

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

A.B. 1

ASSEMBLY BILL NO. 1—ASSEMBLYMEN PERKINS, BUCKLEY, ANDERSON, HETRICK, CEGAVSKE, ANGLE, ARBERRY, BACHE, BEERS, BERMAN, BROWER, BROWN, CARPENTER, CHOWNING, CLABORN, COLLINS, DE BRAGA, DINI, FREEMAN, GIBBONS, GIUNCHIGLIANI, GOLDWATER, GUSTAVSON, HUMKE, KOIVISTO, LEE, LESLIE, MANENDO, MARTIN, MARVEL, MCCLAIN, MORTENSON, NEIGHBORS, NOLAN, OCEGUERA, OHRENSCHALL, PARKS, PARNELL, PRICE, SMITH, TIFFANY AND WILLIAMS

JULY 30, 2002

Referred to Committee on Medical Malpractice Issues

SUMMARY—Makes various changes related to medical and dental malpractice. (BDR 3-17)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to malpractice; limiting the liability of certain medical providers for negligent acts under certain circumstances; establishing a limitation on the amount of noneconomic damages that may be awarded in an action for medical malpractice or dental malpractice; providing for several liability of a defendant for noneconomic damages in an action for medical malpractice; making various changes concerning the payment of future economic damages in actions for medical malpractice; providing for the mandatory dismissal of an action for medical malpractice or dental malpractice under certain circumstances; repealing the provisions pertaining to the use of screening panels for an action for medical malpractice or dental malpractice; revising the statute of limitations for filing an action for medical malpractice or dental malpractice; making various other changes concerning actions for medical malpractice or dental malpractice; requiring certain district judges to receive training concerning the complex issues involved in medical malpractice litigation; requiring courts to impose certain sanctions on attorneys in certain circumstances; making various changes relating to the reporting of claims of malpractice or negligence; and providing other matters properly relating thereto.

1 WHEREAS, The State of Nevada is experiencing extreme difficulties
2 attracting and maintaining a sufficient network of physicians to meet the
3 needs of the residents of this state; and

4 WHEREAS, The Nevada Legislature has determined that the shortage of
5 physicians and the inability to attract new physicians to this state pose a
6 serious threat to the health, welfare and safety of the residents of the State
7 of Nevada; and



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1 WHEREAS, Medical errors cause preventable injuries to be suffered by
2 as many as one out of every 25 hospital patients in the United States; and

3 WHEREAS, Errors in the provision of health care have been estimated to
4 cost more than \$2,000,000 per year in a large teaching hospital, and
5 preventable injuries related to the provision of health care cost the
6 economy of the United States from \$17,000,000,000 to \$29,000,000,000
7 each year; and

8 WHEREAS, A report promulgated by the Institute of Medicine estimates
9 that at least 44,000 persons and as many as 98,000 persons die each year as
10 a result of medical errors, which is higher than the annual mortality rate
11 attributable to motor vehicle accidents, breast cancer or acquired immune
12 deficiency syndrome, thus making medical error the eighth leading cause
13 of death in the United States; now, therefore,

14
15 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
16 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
17

18 **Section 1.** Chapter 41 of NRS is hereby amended by adding thereto a
19 new section to read as follows:

20 *1. Except as otherwise provided in subsection 2 and NRS 41.505:*

21 *(a) A hospital which has been designated as a center for the treatment*
22 *of trauma by the administrator of the health division of the department of*
23 *human resources pursuant to NRS 450B.237 and which is a nonprofit*
24 *organization;*

25 *(b) An employee of a hospital described in paragraph (a) who renders*
26 *care or assistance to patients;*

27 *(c) A physician or dentist licensed under the provisions of chapter*
28 *630, 631 or 633 of NRS who renders care or assistance in a hospital*
29 *described in paragraph (a), whether the care or assistance was rendered*
30 *gratuitously or for a fee; and*

31 *(d) A physician or dentist licensed under the provisions of chapter*
32 *630, 631 or 633 of NRS:*

33 *(1) Whose liability is not otherwise limited pursuant to NRS 41.032*
34 *to 41.0337, inclusive; and*

35 *(2) Who renders care or assistance in a hospital of a governmental*
36 *entity that has been designated as a center for the treatment of trauma by*
37 *the administrator of the health division of the department of human*
38 *resources pursuant to NRS 450B.237, whether or not the care or*
39 *assistance was rendered gratuitously or for a fee,*
40 *that in good faith renders care or assistance necessitated by a sudden,*
41 *unexpected situation or occurrence resulting in a serious medical*
42 *condition demanding immediate medical attention, for which the patient*
43 *enters the hospital through its emergency room or trauma center, may*
44 *not be held liable for more than \$50,000 in civil damages as a result of*
45 *any act or omission in rendering that care or assistance if the care or*
46 *assistance is rendered in good faith and in a manner not amounting to*
47 *gross negligence or reckless, willful or wanton conduct.*

48 *2. The limitation on liability provided pursuant to this section does*
49 *not apply to any act or omission in rendering care or assistance:*



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1 (a) Which occurs after the patient is stabilized and is capable of
2 receiving medical treatment as a nonemergency patient, unless surgery is
3 required as a result of the emergency within a reasonable time after the
4 patient is stabilized, in which case the limitation on liability provided by
5 subsection 1 applies to any act or omission in rendering care or
6 assistance which occurs before the stabilization of the patient following
7 the surgery; or

8 (b) Unrelated to the original medical emergency.

9 3. For the purposes of this section, "reckless, willful or wanton
10 conduct," as it applies to a person to whom subsection 1 applies, shall be
11 deemed to be that conduct which the person knew or should have known
12 at the time he rendered the care or assistance would be likely to result in
13 injury so as to affect the life or health of another person, taking into
14 consideration to the extent applicable:

15 (a) The extent or serious nature of the prevailing circumstances;

16 (b) The lack of time or ability to obtain appropriate consultation;

17 (c) The lack of a prior medical relationship with the patient;

18 (d) The inability to obtain an appropriate medical history of the
19 patient; and

20 (e) The time constraints imposed by coexisting emergencies.

21 **Sec. 2.** Chapter 41A of NRS is hereby amended by adding thereto the
22 provisions set forth as sections 3 to 9, inclusive, of this act.

23 **Sec. 3.** "Economic damages" includes damages for medical
24 treatment, care or custody, loss of earnings and loss of earning capacity.

25 **Sec. 4.** "Noneconomic damages" includes damages to compensate
26 for pain, suffering, inconvenience, physical impairment, disfigurement
27 and other nonpecuniary damages.

28 **Sec. 5. 1.** Except as otherwise provided in subsection 2 and except
29 as further limited in subsection 3, in an action for damages for medical
30 malpractice or dental malpractice, the noneconomic damages awarded to
31 each plaintiff from each defendant must not exceed \$350,000.

32 2. In an action for damages for medical malpractice or dental
33 malpractice, the limitation on noneconomic damages set forth in
34 subsection 1 does not apply in the following circumstances and types of
35 cases:

36 (a) Organic brain damage;

37 (b) Hemiplegia, paraplegia or quadraplegia;

38 (c) Death of a parent, spouse or child;

39 (d) Total blindness;

40 (e) Actual physical loss of a limb, including a foot or hand;

41 (f) Permanent loss or damage to a reproductive organ resulting in
42 sterility;

43 (g) A case in which the conduct of the defendant is determined to
44 constitute gross malpractice; or

45 (h) A case in which, following return of a verdict by the jury or a
46 finding of damages in a bench trial, the court determines, by clear and
47 convincing evidence admitted at trial, that an award in excess of
48 \$350,000 for noneconomic damages is justified because of exceptional
49 circumstances.



