for such patients, a DO or PA must only have a bona fide relationship and must obtain informed consent to the use of the controlled substance that complies with NRS 639.23912 **or** that meets the guidelines or standards for informed consent prescribed by: (1) CMMS for hospice or palliative care patients; (2) ASCO for cancer patients; or (3) the National Heart, Lung and Blood Institute for sickle cell patients. [See new language in Sec. 7.6 of AB 239.]

Third, for such patients, the DO or PA is not required to obtain and review the patient’s patient utilization report before prescribing the controlled substance if the DO or PA determines that obtaining the report will unreasonably delay care of the patient. If the DO or PA prescribes a controlled substance before obtaining the patient utilization report, he or she must obtain and review the report thereafter as soon as practicable. [See amendment to NRS 639.23507(2).] *Continued on page 3*



### NSBOM BOARD MEMBERS

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### **BOARD/STAFF NEWS...**

**Board:** In June, the Board voted to conduct officer elections in March of every odd year.

**Staff:** In July 2019, Amanda Hart was hired as the new Complaint Specialist, replacing the Investigator position. Amanda brings many years of complaint/regulatory experience as a Probation and Parole agent with the Idaho Department of Corrections.

**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
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- 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.

**Notify patients:**

Per **NRS 633.511(1)(n)**, it is best  
practices to give similar adequate notice  
to patients when closing or changing your  
practice.

**Reaching Out...**The Board's Executive Director and License Specialist presented to osteopathic students (DO) at Touro University in April, 2019, and to students becoming Physician Assistants (PA) in July, 2019, information about licensing application requirements and the Board's statutes and regulations in preparation for their future practices as DOs and PAs.

**2019 BOARD MEETINGS**

- 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 January-  
June 2019**

DO - 98  
PA - 198  
Residents - 119  
Other Special - 0  
Compact (IMLC) 19  
Total licensees - 1926

**Enforcement Stats- Jan-June-2019**

Complaints Reviewed/Investigated  
70  
Settlement/Remediation Agreements  
0  
Complaints resulting in a Letter of Caution  
13  
Complaints Authorized for Closure  
48  
Fulfilled Agreements  
0

**Complaint Types\*- Jan-June 2019**

Medical Malpractice - 10  
Prescribing - 12  
Standard of Care - 25  
Unprofessional Conduct - 38  
Non - Reporting - 2

\*Some types of complaints overlap

**CURRENT 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.

**\*\*Regulations will be proposed at the August 13, 2019 Board Meeting to reduce license and renewal fees beginning in 2020.**

**CME Requirements Refresher:**

**DOs: Preceptorship credits may be applied to the required 35 CME credits per year.** Required annual credits: Two credits in opioid prescribing and ten AOA 1A or AMA credits. Suicide Prevention: DOs must obtain two credits in suicide prevention within two years of being licensed, and repeated every four years. Even years: two credits of one of the following: ethics, pain management, or addiction medicine.

**PAs: Obtain 20 credits per year, which includes two credits in opioid prescribing.**

*New Law: AB239...cont'd from page 1*

**Acute Pain** – A new subsection 3 to NRS 639.2391 defines “acute pain” to be “pain that has an abrupt onset and is caused by injury or another cause that is not ongoing. The term does not include chronic pain or pain that is being treated as part of care for cancer, palliative care, hospice care or other end-of-life care.” The limitations already in law related to the initial prescription for controlled substances for acute pain (e.g. not for more than a 14-day supply and the limitation of the MME per day) remain unaffected. [See new subsection 3 to NRS 639.2391.]

**Evaluation and Risk Assessment** – The evaluation and risk assessment already required by NRS 639.23912 was modified to focus the evaluation and risk assessment. For example, such a review must be of the “relevant” medical history (not the entire medical history, as previously required). The physical examination is not required to be general (as was previously required), but may not be “directed to the source of the patient’s pain and within the scope of practice of the practitioner.” Furthermore, when obtaining the records of preceding practitioners, the scope of records and review may be limited to records “that are relevant to the prescription” (not every prescription any preceding practitioner may have written as was previously required). [See amendments to NRS 639.23912.]

