

RESIDENT HANDBOOK

SECTION X: APPENDICES

APPENDIX II – STATE BOARD OF MEDICAL EXAMINERS NRS FOR MISCONDUCT

NEVADA REVISED STATUTES 630.301 through 630.3066

(Misconduct)

GROUND FOR INITIATING DISCIPLINARY ACTION OR DENYING LICENSURE

NRS 630.301 Criminal offenses; revocation, suspension or other modification of previous license; surrender of previous license while under investigation; malpractice; engaging in sexual activity with patient; disruptive behavior; violating or exploiting trust of patient for financial or personal gain; failure to offer appropriate care with intent to positively influence financial well-being; engaging in disreputable conduct; engaging in sexual contact with surrogate of patient or relatives of patient. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

- I. Conviction of a felony relating to the practice of medicine or the ability to practice medicine. A plea of nolo contendere is a conviction for the purposes of this subsection.
- II. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350 to 616D.440, inclusive.
- III. The revocation, suspension, modification or limitation of the license to practice any type of medicine by any other jurisdiction or the surrender of the license or discontinuing the practice of medicine while under investigation by any licensing authority, a medical facility, a branch of the Armed Services of the United States, an insurance company, an agency of the Federal Government or an employer.
- IV. Malpractice, which may be evidenced by claims settled against a practitioner, but only if such malpractice is established by a preponderance of the evidence.
- V. The engaging by a practitioner in any sexual activity with a patient who is currently being treated by the practitioner.
- VI. Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.
- VII. The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.
- VIII. The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when such a failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.
- IX. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.

- X. The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.
- XI. Conviction of:
 - a. Murder, voluntary manslaughter or mayhem
 - b. Any felony involving the use of a firearm or other deadly weapon
 - c. Assault with intent to kill or to commit sexual assault or mayhem
 - d. Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime
 - e. Abuse or neglect of a child or contributory delinquency
 - f. A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS
 - g. Any offense involving moral turpitude

(Added to NRS by 1977, 824; A 1981, 590; 1983, 305; 1985, 2236; 1987, 197; 1991, 1070; 1993, 782; 1997, 684; 2001, 766; 2003, 2707, 3433; 2003, 20th Special Session, 264, 265; 2005, 2522)

NRS 630.304 Misrepresentation in obtaining or reviewing license; false advertising; practicing under another name; signing blank prescription forms; influencing patient to engage in sexual activity; discouraging second opinion; terminating care without adequate notice. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

- I. Obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement.
- II. Advertising the practice of medicine in a false, deceptive or misleading manner.
- III. Practicing or attempting to practice medicine under another name.
- IV. Signing a blank prescription form.
- V. Influencing a patient in order to engage in sexual activity with the patient or with others.
- VI. Attempting directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.
- VII. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

(Added to NRS by 1983, 301; A 1985, 2236; 1987, 198)

NRS 630.305 Accepting compensation to influence evaluation or treatment; inappropriate division of fees; inappropriate referral to health facility, laboratory or commercial establishment; charging for services not rendered; aiding practice by unlicensed person; delegating responsibility to unqualified person; failing to disclose conflict of interest; failing to initiate performance of community service; exception.

- I. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:
 - a. Directly or indirectly receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation which is

intended or tends to influence the physician's objective evaluation or treatment of a patient.

- b. Dividing a fee between licensees except where the patient is informed of the division of fees and the division of fees is made in proportion to the services personally performed and the responsibility assumed by each licensee.
 - c. Referring, in violation of NRS 439B.425, a patient to a health facility, medical laboratory or commercial establishment in which the licensee has a financial interest.
 - d. Charging for visits to the physician's office which did not occur or for services which were not rendered or documented in the records of the patient.
 - e. Aiding, assisting, employing or advising, directly or indirectly, any unlicensed person to engage in the practice of medicine contrary to the provisions of this chapter or the regulations of the board.
 - f. Delegating responsibility for the care of a patient to a person if the licensee knows, or has reason to know, that the person is not qualified to undertake that responsibility.
 - g. Failing to disclose to a patient any financial or other conflict of interest.
 - h. Failing to initiate the performance of community service within 1 year after the date the community service is required to begin, if the community service was imposed as a requirement of the licensee's receiving loans or scholarships from the Federal Government or a state or local government for his medical education.
- II. Nothing in this section prohibits a physician from forming an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

(Added to NRS by 1983, 301; A 1985, 2237; 1987, 198; 1989, 1114; 1991, 2437; 1993, 2302, 2596; 1995, 714, 2562)

NRS 630.306 Inability to practice medicine; deceptive conduct; violation of statute or regulation governing practice of medicine; unlawful distribution of controlled substance; injection of silicone; practice beyond scope of license; practicing experimental medicine without consent of patient; lack of skill or diligence; filing of false report; habitual intoxication; failure to report modification of license in another jurisdiction. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

- I. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.
- II. Engaging in any conduct:
 - a. Which is intended to deceive
 - b. Which the Board has determined is a violation of the standards of practice established by regulation of the Board
 - c. Which is in violation of a regulation adopted by the State Board of Pharmacy
- III. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.
- IV. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.
- V. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.

- VI. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine are experimental.
- VII. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.
- VIII. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.
- IX. Failing to comply with the requirements of NRS 630.254.
- X. Habitual intoxication from alcohol or dependency on controlled substances.
- XI. Failure by a licensee or applicant to report, within 30 days, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.
- XII. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

(Added to NRS by 1983, 302; A 1985, 2238; 1987, 199, 800, 1554, 1575)

NRS 630.3062 Failure to maintain proper medical records; altering medical records; making false report; failure to file or obstructing required report; failure to allow inspection and copying of medical records; failure to report other person in violation of chapter or regulations. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

- I. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.
- II. Altering medical records of a patient.
- III. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.
- IV. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.
- V. Failure to comply with the requirements of NRS 630.3068.
- VI. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board.

(Added to NRS by 1985, 2223; A 1987, 199; 2001, 767; 2002 Special Session, 19; 2003, 3433)

NRS 630.3065 Willful disclosure of privileged communication; willful failure to comply with statute or regulation governing practice of medicine. The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

- I. Willful disclosure of a communication privileged pursuant to a statute or court order.
- II. Willful failure to comply with:
 - a. A regulation, subpoena or order of the Board or a committee designated by the Board to investigate a complaint against a physician
 - b. A court order relating to this chapter
 - c. A provision of this chapter.

- III. Willful failure to perform a statutory or other legal obligation imposed upon a licensed physician, including a violation of the provisions of NRS 439B.410.

(Added to NRS by 1983, 302; A 1985, 2238; 1987, 200; 1989, 1663; 1993, 2302)

NRS 630.3066 Prescribing or administering certain controlled substances for treatment of intractable pain not grounds for initiating disciplinary action. A physician is not subject to disciplinary action solely for:

- I. Prescribing or administering to a patient under his care a controlled substance which is listed in schedule II, III, IV or V by the State Board of Pharmacy pursuant to NRS 453.146, if the controlled substance is lawfully prescribed or administered for the treatment of intractable pain in accordance with regulations adopted by the Board.
- II. Engaging in any activity in accordance with the provisions of chapter 453A of NRS.

(Added to NRS by 1977, 1647; A 1983, 337; 1995, 1734; 2001, 768, 3073)