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1 3. *In an action for damages for medical malpractice or dental*
2 *malpractice, in the circumstances and types of cases described in*
3 *subsections 1 and 2, the noneconomic damages awarded to each plaintiff*
4 *from each defendant must not exceed the amount of money remaining*
5 *under the professional liability insurance policy limit covering the*
6 *defendant after subtracting the economic damages awarded to that*
7 *plaintiff. Irrespective of the number of plaintiffs in the action, in no*
8 *event may any single defendant be liable to the plaintiffs in the aggregate*
9 *in excess of the professional liability insurance policy limit covering that*
10 *defendant.*

11 4. *This section is not intended to limit the responsibility of any*
12 *defendant for the total economic damages awarded.*

13 5. *For the purposes of this section:*

14 (a) *“Gross malpractice” means failure to exercise the required degree*
15 *of care, skill or knowledge which amounts to:*

16 (1) *A conscious indifference to the consequences which may result*
17 *from the gross malpractice; and*

18 (2) *A disregard for and indifference to the safety and welfare of the*
19 *patient.*

20 (b) *“Organic brain damage” means the person has documented*
21 *organically caused, permanently impaired cognitive capacity rendering*
22 *him incapable of making independent, responsible life decisions or*
23 *permanently incapable of independently conducting the activities of the*
24 *person’s normal daily living.*

25 (c) *“Total blindness” means a person’s visual acuity with correcting*
26 *lenses does not exceed 20/200 in the better eye, or whose vision in the*
27 *better eye is restricted to a field which subtends an angle of not greater*
28 *than 20°.*

29 **Sec. 6.** *In an action for damages for medical malpractice, each*
30 *defendant is liable for noneconomic damages severally only, and not*
31 *jointly, to the plaintiff only for that portion of the judgment which*
32 *represents the percentage of negligence attributable to the defendant.*

33 **Sec. 7.** *1. Upon the motion of any party or upon its own motion,*
34 *unless good cause is shown for the delay, the court shall, after due notice*
35 *to the parties, dismiss an action involving medical malpractice or dental*
36 *malpractice if the action is not brought to trial within:*

37 (a) *Three years after the date on which the action is filed, if the action*
38 *is filed on or after October 1, 2002, but before October 1, 2005.*

39 (b) *Two years after the date on which the action is filed, if the action*
40 *is filed on or after October 1, 2005.*

41 2. *Dismissal of an action pursuant to subsection 1 is a bar to the*
42 *filing of another action upon the same claim for relief against the same*
43 *defendants.*

44 3. *Each district court shall adopt court rules to expedite the*
45 *resolution of an action involving medical malpractice or dental*
46 *malpractice.*

47 **Sec. 8.** *If an action for medical malpractice or dental malpractice is*
48 *filed in the district court, the district court shall dismiss the action,*
49 *without prejudice, if the action is filed without an affidavit, supporting*



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1 *the allegations contained in the action, submitted by a medical expert*
2 *who practices in an area that is substantially similar to the type of*
3 *practice engaged in at the time of the alleged malpractice.*

4 **Sec. 9.** 1. *In an action for medical malpractice or dental*
5 *malpractice, all of the parties to the action, the insurers of the respective*
6 *parties and the attorneys of the respective parties shall attend and*
7 *participate in a settlement conference before a district judge, other than*
8 *the judge assigned to the action, to ascertain whether the action may be*
9 *settled by the parties before trial.*

10 2. *The judge before whom the settlement conference is held:*

11 (a) *May, for good cause shown, waive the attendance of any party.*

12 (b) *Shall decide what information the parties may submit at the*
13 *settlement conference.*

14 3. *The judge shall notify the parties of the time and place of the*
15 *settlement conference.*

16 4. *The failure of any party or his attorney to participate in good faith*
17 *in the settlement conference is grounds for sanctions against the party or*
18 *his attorney, or both.*

19 **Sec. 10.** NRS 41A.003 is hereby amended to read as follows:

20 41A.003 As used in this chapter, unless the context otherwise requires,
21 the words and terms defined in NRS 41A.004 ~~to 41A.013, inclusive,~~ and
22 41A.009 and sections 3 and 4 of this act have the meanings ascribed to
23 them in those sections.

24 **Sec. 11.** NRS 41A.097 is hereby amended to read as follows:

25 41A.097 1. Except as otherwise provided in subsection ~~2~~ 3, an
26 action for injury or death against a provider of health care may not be
27 commenced more than 4 years after the date of injury or 2 years after the
28 plaintiff discovers or through the use of reasonable diligence should have
29 discovered the injury, whichever occurs first, for:

30 (a) Injury to or the wrongful death of a person ~~to~~ *occurring before*
31 *October 1, 2002*, based upon alleged professional negligence of the
32 provider of health care;

33 (b) Injury to or the wrongful death of a person *occurring before*
34 *October 1, 2002*, from professional services rendered without consent; or

35 (c) Injury to or the wrongful death of a person *occurring before*
36 *October 1, 2002*, from error or omission in practice by the provider of
37 health care.

38 2. *Except as otherwise provided in subsection 3, an action for injury*
39 *or death against a provider of health care may not be commenced more*
40 *than 3 years after the date of injury or 2 years after the plaintiff discovers*
41 *or through the use of reasonable diligence should have discovered the*
42 *injury, whichever occurs first, for:*

43 (a) *Injury to or the wrongful death of a person occurring on or after*
44 *October 1, 2002, based upon alleged professional negligence of the*
45 *provider of health care;*

46 (b) *Injury to or the wrongful death of a person occurring on or after*
47 *October 1, 2002, from professional services rendered without consent; or*



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1 (c) *Injury to or the wrongful death of a person occurring on or after*
2 *October 1, 2002, from error or omission in practice by the provider of*
3 *health care.*

4 3. This time limitation is tolled ~~for~~

5 ~~—(a) For~~ for any period during which the provider of health care has
6 concealed any act, error or omission upon which the action is based and
7 which is known or through the use of reasonable diligence should have
8 been known to him.

9 ~~[(b) In any action governed by the provisions of NRS 41A.003 to~~
10 ~~41A.069, inclusive, from the date a claimant files a complaint for review~~
11 ~~by a screening panel until 30 days after the date the panel notifies the~~
12 ~~claimant, in writing, of its findings. The provisions of this paragraph apply~~
13 ~~to an action against the provider of health care and to an action against any~~
14 ~~person, government or political subdivision of a government who is alleged~~
15 ~~by the claimant to be liable vicariously for the medical or dental~~
16 ~~malpractice of the provider of health care, if the provider, person,~~
17 ~~government or political subdivision has received notice of the filing of a~~
18 ~~complaint for review by a screening panel within the limitation of time~~
19 ~~provided in subsection 1.~~

20 ~~3.]~~ 4. For the purposes of this section, the parent, guardian or legal
21 custodian of any minor child is responsible for exercising reasonable
22 judgment in determining whether to prosecute any cause of action limited
23 by subsection 1 ~~or~~ 2. If the parent, guardian or custodian fails to
24 commence an action on behalf of that child within the prescribed period of
25 limitations, the child may not bring an action based on the same alleged
26 injury against any provider of health care upon the removal of his
27 disability, except that in the case of:

28 (a) Brain damage or birth defect, the period of limitation is extended
29 until the child attains 10 years of age.

30 (b) Sterility, the period of limitation is extended until 2 years after the
31 child discovers the injury.

32 ~~[4.]~~ 5. As used in this section, “provider of health care” means a
33 physician licensed under chapter 630 or 633 of NRS, dentist, registered
34 nurse, dispensing optician, optometrist, registered physical therapist,
35 podiatric physician, licensed psychologist, chiropractor, doctor of Oriental
36 medicine, medical laboratory director or technician, or a licensed hospital
37 as the employer of any such person.

38 **Sec. 12.** NRS 41A.100 is hereby amended to read as follows:

39 41A.100 1. Liability for personal injury or death is not imposed upon
40 any provider of medical care based on alleged negligence in the
41 performance of that care unless evidence consisting of expert medical
42 testimony, material from recognized medical texts or treatises or the
43 regulations of the licensed medical facility wherein the alleged negligence
44 occurred is presented to demonstrate the alleged deviation from the
45 accepted standard of care in the specific circumstances of the case and to
46 prove causation of the alleged personal injury or death, except that such
47 evidence is not required and a rebuttable presumption that the personal
48 injury or death was caused by negligence arises where evidence is



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1 presented that the personal injury or death occurred in any one or more of
2 the following circumstances:

3 (a) A foreign substance other than medication or a prosthetic device was
4 unintentionally left within the body of a patient following surgery;

5 (b) An explosion or fire originating in a substance used in treatment
6 occurred in the course of treatment;

7 (c) An unintended burn caused by heat, radiation or chemicals was
8 suffered in the course of medical care;

9 (d) An injury was suffered during the course of treatment to a part of the
10 body not directly involved in the treatment or proximate thereto; or

11 (e) A surgical procedure was performed on the wrong patient or the
12 wrong organ, limb or part of a patient's body.