**Documentation of Patient Conversations** – New language allows a DO or PA to obtain oral informed consent for the use of controlled substances as long as the DO or PA documents the conversation in the patient’s medical record. All such informed consent documentation (whether obtained orally or in writing) must be included in the patient’s medical record. [See new subsection 3 to NRS 639.23912.]

**Records Integration** – New language will allow the Pharmacy Board to develop a plan and regulations to integrate the PMP records with the electronic health records of DOs and PAs. It is unknown at this time whether the Pharmacy Board plans to implement this new provision of law. [See new subsection 2 to NRS 453.1623.]

**Repeal of Assessment Criteria** – One of the more onerous requirements of the present law – namely the list of sixteen factors that must be considered by a DO or PA before prescribing a controlled substance – was repealed, meaning that it is no longer the law. While those sixteen factors remain useful considerations for any practitioner considering prescribing a controlled substance to a patient, they are no longer required. [See Sec. 14 of AB 239.]

*The link to the entire law (AB239) is posted on the Board’s web site: [www.bom.nv.gov](http://www.bom.nv.gov)*

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**OVERVIEW OF THE 2019 LEGISLATIVE SESSION**  
**By Susan Fisher, Board Government Affairs Representative**

While it is difficult to encapsulate 120 intense days of the legislature into a few paragraphs or pages, below are several high points of the session.

NOTE: A link to the full and lengthier review of the legislative session will be posted on the home page of the Board’s web site .

**Nevada’s New Governor**

For the first time since 1999, Nevada has a Democratic head of state. Former Clark County Commission Chairman Steve Sisolak pledged not to raise taxes, but to raise teachers’ salaries, to bring collective bargaining to state employees, to increase renewable energy in Nevada, and to end out of network or “surprise” billing.

**Historic Female Majority**

This session, Nevada became the first state in the country to have a majority female Legislature. In the Assembly, women made up 23 of the 42 seats and in the Senate, they had 10 out 21, therefore giving Nevada 32 out of the 63 seats in the legislature, or 52%. Nationwide, women only hold about 25% of state legislative seats.

## Democrat Majority

Democrats enjoyed a 13-8 majority in the Senate and 29-13 in the Assembly. In the first month of session, Senate Majority Leader Kelvin Atkinson resigned under a felony indictment for campaign finance violations. Shortly after, Assembly Ways and Means Chair Mike Sprinkle resigned over sexual harassment allegations. Later in the session, Tyrone Thompson, the well-liked Assembly Education Chair passed away suddenly.

## The 2019-2020 Interim Period

There were a number of studies that were approved by the Legislature this session. (see complete list of committees in full article via link to the Board's web site at the end of this article):

### Legislative Committee on Health Care

This is an existing statutory committee made up of six legislators who will study:

- Study of Standards of Training for Unlicensed Providers of Health Care
- Study of Matters relating to Stem Cell Centers

### Sunset Subcommittee

Existing statutory committee who will study:

- Study of professional and occupational licensing boards

### Interim Study Committees

These committees have been approved for the 2019-2020 biennium only to study:

- Issues relating to driving under the influence of marijuana
- Costs of prescription drugs
- Requirements of reapportionment and redistricting
- Feasibility, viability, and design of a public healthcare insurance plan for Nevadans

## Nevada Patient Protection Commission

During his State of the State address, Governor Sisolak announced plans to put together a group to address health care issues in Nevada. To that end, [SB544](#) was introduced and passed unanimously by both houses to establish the Nevada Patient Protection Commission (PPC).

The commission will review health care policy and regulation in Nevada, study state and federal health care initiatives, and make recommendations to improve quality, accessibility and affordability of health care in Nevada.

Governor Sisolak will appoint eleven voting members representing broad sectors of health care stakeholders, including patient advocates, with recommendations from legislative leadership. The Director of DHHS, the Commissioner of Insurance and the Executive Director of the Silver State Health Insurance Exchange serve as ex-officio members of the PPC.

