

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES S. TATE, JR., M.D.,
Petitioner,

vs.

THE STATE OF NEVADA BOARD OF
MEDICAL EXAMINERS,
Respondent.

No. 58776

FILED

JUL 18 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING EMERGENCY PETITION
FOR WRIT OF PROHIBITION


Petitioner, a doctor, has filed an emergency petition for a writ of prohibition, arguing that the statute respondent asserts petitioner has violated in a formal complaint for professional discipline, NRS 630.301(9), is unconstitutionally vague.¹ Petitioner argues that emergency relief is warranted because NRS 630.301(9)'s alleged vagueness has left him unable to prepare a defense for an upcoming administrative hearing.


A writ of prohibition is an extraordinary remedy, and the decision to entertain a petition requesting this form of relief is within this court's discretion. Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991). Such relief is generally not available when a plain, speedy, and adequate legal remedy exists. See NRS 34.330. Here, we conclude that petitioner has a plain, speedy, and adequate remedy, and thus, our

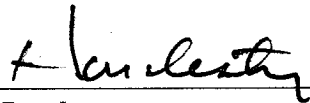
¹NRS 630.301(9) permits disciplinary action for "engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics." Petitioner asserts that such code of ethics has never been adopted.

intervention by way of extraordinary relief is not warranted. Specifically, once respondent enters a final, written order, petitioner has the right to petition the district court for judicial review. NRS 630.356. Then, once the district court has resolved the petition for judicial review, petitioner, if aggrieved, may appeal to this court from the district court's order. NRS 233B.150. Accordingly, we deny the petition.² NRS 34.330; NRAP 21(b)(1); Smith, 107 Nev. 674, 818 P.2d 849.

It is so ORDERED.³


_____, C.J.
Douglas


_____, J.
Saitta


_____, J.
Hardesty

cc: Carroll, Kelly, Trotter, Franzen & McKenna
Law Office of Jacob L. Hafter & Associates
Bradley O. Van Ry

²Petitioner also appears to have sought extraordinary relief from this court in the first instance, without first seeking some form of relief in the district court. Petitioner, however, until opposing respondent's July 14, 2011, motion to strike did not provide an explanation as to why seeking relief from the district court does not provide him with a plain, speedy, and adequate legal remedy. Accordingly, we conclude that petitioner's failure to timely address the appropriateness of first seeking relief in district court provides an independent basis to deny the petition based on the availability of that plain, speedy, and adequate legal remedy.

³We deny respondent's July 14, 2011, motion to strike and for sanctions.