13 2. *Expert medical testimony provided pursuant to subsection 1 may*
14 *only be given by a provider of medical care who practices in an area that*
15 *is substantially similar to the type of practice engaged in at the time of*
16 *the alleged negligence.*

17 3. As used in this section, "provider of medical care" means a
18 physician, dentist, registered nurse or a licensed hospital as the employer of
19 any such person.

20 **Sec. 13.** NRS 42.020 is hereby amended to read as follows:

21 42.020 1. Except as otherwise provided in subsection 2, in any action
22 for damages for medical malpractice, the amount of damages, if any,
23 awarded in the action must be reduced by the amount of any prior payment
24 made by or on behalf of the provider of health care against whom the
25 action is brought to the injured person or to the claimant to meet reasonable
26 expenses of medical care, other essential goods or services or reasonable
27 living expenses.

28 2. In any action described in subsection 1 in which liability for medical
29 malpractice is established or admitted, the court shall, before the entry of
30 judgment, hold a separate hearing to determine if any expenses incurred by
31 the claimant for medical care, loss of income or other financial loss have
32 been paid or reimbursed as a benefit from a collateral source. If the court
33 determines that a claimant has received such a benefit, the court shall
34 reduce the amount of damages, if any, awarded in the action by the amount
35 of the benefit. The amount so reduced must not include any amount for
36 which there is a right of subrogation to the rights of the claimant if the right
37 of subrogation is exercised by serving a notice of lien on the claimant
38 before the settlement of or the entry of judgment in the action. Notice
39 of the action must be provided by the claimant to any statutory holder of a
40 lien.

41 3. If future economic damages are awarded in an action for medical
42 malpractice, the ~~award must be paid, at the election of the claimant;~~ *court*
43 *may, at the request of the claimant, order the award to be paid:*

44 (a) In a lump sum which has been reduced to its present value as
45 determined by the trier of fact and approved by the court; or

46 (b) Subject to the provisions of ~~subsection 5;~~ *subsections 5 and 6 and*
47 *the discretion of the court, in periodic payments either* by an annuity
48 *purchased to provide periodic payments* ~~or~~ *or by other means if the*



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1 *defendant posts an adequate bond or other security to ensure full*
2 *payment by periodic payments of the damages awarded by the judgment.*

3 As used in this subsection, "future economic damages" includes damages
4 for future medical treatment, care or custody, and loss of future earnings.

5 4. If the claimant ~~elects to receive~~ *receives* periodic payments
6 pursuant to paragraph (b) of subsection 3, the award must not be reduced to
7 its present value. The amount of the periodic payments must be equal to the
8 total amount of all future damages awarded by the trier of fact and
9 approved by the court. The period for which the periodic payments must be
10 made must be determined by the trier of fact and approved by the court.
11 Before the entry of judgment, each party shall submit to the court a plan
12 specifying the recipient of the payments, the amount of the payments and a
13 schedule of periodic payments for the award. Upon receipt and review of
14 the plans, the court shall specify in its judgment rendered in the action the
15 recipient of the payments, the amount of the payments and a schedule of
16 payments for the award.

17 5. If an annuity is purchased pursuant to paragraph (b) of subsection 3,
18 the claimant shall select the provider of the annuity. Upon purchase of the
19 annuity, the claimant shall:

20 (a) Execute a satisfaction of judgment or a stipulation for dismissal of
21 the claim with prejudice; and

22 (b) Release forever the defendant and his insurer, if any, from any
23 obligation to make periodic payments pursuant to the award.

24 6. *If the defendant posts a bond or other security pursuant to*
25 *paragraph (b) of subsection 3, upon termination of the payment of*
26 *periodic payments of damages, the court shall order the return of the*
27 *bond or other security, or as much as remains, to the defendant.*

28 7. As used in this section:

29 (a) "Benefit from a collateral source" means any money, service or
30 other benefit which is paid or provided or is reasonably likely to be paid or
31 provided to a claimant for personal injury or wrongful death pursuant to:

32 (1) A state or federal act which provides benefits for sickness,
33 disability, accidents, loss of income or workers' compensation;

34 (2) A policy of insurance which provides health benefits or coverage
35 for loss of income;

36 (3) A contract of any group, organization, partnership or corporation
37 which provides, pays or reimburses the cost of medical, hospital or dental
38 benefits or benefits for loss of income; or

39 (4) Any other publicly or privately funded program which provides
40 such benefits.

41 (b) "Medical malpractice" has the meaning ascribed to it in NRS
42 41A.009.

43 **Sec. 14.** NRS 1.360 is hereby amended to read as follows:

44 1.360 Under the direction of the supreme court, the court administrator
45 shall:

46 1. Examine the administrative procedures employed in the offices of
47 the judges, clerks, court reporters and employees of all courts of this state
48 and make recommendations, through the chief justice, for the improvement
49 of those procedures;



- 1 2. Examine the condition of the dockets of the courts and determine
- 2 the need for assistance by any court;
- 3 3. Make recommendations to and carry out the directions of the chief
- 4 justice relating to the assignment of district judges where district courts are
- 5 in need of assistance;
- 6 4. Develop a uniform system for collecting and compiling statistics
- 7 and other data regarding the operation of the state court system and
- 8 transmit that information to the supreme court so that proper action may be
- 9 taken in respect thereto;
- 10 5. Prepare and submit a budget of state appropriations necessary for
- 11 the maintenance and operation of the state court system and make
- 12 recommendations in respect thereto;
- 13 6. Develop procedures for accounting, internal auditing, procurement
- 14 and disbursement for the state court system;
- 15 7. Collect statistical and other data and make reports relating to the
- 16 expenditure of all public money for the maintenance and operation of the
- 17 state court system and the offices connected therewith;
- 18 8. Compile statistics from the information required to be maintained
- 19 by the clerks of the district courts pursuant to NRS 3.275 and make reports
- 20 as to the cases filed in the district courts;
- 21 9. Formulate and submit to the supreme court recommendations of
- 22 policies or proposed legislation for the improvement of the state court
- 23 system;
- 24 10. On or before January 1 of each year, submit to the director of the
- 25 legislative counsel bureau a written report compiling the information
- 26 submitted to the court administrator pursuant to NRS 3.243, 4.175 and
- 27 5.045 during the immediately preceding fiscal year; ~~and~~
- 28 11. *On or before February 15 of each odd-numbered year, submit to*
- 29 *the governor and to the director of the legislative counsel bureau for*
- 30 *transmittal to the next regular session of the legislature a written report*
- 31 *compiling the information submitted by clerks of courts to the court*
- 32 *administrator pursuant to NRS 630.307 and section 64 of this act which*
- 33 *includes only aggregate information for statistical purposes and excludes*
- 34 *any identifying information related to a particular person; and*
- 35 12. Attend to such other matters as may be assigned by the supreme
- 36 court or prescribed by law.
- 37 **Sec. 15.** Chapter 3 of NRS is hereby amended by adding thereto a new
- 38 section to read as follows:
- 39 *The supreme court shall provide by court rule for mandatory*
- 40 *appropriate training concerning the complex issues of medical*
- 41 *malpractice litigation for each district judge to whom actions involving*
- 42 *medical malpractice are assigned.*
- 43 **Sec. 16.** NRS 7.085 is hereby amended to read as follows:
- 44 7.085 If a court finds that an attorney has:
- 45 1. Filed, maintained or defended a civil action or proceeding in any
- 46 court in this state and such action or defense is not well-grounded in fact or
- 47 is not warranted by existing law or by an argument for changing the
- 48 existing law that is made in good faith; or



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1 2. Unreasonably and vexatiously extended a civil action or proceeding
2 before any court in this state,
3 the court ~~may~~ *shall* require the attorney personally to pay the additional
4 costs, expenses and attorney's fees reasonably incurred because of such
5 conduct.

6 **Sec. 17.** NRS 49.245 is hereby amended to read as follows:

7 49.245 There is no privilege under NRS 49.225 or 49.235:

8 1. For communications relevant to an issue in proceedings to
9 hospitalize the patient for mental illness, if the doctor in the course of
10 diagnosis or treatment has determined that the patient is in need of
11 hospitalization.