### [AB469](#) – *Out of Network/Balanced Billing*

This legislation was well over three (3) legislative sessions in the making; stakeholders met throughout the interim and nearly every week of the session to find compromise on this complex issue. In the end, we did find compromise, which means that none of the stakeholders were particularly happy, but with passage of AB469, the patient will not be left holding the bag (and bill) for out of network emergency services. The plan includes mandatory baseball-style arbitration to settle disputes between the payer and provider.

### [AB 147](#) *Authorizes a physician assistant or advanced practice registered nurse to perform certain services.*

Assembly Bill 147 authorizes an advanced practice registered nurse or physician assistant to authorize handicap placards for motor vehicles and statements and to order home health care for a patient, which under current law only a physician or, in certain cases, other specified providers of health care, are allowed to complete or order. This bill also provides that a medical device prescribed by a physician assistant is exempt from sales tax under the same conditions as a medical device prescribed by another eligible provider of health care.

**[AB 239](#)** *Revises provisions relating to controlled substances.*

See Mr. Ling's article above for details relating to how AB 239 effects DOs and PAs.

**[AB 300](#)** *Makes various changes relating to veterans.*

Requires the Director of the Department of Veterans Services to prescribe a questionnaire for veterans concerning their experience in the military and any service-connected disabilities and diseases and annually submit the information obtained through the questionnaire to the Division of Public and Behavioral Health (DPBH) of the Department of Health and Human Services. The bill also requires providers of health care to inquire about the veteran status of new patients over 18 years of age and provide contact information for the Department of Veterans Services.

**[AB 319](#)** *Revises provisions governing professional licensing.*

Assembly Bill 319 authorizes a person to petition a professional or occupational licensing board for a determination of whether the person's criminal history will disqualify them from obtaining a license. The bill provides that not later than 90 days, after a petition is submitted to a regulatory body, the body shall inform the person of the determination of the regulatory body.

**[AB 361](#)** *Revises provisions relating to the practice of medicine.*

Provides that a physician who unlawfully allows a person to perform or participate in any supervised activity for the purpose of receiving credit toward certain medical degrees is subject to a civil penalty of not more than \$10,000 for each violation. This provision applies if an action to enforce the civil penalty is brought not later than two years after the date of the last such violation. Additionally, a Board of Medical Examiners representative may enter and inspect any premises of a licensee to determine if such a violation has occurred.

**[AB 534](#)** *Relating to emergency response; Requires certain professional licensing boards to maintain lists of licensees trained in the treatment of mental and emotional trauma and provide those lists to a governmental entity responding to an emergency or disaster.*

**[SB 68](#)** *Provides for the expedited granting of certain provisional registrations to volunteer providers of health or veterinary services during an emergency declaration.*

**[SB 130](#)** *Provides for the licensing and regulation of certain persons who administer radiation.*

Senate Bill 130 provides for the licensure and regulation of individuals engaged in radiation therapy and radiological imaging by the State Board of Health of the Division of Public and Behavioral Health of the Department of Health and Human Services. It requires the Board to adopt regulations for licensing, including the ability to establish fees for the issuance and renewal of a license or limited license to engage in radiation therapy and radiological imaging.

**[SB 134](#)** *Makes various changes relating to advanced practice registered nurses.*

Authorizes a qualified advanced practice registered nurse (APRN) to sign, certify, stamp, verify, or endorse certain Department of Motor Vehicle (DMV) documents when a signature, certification, stamp, verification, or endorsement by a physician is required. The measure also authorizes an APRN to make certain determinations and certifications required to be made by a physician or other providers of health care regarding a power of attorney, a custodial trust, and verification of a person's physical or mental disability for the purpose of making the person with the disability eligible for certain free or reduced rates for certain modes of transportation.

**[SB 234](#)** *Makes various changes relating to the participation of providers of health care in network plans of insurers.*

Requires the commissioner of insurance, Division of Insurance, Department of Business and Industry, to develop and make available on the Division's website a form that a health carrier must use to notify a health care provider of the denial of his or her application to be included in the health carrier's network of providers. A health carrier must send a copy of the letter to the commissioner at the same time the letter is sent to the health care provider whose application to be included in the health carrier's network is denied.