12 2. As to communications made in the course of a court-ordered
13 examination of the condition of a patient with respect to the particular
14 purpose of the examination unless the court orders otherwise.

15 3. As to written medical or hospital records relevant to an issue of the
16 condition of the patient in any proceeding in which the condition is an
17 element of a claim or defense.

18 4. In a prosecution or mandamus proceeding under chapter 441A of
19 NRS.

20 5. As to any information communicated to a physician in an effort
21 unlawfully to procure a dangerous drug or controlled substance, or
22 unlawfully to procure the administration of any such drug or substance.

23 6. As to any written medical or hospital records which are furnished in
24 accordance with the provisions of NRS 629.061.

25 7. As to records that are required by chapter 453 of NRS to be
26 maintained.

27 8. ~~In a review before a screening panel pursuant to NRS 41A.003 to~~
28 ~~41A.069, inclusive.~~

29 ~~—9.]~~ If the services of the physician are sought or obtained to enable or
30 aid a person to commit or plan to commit fraud or any other unlawful act in
31 violation of any provision of chapter 616A, 616B, 616C, 616D or 617 of
32 NRS which the person knows or reasonably should know is fraudulent or
33 otherwise unlawful.

34 **Sec. 18.** Chapter 439 of NRS is hereby amended by adding thereto
35 the provisions set forth as sections 19 to 43, inclusive, of this act.

36 **Sec. 19.** *As used in sections 19 to 43, inclusive, of this act, unless*
37 *the context otherwise requires, the words and terms defined in sections*
38 *20 to 28, inclusive, of this act have the meanings ascribed to them in*
39 *those sections.*

40 **Sec. 20.** *"Incident" means an event, occurrence or situation*
41 *involving the treatment of a patient that potentially could have injured*
42 *the patient but did not actually cause the patient to suffer an*
43 *unanticipated injury or require the patient to receive additional*
44 *treatment.*

45 **Sec. 21.** *"Medical facility" means:*

46 1. *A hospital, as that term is defined in NRS 449.012;*

47 2. *An obstetric center, as that term is defined in NRS 449.0155; and*

48 3. *A surgical center for ambulatory patients, as that term is defined*
49 *in NRS 449.019.*



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- 1 **Sec. 22.** *"Patient" means a person who:*
2 1. *Is admitted to a medical facility for the purpose of receiving*
3 *treatment; or*
4 2. *Receives treatment at a medical facility from a provider of health*
5 *care.*
- 6 **Sec. 23.** *"Patient safety officer" means a person who is designated*
7 *as such by a medical facility pursuant to section 39 of this act.*
- 8 **Sec. 24.** *"Provider of health care" means a person who is licensed,*
9 *certified or otherwise authorized by the law of this state to administer*
10 *health care in the ordinary course of the business or practice of a*
11 *profession.*
- 12 **Sec. 25.** *"Repository" means the repository for health care quality*
13 *assurance created pursuant to section 29 of this act.*
- 14 **Sec. 26.** *"Serious event" means an event, occurrence or situation*
15 *involving the treatment of a patient that:*
16 1. *Causes the death of the patient; or*
17 2. *Compromises the safety of the patient and causes the patient to*
18 *suffer an unanticipated injury which requires the patient to receive*
19 *additional treatment.*
20 *The term does not include an incident.*
- 21 **Sec. 27.** *"Treatment" means any medication, drug, test or*
22 *procedure conducted or administered to diagnose or remedy a physical or*
23 *mental illness or condition.*
- 24 **Sec. 28.** *"Unanticipated injury" means an injury suffered by a*
25 *patient as a result of treatment, where the injury:*
26 1. *Is not an intended or anticipated consequence of the treatment;*
27 *or*
28 2. *Is of a manner, nature or type that does not occur ordinarily in*
29 *the absence of a negligent or wrongful act or omission.*
- 30 **Sec. 29.** 1. *The repository for health care quality assurance is*
31 *hereby created within the health division.*
32 2. *The health division shall, to the extent of legislative*
33 *appropriation and authorization:*
34 (a) *Hire such staff as it determines to be necessary to carry out the*
35 *provisions of sections 19 to 43, inclusive, of this act.*
36 (b) *Contract with persons and entities to carry out the provisions of*
37 *section 32 of this act.*
- 38 **Sec. 30.** 1. *Except as otherwise provided in subsection 2:*
39 (a) *A person who is employed by a medical facility shall, within 6*
40 *hours after becoming aware of an incident or serious event that occurred*
41 *at the medical facility, notify the patient safety officer of the facility of the*
42 *incident or serious event; and*
43 (b) *The patient safety officer shall, within 18 hours after receiving*
44 *notification pursuant to paragraph (a), report the incident or serious*
45 *event to:*
46 (1) *The repository; and*
47 (2) *The representative designated pursuant to section 35 of this*
48 *act, if that person is different from the patient safety officer.*



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1 2. If the patient safety officer of a medical facility personally
2 discovers or becomes aware, in the absence of notification by another
3 employee, of an incident or serious event that occurred at the medical
4 facility, the patient safety officer shall, within 24 hours after discovering
5 or becoming aware of the incident or serious event, report the incident or
6 serious event to:

7 (a) The repository; and

8 (b) The representative designated pursuant to section 35 of this act, if
9 that person is different from the patient safety officer.

10 3. The administrator shall prescribe the manner in which reports of
11 incidents and serious events must be made pursuant to this section.

12 4. The administrator shall prescribe the form of a survey to be sent
13 to each employee who makes a report pursuant to subsection 1. The
14 survey must be in a form designed to obtain a confidential response from
15 the employee as to whether:

16 (a) It is the opinion of the employee that the employee experienced
17 any retaliation from a medical facility or provider of health care as a
18 direct result of the reporting;

19 (b) If applicable, the employee was the subject of disciplinary action
20 by a professional regulatory body as a direct result of the reporting or of
21 the incident or serious event that led to the submission of the report; and

22 (c) To the extent of the employee's knowledge, any remediation or
23 other corrective action occurred in response to the reported incident or
24 serious event to correct the situation or circumstances that caused or
25 contributed to the incident or serious event.

26 5. The administrator shall cause the repository to send a copy of the
27 survey to each such employee not earlier than 90 days nor later than 120
28 days after the report was submitted pursuant to subsection 1. The
29 administrator shall direct that the responses to the survey be returned to
30 the repository. The administrator shall take such actions as are necessary
31 to ensure the confidentiality of these responses and to ensure that the
32 responses are used solely to prepare aggregate data regarding the effects
33 of the reporting required pursuant to subsection 1.

34 **Sec. 31.** The repository shall:

35 1. Collect and maintain reports received pursuant to subsections 1
36 and 2 of section 30 of this act;

37 2. Collect and maintain the responses received pursuant to
38 subsection 5 of section 30 of this act; and

39 3. Ensure that such reports and responses and any additional
40 documents created therefrom are protected adequately from fire, theft,
41 loss, destruction and other hazards and from unauthorized access.

42 **Sec. 32.** The health division shall contract with one or more
43 persons or entities, other than a provider of health care, to carry out the
44 following functions:

45 1. Collection, analysis and evaluation of data regarding reports of
46 incidents and serious events, including, without limitation, the
47 identification of indicators of performance and patterns of frequency and
48 severity at individual medical facilities and in individual geographic
49 regions of this state;



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1 2. Analysis and evaluation of data received on the responses
2 submitted pursuant to subsection 5 of section 30 of this act;

3 3. Preparation and transmission to the repository of written
4 recommendations for changes in health care practices and procedures to
5 be instituted at individual medical facilities or on a statewide basis to
6 reduce the number and severity of incidents and serious events in this
7 state; and

8 4. Provision of any additional services that the administrator
9 determines to be necessary or advisable.

10 **Sec. 33.** 1. Within 30 days after receiving a recommendation for a
11 change in a health care practice or procedure transmitted pursuant to
12 subsection 3 of section 32 of this act, the repository shall:

13 (a) Conduct an evaluation of the recommendation using the factors
14 set forth in subsection 3; and

15 (b) Submit to the administrator the recommendation and its
16 evaluation of the recommendation.

17 2. Within 30 days after receiving a recommendation and evaluation
18 from the repository pursuant to subsection 1, the administrator shall
19 approve or disapprove the recommendation using the factors set forth in
20 subsection 3. If the administrator:

21 (a) Approves a recommendation, the administrator shall, within 30
22 days after the date of approval, notify the repository in writing that the
23 recommendation has been approved.

24 (b) Disapproves a recommendation, the administrator shall, within 30
25 days after the date of disapproval, set forth in writing and transmit to the
26 repository the reason for the disapproval.

27 3. When the repository evaluates a recommendation pursuant to
28 subsection 1 and the administrator determines whether to approve or
29 disapprove a recommendation pursuant to subsection 2, the following
30 factors, without limitation, must be considered:

31 (a) Whether the recommendation may reasonably be expected to
32 improve the quality of treatment administered to patients in this state;

33 (b) The feasibility of carrying out the recommendation;

34 (c) The cost of carrying out the recommendation, evaluated with
35 respect to the probable financial burden that the recommendation will
36 cause to be incurred by patients, insurers and medical facilities; and

37 (d) Any other factor that the repository or the administrator, as
38 applicable, determines to be relevant.

39 **Sec. 34.** 1. Within 30 days after receiving notification from the
40 administrator that a recommendation has been approved, the repository
41 shall:

42 (a) If the recommendation pertains to a change in a health care
43 practice or procedure at one or more individual medical facilities, cause
44 a copy of the recommendation to be sent to those medical facilities.

45 (b) If the recommendation pertains to a change in a health care
46 practice or procedure at medical facilities within a particular geographic
47 area of this state, cause a copy of the recommendation to be sent to each
48 medical facility located within that geographic area.



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1 (c) If the recommendation pertains to a change in a health care
2 practice or procedure at medical facilities on a statewide basis, cause a
3 copy of the recommendation to be sent to all medical facilities.

4 2. All copies of recommendations required to be sent to medical
5 facilities pursuant to this section must be sent in a manner pursuant to
6 which receipt of the recommendations may be verified.

7 **Sec. 35.** 1. Each medical facility that is located within this state
8 shall designate a representative for the notification of patients who have
9 been involved in serious events at that medical facility.

10 2. A representative designated pursuant to subsection 1 shall, not
11 later than 7 days after discovering or becoming aware of a serious event
12 that occurred at the medical facility, provide notice of that fact to each
13 patient who was involved in that serious event.

14 3. The provision of notice to a patient pursuant to subsection 2 must
15 not, in any action or proceeding, be considered an acknowledgment or
16 admission of liability.

17 4. A representative designated pursuant to subsection 1 may or may
18 not be the same person who serves as the facility's patient safety officer.

19 5. The administrator shall prescribe the manner in which patients
20 must be notified pursuant to this section.

21 **Sec. 36.** 1. The repository shall compile the aggregate information
22 pertaining to serious events contained in the reports that it receives
23 pursuant to section 30 of this act and organize that information in
24 several different manners that will be usable by any person or entity that
25 may require that information, including, without limitation, by:

26 (a) Aggregating the information on a regional and a statewide basis;

27 (b) Organizing the information by applicability to a particular type of
28 serious event; and

29 (c) Aggregating or organizing the information in any combination of
30 possibilities described in this subsection.

31 2. The repository shall compile the aggregate information pertaining
32 to the responses to the survey received pursuant to subsection 5 of section
33 30 of this act.

34 3. Any interested person or entity may request a copy of a report or
35 information described in this section. The repository shall:

36 (a) Make such reports and information available at its place of
37 business in accordance with chapter 239 of NRS; and

38 (b) Ensure that any report or information described in this section is
39 made available only in an aggregated format and does not reveal the
40 identity of a specific person or medical facility.

41 **Sec. 37.** Any report, document, recommendation and any other
42 information compiled or disseminated pursuant to the provisions of
43 sections 19 to 43, inclusive, of this act is not admissible in evidence in
44 any administrative or legal proceeding conducted in this state.

45 **Sec. 38.** 1. Each medical facility that is located within this state
46 shall develop, in consultation with the providers of health care who
47 provide treatment to patients at the medical facility, an internal patient
48 safety plan to improve the health and safety of patients who are treated at
49 that medical facility. The plan must be approved by the repository.



1 2. The administrator shall, by regulation, prescribe the contents of a
2 patient safety plan.

3 3. A medical facility shall submit its patient safety plan to the
4 repository for approval in accordance with the requirements of this
5 section. If the repository does not approve or disapprove the plan within
6 90 days after receiving the plan from the medical facility, the plan shall
7 be deemed approved.

8 4. After a medical facility's patient safety plan is approved, the
9 medical facility shall notify all providers of health care who provide
10 treatment to patients at the medical facility of the existence of the plan
11 and of the requirements of the plan. A medical facility shall require that
12 compliance with its patient safety plan is a condition of employment for
13 all providers of health care who provide treatment to patients at that
14 medical facility.

15 **Sec. 39.** 1. A medical facility shall designate an officer or
16 employee of the facility to serve as the patient safety officer of the
17 medical facility.

18 2. The person who is designated as the patient safety officer of a
19 medical facility shall:

20 (a) Serve on the patient safety committee.

21 (b) Investigate and supervise the reporting of all incidents and serious
22 events alleged to have occurred at the medical facility, including, without
23 limitation, performing the duties required pursuant to section 30 of this
24 act.

25 (c) Take such action as he determines to be necessary to ensure the
26 safety of patients as a result of the investigation of any incident or
27 serious event alleged to have occurred at the medical facility.

28 (d) Report to the patient safety committee regarding any action taken
29 in accordance with paragraph (c).

30 **Sec. 40.** 1. A medical facility shall establish a patient safety
31 committee.

32 2. Except as otherwise provided in subsection 3:

33 (a) A patient safety committee established pursuant to subsection 1
34 must be composed of:

35 (1) The patient safety officer of the medical facility.

36 (2) At least three providers of health care who provide treatment to
37 patients at the medical facility.

38 (3) Two members of the public who reside in the community served
39 by the medical facility. The members described in this subparagraph
40 must not be agents, employees or contractors of the medical facility.

41 (b) A patient safety committee:

42 (1) Must not include more than one member of the executive or
43 governing body of the medical facility.

44 (2) Must include members of the medical, nursing and
45 pharmaceutical staff of the medical facility.

46 (c) A patient safety committee shall meet at least once each month.

47 3. The administrator shall adopt regulations prescribing the
48 composition and frequency of meeting of patient safety committees at
49 medical facilities having fewer than 25 employees and contractors.



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1 4. *A patient safety committee shall:*

2 (a) *Receive reports from the patient safety officer pursuant to section*
3 39 *of this act.*

4 (b) *Evaluate investigations and actions of the patient safety officer in*
5 *connection with all reports of incidents and serious events alleged to*
6 *have occurred at the medical facility.*

7 (c) *Review and evaluate the quality of measures carried out by the*
8 *medical facility to improve the safety of patients who receive treatment at*
9 *the medical facility. The review and evaluation described in this*
10 *paragraph must include, without limitation, review and evaluation of any*
11 *recommendations received pursuant to section 34 of this act.*

12 (d) *Make recommendations to the executive or governing body of the*
13 *medical facility to reduce the number and severity of incidents and*
14 *serious events that occur at the medical facility.*

15 (e) *At least once each calendar quarter, report to the executive or*
16 *governing body of the medical facility regarding:*

17 (1) *The number of incidents and serious events that occurred at the*
18 *medical facility during the preceding calendar quarter; and*

19 (2) *Any recommendations to reduce the number and severity of*
20 *incidents and serious events that occur at the medical facility.*

21 **Sec. 41.** *No person is subject to any criminal penalty or civil liability*
22 *for libel, slander or any similar cause of action in tort if he, without*
23 *malice:*

24 1. *Reports an incident or serious event;*

25 2. *Notifies another person of an incident or serious event;*

26 3. *Transmits information regarding an incident or serious event;*

27 4. *Compiles, prepares or disseminates information regarding an*
28 *incident or serious event; or*

29 5. *Performs any other act authorized pursuant to sections 19 to 43,*
30 *inclusive, of this act.*

31 **Sec. 42.** *1. The administrator may impose a fine of not more than*
32 *\$1,000 against:*

33 (a) *Any medical facility that violates any of the provisions of sections*
34 19 to 43, inclusive, of this act.