[SB 315](#) *Revises provisions relating to public health.*

Senate Bill 315 makes various changes related to rare diseases and childhood cancer. It requires certain health professional licensing boards to encourage physicians, physician assistants, and advanced practice registered nurses to receive, as part of their continuing medical education, training and education in the diagnosis of rare diseases.

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## **OPINION ARTICLE**

### **New law is an important step in eliminating surprise medical bills, but more needs to be done**

**By Dean Polce, D.O., June 14, 2019**

Recently, the health-care system in Nevada seemed to be causing as much pain as it was treating. For many Nevadans, an unpleasant hospital visit is made worse by the staggering costs of an unanticipated medical bill. Recently, though, lawmakers took a big step toward righting this wrong.

As an anesthesiologist and proud Nevadan, I applaud Gov. Steve Sisolak and state legislators for enacting a law that protects patients from surprise medical bills for emergency care. The stress of a medical emergency should not be compounded by the sticker shock of a surprise bill, but there is more to be done to ensure that patients are fully protected for all types of care.

Surprise bills are often the result of insurance companies' failures to provide adequate coverage for out-of-network care. Most physicians are "in-network" when we work with specific insurers and accept a reduced reimbursement rate for our services. Each dollar of care provided corresponds with a negotiated per-dollar rate of reimbursement from insurers.

Insurance companies—generating record annual profits—are endangering patients by shrinking their coverage networks and expanding the insurance gaps responsible for surprise medical bills. Complicated jargon and the inherent unpredictability of health care means that even the savviest patient likely won't know the network status of their doctor at every point of care, especially in a medical emergency.

The new law, Assembly Bill 469, takes patients out of the middle of emergency billing disputes so they can focus on what matters most—their health. In some cases, it also introduces a highly effective form of arbitration, which requires insurers and providers to submit their proposed prices for an out-of-network procedure to a neutral arbitrator who then selects one based on market rates.

These new regulations also defend patients with prudent layperson protection, which protects people who head to the hospital believing they are experiencing a medical emergency even if it's later determined that their situation was less dire. So, if you go to the ER with chest pains but discover you were having a bad case of heartburn, you'll likely be protected from picking up expensive out-of-network charges. This is critical because it ensures that no Nevadans will need to sacrifice their health for fear of not being able to cover the bill.

Once you leave the hospital, these new regulations also limit your payment to in-network fees for a co-pay, deductible or coinsurance. There are no loopholes that would subject you to expensive, unfair out-of-network fees. And in one to two years, the state will start evaluating how effectively the law is preventing surprise medical bills.

New York state has successfully implemented arbitration-style regulations for surprise billing, and the results have been remarkable. New York has seen its out-of-network emergency care billing rate fall from more than 20

percent to just 6.4 percent. With this new law—and hopefully, more patient protections on the horizon—Nevada could see a similar outcome.

Anesthesiologists spend their careers working with patients in the ER, so we've seen first-hand the devastating effects unexpected medical bills can have on patients who should be focusing on recovery. Future legislation must expand these protections to non-emergency medical care so that Nevadans don't have to fear a surprise bill when they're at their most vulnerable. It's time for insurance companies to stop prioritizing profits over patient health and accept a reasonable solution that supports a better health-care system for all.

*Dean Polce, D.O., resides in Las Vegas.*

*This opinion article was previously published in **THE NEVADA INDEPENDENT**.*

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## **IMPORTANT REMINDERS**

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### **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. 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. Please communicate with your insurance company to comply with the reporting timeline.

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### **NOTE ON LICENSE RENEWAL: 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 **two hours** which must relate to the misuse and abuse of controlled substances, the prescribing of opioids or addiction

***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:**
- **Nevada State Medical Association:** [www.nvdoctors.org](http://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/](http://dpbh.nv.gov/Resources/opioids/Prescription_Drug_Abuse_Prevention/)

**OCCUPATIONAL RESOURCES**

**Nevada Osteopathic Medical Association (NOMA)**

2255 Springdale Court, Reno, NV 89523

(702) 434-7112

[nvoma@earthlink.net](mailto:nvoma@earthlink.net) [www.nevadaosteopathic.org](http://www.nevadaosteopathic.org)

**Federation of State Medical Boards (FSMB)**

[www.fsmb.org](http://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](mailto: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.