35 (b) *An employee or officer of a medical facility who violates any of the*
36 *provisions of sections 19 to 43, inclusive, of this act.*

37 2. *The administrator shall, before imposing the fine, notify the*
38 *medical facility by certified mail that he will impose a fine for the*
39 *violation unless the medical facility requests a hearing within 20 days*
40 *after the notice is mailed.*

41 3. *If a hearing is requested, the administrator shall hold a hearing*
42 *pursuant to the provisions of NRS 233B.121 to 233B.150, inclusive.*

43 4. *If a hearing is not requested within the prescribed period and the*
44 *matter is not otherwise resolved, the administrator shall impose the fine*
45 *and notify the medical facility by certified mail.*

46 5. *The decision of the administrator to impose a fine pursuant to this*
47 *section is a final decision for the purposes of judicial review.*



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1 **Sec. 43.** *The administrator shall adopt such regulations as the*
2 *administrator determines to be necessary or advisable to carry out the*
3 *provisions of sections 19 to 43, inclusive, of this act.*

4 **Sec. 44.** Chapter 449 of NRS is hereby amended by adding thereto the
5 provisions set forth as sections 45 and 46 of this act.

6 **Sec. 45. 1.** *A medical facility or any agent or employee thereof*
7 *shall not retaliate or discriminate in any manner against an employee of*
8 *the medical facility or a person acting on behalf of the employee who in*
9 *good faith:*

10 *(a) Reports to the board of medical examiners or the state board of*
11 *osteopathic medicine, as applicable, information relating to the conduct*
12 *of a physician which may constitute grounds for initiating disciplinary*
13 *action against the physician or which otherwise raises a reasonable*
14 *question regarding the competence of the physician to practice medicine*
15 *with reasonable skill and safety to patients;*

16 *(b) Reports an incident or serious event to the repository for health*
17 *care quality assurance created pursuant to section 29 of this act; or*

18 *(c) Cooperates or otherwise participates in an investigation or*
19 *proceeding conducted by the board of medical examiners, the state board*
20 *of osteopathic medicine or another governmental entity relating to*
21 *conduct described in paragraph (a) or (b).*

22 **2.** *A medical facility or any agent or employee thereof shall not*
23 *retaliate or discriminate in any manner against an employee of the*
24 *medical facility because the employee has attempted to or intends to take*
25 *an action described in subsection 1.*

26 **3.** *A medical facility or any agent or employee thereof shall not*
27 *prohibit, restrict or attempt to prohibit or restrict by contract, policy,*
28 *procedure or any other manner the right of an employee of the medical*
29 *facility to take an action described in subsection 1.*

30 **4.** *As used in this section:*

31 *(a) "Physician" means a person licensed to practice medicine*
32 *pursuant to chapter 630 or 633 of NRS.*

33 *(b) "Retaliate or discriminate" includes, without limitation:*

34 *(1) Frequent or undesirable changes in the location where the*
35 *employee works;*

36 *(2) Frequent or undesirable transfers or reassignments;*

37 *(3) The issuance of letters of reprimand, letters of admonition or*
38 *evaluations of poor performance;*

39 *(4) A demotion;*

40 *(5) A reduction in pay;*

41 *(6) The denial of a promotion;*

42 *(7) A suspension;*

43 *(8) A dismissal;*

44 *(9) A transfer; or*

45 *(10) Frequent changes in working hours or workdays,*
46 *if such action is taken, in whole or in part, because the employee took,*
47 *attempted to take or intended to take an action described in subsection 1.*



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- 1 **Sec. 46. 1.** *An employee of a medical facility who believes that he*
2 *has been retaliated or discriminated against in violation of section 45 of*
3 *this act may file an action in a court of competent jurisdiction.*
4 2. *If a court determines that a violation of section 45 of this act has*
5 *occurred, the court shall award such damages as it determines to have*
6 *resulted from the violation, including, without limitation:*
7 (a) *Compensatory damages;*
8 (b) *Reinstatement;*
9 (c) *Reimbursement of any wages, salary, employment benefits or other*
10 *compensation denied to or lost by the employee as a result of the*
11 *violation;*
12 (d) *Attorney's fees and costs, including, without limitation, fees for*
13 *expert witnesses; and*
14 (e) *Punitive damages, if the facts warrant the imposition of such*
15 *damages.*
16 3. *In addition to any damages awarded pursuant to subsection 2, the*
17 *court shall award interest on those damages at the prevailing rate.*
18 4. *The court may grant any equitable relief it considers appropriate,*
19 *including, without limitation, issuing temporary, preliminary or*
20 *permanent injunctive relief.*
21 5. *An action must be brought pursuant to this section within 2 years*
22 *after the date of the last event constituting the alleged violation for which*
23 *the action is brought.*
24 6. *A medical facility or any agent or employee thereof that violates*
25 *the provisions of section 45 of this act is subject to a civil penalty of not*
26 *more than \$10,000 for each violation.*
27 **Sec. 47.** Chapter 630 of NRS is hereby amended by adding thereto the
28 provisions set forth as sections 48, 49 and 50 of this act.
29 **Sec. 48. 1.** *A physician or any agent or employee thereof shall not*
30 *retaliate or discriminate in any manner against an employee of the*
31 *physician or a person acting on behalf of the employee who in good*
32 *faith:*
33 (a) *Reports to the board information relating to the conduct of the*
34 *physician which may constitute grounds for initiating disciplinary action*
35 *against the physician or which otherwise raises a reasonable question*
36 *regarding the competence of the physician to practice medicine with*
37 *reasonable skill and safety to patients;*
38 (b) *Reports an incident or serious event to the repository for health*
39 *care quality assurance created pursuant to section 29 of this act; or*
40 (c) *Cooperates or otherwise participates in an investigation or*
41 *proceeding conducted by the board or another governmental entity*
42 *relating to conduct described in paragraph (a) or (b).*
43 2. *A physician or any agent or employee thereof shall not retaliate or*
44 *discriminate in any manner against an employee of the physician*
45 *because the employee has attempted to or intends to take an action*
46 *described in subsection 1.*
47 3. *A physician or any agent or employee thereof shall not prohibit,*
48 *restrict or attempt to prohibit or restrict by contract, policy, procedure or*



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1 *any other manner the right of an employee of the physician to take an*
2 *action described in subsection 1.*

3 4. As used in this section, “retaliate or discriminate” includes,
4 without limitation:

5 (a) Frequent or undesirable changes in the location where the
6 employee works;

7 (b) Frequent or undesirable transfers or reassignments;

8 (c) The issuance of letters of reprimand, letters of admonition or
9 evaluations of poor performance;

10 (d) A demotion;

11 (e) A reduction in pay;

12 (f) The denial of a promotion;

13 (g) A suspension;

14 (h) A dismissal;

15 (i) A transfer; or

16 (j) Frequent changes in working hours or workdays,

17 if such action is taken, in whole or in part, because the employee took,
18 attempted to take or intended to take an action described in subsection 1.

19 **Sec. 49.** 1. An employee of a physician who believes that he has
20 been retaliated or discriminated against in violation of section 48 of this
21 act may file an action in a court of competent jurisdiction.

22 2. If a court determines that a violation of section 48 of this act has
23 occurred, the court shall award such damages as it determines to have
24 resulted from the violation, including, without limitation:

25 (a) Compensatory damages;

26 (b) Reinstatement;

27 (c) Reimbursement of any wages, salary, employment benefits or other
28 compensation denied to or lost by the employee as a result of the
29 violation;

30 (d) Attorney’s fees and costs, including, without limitation, fees for
31 expert witnesses; and

32 (e) Punitive damages, if the facts warrant the imposition of such
33 damages.

34 3. In addition to any damages awarded pursuant to subsection 2, the
35 court shall award interest on the amount of damages at the prevailing
36 rate.

37 4. The court may grant any equitable relief it considers appropriate,
38 including, without limitation, issuing temporary, preliminary or
39 permanent injunctive relief.

40 5. An action must be brought pursuant to this section within 2 years
41 after the date of the last event constituting the alleged violation for which
42 the action is brought.

43 6. A physician who violates the provisions of section 48 of this act is
44 subject to a civil penalty of not more than \$10,000 for each violation.

45 **Sec. 50.** A physician licensed pursuant to this chapter shall not
46 practice medicine in this state unless he maintains professional liability
47 insurance in an amount of:

48 1. Not less than \$1,000,000 per occurrence; and

49 2. Not less than \$3,000,000 in the aggregate.



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1 **Sec. 51.** NRS 630.130 is hereby amended to read as follows:
2 630.130 1. In addition to the other powers and duties provided in this
3 chapter, the board shall:

- 4 (a) Enforce the provisions of this chapter;
5 (b) Establish by regulation standards for licensure under this chapter;
6 (c) Conduct examinations for licensure and establish a system of
7 scoring for those examinations;
8 (d) Investigate the character of each applicant for a license and issue
9 licenses to those applicants who meet the qualifications set by this chapter
10 and the board; and
11 (e) Institute a proceeding in any court to enforce its orders or the
12 provisions of this chapter.

13 2. *On or before February 15 of each odd-numbered year, the board*
14 *shall submit to the governor and to the director of the legislative counsel*
15 *bureau for transmittal to the next regular session of the legislature a*
16 *written report compiling:*

17 (a) *Disciplinary action taken by the board during the previous*
18 *biennium against physicians for malpractice or negligence; and*

19 (b) *Information reported to the board during the previous biennium*
20 *pursuant to NRS 630.3067, subsections 2 and 3 of NRS 630.307 and NRS*
21 *690B.045.*

22 *The report must include only aggregate information for statistical*
23 *purposes and exclude any identifying information related to a particular*
24 *person.*

25 3. The board may adopt such regulations as are necessary or desirable
26 to enable it to carry out the provisions of this chapter.

27 **Sec. 52.** NRS 630.267 is hereby amended to read as follows:

28 630.267 1. Each holder of a license to practice medicine must, on or
29 before July 1 of each alternate year:

30 (a) Submit the statement required pursuant to NRS 630.197; ~~and~~

31 (b) *Submit a list of all actions filed or claims submitted to arbitration*
32 *or mediation for malpractice or negligence against him during the*
33 *previous 2 years; and*

34 (c) Pay to the secretary-treasurer of the board the applicable fee for
35 biennial registration. This fee must be collected for the period for which a
36 physician is licensed.

37 2. When a holder of a license fails to pay the fee for biennial
38 registration and submit the statement required pursuant to NRS 630.197
39 after they become due, his license to practice medicine in this state is
40 automatically suspended. The holder may, within 2 years after the date his
41 license is suspended, upon payment of twice the amount of the current fee
42 for biennial registration to the secretary-treasurer and submission of the
43 statement required pursuant to NRS 630.197 and after he is found to be in
44 good standing and qualified under the provisions of this chapter, be
45 reinstated to practice.

46 3. The board shall make such reasonable attempts as are practicable to
47 notify a licensee:

48 (a) At least once that his fee for biennial registration and the statement
49 required pursuant to NRS 630.197 are due; and



1 (b) That his license is suspended.
2 A copy of this notice must be sent to the Drug Enforcement Administration
3 of the United States Department of Justice or its successor agency.

4 **Sec. 53.** NRS 630.3062 is hereby amended to read as follows:

5 630.3062 The following acts, among others, constitute grounds for
6 initiating disciplinary action or denying licensure:

7 1. Failure to maintain timely, legible, accurate and complete medical
8 records relating to the diagnosis, treatment and care of a patient.

9 2. Altering medical records of a patient.

10 3. Making or filing a report which the licensee knows to be false,
11 failing to file a record or report as required by law or willfully obstructing
12 or inducing another to obstruct such filing.

13 4. Failure to make the medical records of a patient available for
14 inspection and copying as provided in NRS 629.061.

15 5. Failure to ~~report any claim for malpractice or negligence filed~~
16 ~~against the licensee and the subsequent disposition thereof within 90 days~~
17 ~~after the:~~

18 ~~— (a) Claim is filed; and~~

19 ~~— (b) Disposition of the claim.]~~ *comply with the requirements of NRS*
20 *630.3067.*

21 6. Failure to report any person the licensee knows, or has reason to
22 know, is in violation of the provisions of this chapter or the regulations of
23 the board.

24 **Sec. 54.** NRS 630.3067 is hereby amended to read as follows:

25 630.3067 ~~[Under the provisions of NRS 690B.045, the]~~

26 1. *The insurer of a physician licensed under this chapter and the*
27 *physician must report to the board any action filed or claim submitted to*
28 *arbitration or mediation for malpractice or negligence against the*
29 *physician and the settlement, award, judgment or other disposition*
30 ~~*thereof.] of the action or claim within 30 days after:*~~

31 *(a) The action was filed or the claim was submitted to arbitration or*
32 *mediation; and*

33 *(b) The disposition of the action or claim.*

34 2. *The board shall report any failure to comply with subsection 1 by*
35 *an insurer licensed in this state to the division of insurance of the*
36 *department of business and industry. If, after a hearing, the division of*
37 *insurance determines that any such insurer failed to comply with the*
38 *requirements of subsection 1, the division may impose an administrative*
39 *fine of not more than \$10,000 against the insurer for each such failure to*
40 *report. If the administrative fine is not paid when due, the fine must be*
41 *recovered in a civil action brought by the attorney general on behalf of*
42 *the division.*

43 **Sec. 55.** NRS 630.307 is hereby amended to read as follows:

44 630.307 1. Any person, medical school or medical facility that
45 becomes aware that a person practicing medicine or respiratory care in this
46 state has, is or is about to become engaged in conduct which constitutes
47 grounds for initiating disciplinary action shall ~~[forthwith]~~ file a written
48 complaint with the board ~~[]~~ *within 30 days after becoming aware of the*
49 *conduct.*



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1 2. Any hospital, clinic or other medical facility licensed in this state, or
2 medical society, shall ~~forthwith~~ report to the board any change in a
3 physician's privileges to practice medicine while the physician is under
4 investigation and the outcome of any disciplinary action taken by that
5 facility or society against the physician concerning the care of a patient or
6 the competency of the physician ~~+~~ *within 30 days after the change in*
7 *privileges is made or disciplinary action is taken. The board shall report*
8 *any failure to comply with this subsection by a hospital, clinic or other*
9 *medical facility licensed in this state to the health division of the*
10 *department of human resources. If, after a hearing, the health division*
11 *determines that any such facility or society failed to comply with the*
12 *requirements of this subsection, the division may impose an*
13 *administrative fine of not more than \$10,000 against the facility or*
14 *society for each such failure to report. If the administrative fine is not*
15 *paid when due, the fine must be recovered in a civil action brought by the*
16 *attorney general on behalf of the division.*

17 3. The clerk of every court shall ~~forthwith~~ report to the board any
18 finding, judgment or other determination of the court that a physician,
19 physician assistant or practitioner of respiratory care:

- 20 (a) Is mentally ill;
21 (b) Is mentally incompetent;
22 (c) Has been convicted of a felony or any law governing controlled
23 substances or dangerous drugs;
24 (d) Is guilty of abuse or fraud under any state or federal program
25 providing medical assistance; or
26 (e) Is liable for damages for malpractice or negligence ~~+~~,
27 *within 45 days after such a finding, judgment or determination is made.*

28 4. *The board shall keep information received pursuant to this section*
29 *confidential unless a court of competent jurisdiction issues a subpoena*
30 *compelling the release of such information.*

31 5. *On or before January 15 of each year, the clerk of each court*
32 *shall submit to the office of court administrator created pursuant to NRS*
33 *1.320 a written report compiling the information that the clerk reported*
34 *during the previous year to the board regarding physicians pursuant to*
35 *paragraph (e) of subsection 3.*

36 **Sec. 56.** NRS 630.364 is hereby amended to read as follows:

37 630.364 1. Any person or organization who furnishes information
38 concerning an applicant for a license or a licensee in good faith and
39 without malicious intent in accordance with the provisions of this chapter
40 is immune from any civil action for furnishing that information.

41 2. The board and any of its members and its staff, counsel,
42 investigators, experts, committees, panels, hearing officers and consultants
43 are immune from any civil liability for:

44 (a) Any decision or action taken in good faith and without malicious
45 intent in response to information acquired by the board.

46 (b) Disseminating information concerning an applicant for a license or a
47 licensee to other boards or agencies of the state, the attorney general, any
48 hospitals, medical societies, insurers, employers, patients and their families
49 or any law enforcement agency.



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~~[3. A screening panel or any of its members, acting pursuant to NRS 41A.003 to 41A.069, inclusive, that initiates or assists in any proceeding concerning a claim of malpractice against a physician is immune from any civil action for that initiation or assistance or any consequential damages, if the panel or members acted without malicious intent.]~~

Sec. 57. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

A dentist licensed pursuant to this chapter shall not practice dentistry in this state unless he maintains professional liability insurance in an amount of:

- 1. Not less than \$1,000,000 per occurrence; and*
- 2. Not less than \$3,000,000 in the aggregate.*

Sec. 58. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 59 to 64, inclusive, of this act.

Sec. 59. 1. *An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate in any manner against an employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:*

(a) Reports to the board information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

(b) Reports an incident or serious event to the repository for health care quality assurance created pursuant to section 29 of this act; or

(c) Cooperates or otherwise participates in an investigation or proceeding conducted by the board or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate in any manner against an employee of the osteopathic physician because the employee has attempted to or intends to take an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate" includes, without limitation:

(a) Frequent or undesirable changes in the location where the employee works;

(b) Frequent or undesirable transfers or reassignments;

(c) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(d) A demotion;

(e) A reduction in pay;

(f) The denial of a promotion;

(g) A suspension;

(h) A dismissal;



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1 (i) *A transfer; or*
2 (j) *Frequent changes in working hours or workdays,*
3 *if such action is taken, in whole or in part, because the employee took,*
4 *attempted to take or intended to take an action described in subsection 1.*
5 **Sec. 60. 1.** *An employee of an osteopathic physician who believes*
6 *that he has been retaliated or discriminated against in violation of*
7 *section 59 of this act may file an action in a court of competent*
8 *jurisdiction.*
9 2. *If a court determines that a violation of section 59 of this act has*
10 *occurred, the court shall award such damages as it determines to have*
11 *resulted from the violation, including, without limitation:*
12 (i) *Compensatory damages;*
13 (ii) *Reinstatement;*
14 (iii) *Reimbursement of any wages, salary, employment benefits or other*
15 *compensation denied to or lost by the employee as a result of the*
16 *violation;*
17 (iv) *Attorney's fees and costs, including, without limitation, fees for*
18 *expert witnesses; and*
19 (v) *Punitive damages, if the facts warrant the imposition of such*
20 *damages.*
21 3. *In addition to any damages awarded pursuant to subsection 2, the*
22 *court shall award interest on the amount of damages at the prevailing*
23 *rate.*
24 4. *The court may grant any equitable relief it considers appropriate,*
25 *including, without limitation, issuing temporary, preliminary or*
26 *permanent injunctive relief.*
27 5. *An action must be brought pursuant to this section within 2 years*
28 *after the date of the last event constituting the alleged violation for which*
29 *the action is brought.*
30 6. *An osteopathic physician who violates the provisions of section 59*
31 *of this act is subject to a civil penalty of not more than \$10,000 for each*
32 *violation.*
33 **Sec. 61.** *An osteopathic physician licensed pursuant to this chapter*
34 *shall not practice osteopathic medicine in this state unless he maintains*
35 *professional liability insurance in an amount of:*
36 1. *Not less than \$1,000,000 per occurrence; and*
37 2. *Not less than \$3,000,000 in the aggregate.*
38 **Sec. 62. 1.** *On or before February 15 of each odd-numbered year,*
39 *the board shall submit to the governor and to the director of the*
40 *legislative counsel bureau for transmittal to the next regular session of*
41 *the legislature a written report compiling:*
42 (a) *Disciplinary action taken by the board during the previous*
43 *biennium against osteopathic physicians for malpractice or negligence;*
44 *and*
45 (b) *Information reported to the board during the previous biennium*
46 *pursuant to NRS 690B.045, section 63 of this act and subsections 2 and 3*
47 *of section 64 of this act.*



1 2. The report must include only aggregate information for statistical
2 purposes and exclude any identifying information related to a particular
3 person.

4 **Sec. 63.** 1. The insurer of an osteopathic physician licensed under
5 this chapter and the osteopathic physician must report to the board any
6 action filed or claim submitted to arbitration or mediation for
7 malpractice or negligence against the osteopathic physician and the
8 settlement, award, judgment or other disposition of the action or claim
9 within 30 days after:

10 (a) The action was filed or the claim was submitted to arbitration or
11 mediation; and

12 (b) The disposition of the action or claim.

13 2. The board shall report any failure to comply with subsection 1 by
14 an insurer licensed in this state to the division of insurance of the
15 department of business and industry. If, after a hearing, the division of
16 insurance determines that any such insurer failed to comply with the
17 requirements of subsection 1, the division may impose an administrative
18 fine of not more than \$10,000 against the insurer for each such failure to
19 report. If the administrative fine is not paid when due, the fine must be
20 recovered in a civil action brought by the attorney general on behalf of
21 the division.

22 **Sec. 64.** 1. Any person, medical school or medical facility that
23 becomes aware that a person practicing osteopathic medicine in this state
24 has, is or is about to become engaged in conduct which constitutes
25 grounds for initiating disciplinary action shall file a written complaint
26 with the board within 30 days after becoming aware of the conduct.

27 2. Any hospital, clinic or other medical facility licensed in this state,
28 or medical society, shall report to the board any change in an osteopathic
29 physician's privileges to practice osteopathic medicine while the
30 osteopathic physician is under investigation and the outcome of any
31 disciplinary action taken by that facility or society against the osteopathic
32 physician concerning the care of a patient or the competency of the
33 osteopathic physician within 30 days after the change in privileges is
34 made or disciplinary action is taken. The board shall report any failure to
35 comply with this subsection by a hospital, clinic or other medical facility
36 licensed in this state to the health division of the department of human
37 resources. If, after a hearing, the health division determines that any
38 such facility or society failed to comply with the requirements of this
39 subsection, the division may impose an administrative fine of not more
40 than \$10,000 against the facility or society for each such failure to
41 report. If the administrative fine is not paid when due, the fine must be
42 recovered in a civil action brought by the attorney general on behalf of
43 the division.

44 3. The clerk of every court shall report to the board any finding,
45 judgment or other determination of the court that an osteopathic
46 physician or osteopathic physician's assistant:

47 (a) Is mentally ill;

48 (b) Is mentally incompetent;



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1 (c) *Has been convicted of a felony or any law governing controlled*
2 *substances or dangerous drugs;*

3 (d) *Is guilty of abuse or fraud under any state or federal program*
4 *providing medical assistance; or*

5 (e) *Is liable for damages for malpractice or negligence,*
6 *within 45 days after such a finding, judgment or determination is made.*

7 4. *The board shall keep information received pursuant to this section*
8 *confidential unless a court of competent jurisdiction issues a subpoena*
9 *compelling the release of such information.*

10 5. *On or before January 15 of each year, the clerk of every court*
11 *shall submit to the office of court administrator created pursuant to NRS*
12 *1.320 a written report compiling the information that the clerk reported*
13 *during the previous year to the board regarding osteopathic physicians*
14 *pursuant to paragraph (e) of subsection 3.*

15 **Sec. 65.** NRS 633.471 is hereby amended to read as follows:

16 633.471 1. Except as otherwise provided in subsection 3 and in
17 NRS 633.491, every holder of a license issued under this chapter, except
18 a temporary or a special license, may renew his license on or before
19 January 1 of each calendar year after its issuance by:

20 (a) Applying for renewal on forms provided by the board;

21 (b) Submitting the statement required pursuant to NRS 633.326;

22 (c) Paying the annual license renewal fee specified in this chapter; ~~and~~

23 (d) *Submitting a list of all actions filed or claims submitted to*
24 *arbitration or mediation for malpractice or negligence against him*
25 *during the previous year; and*

26 (e) Submitting verified evidence satisfactory to the board that in the
27 year preceding the application for renewal he has attended courses or
28 programs of continuing education approved by the board totaling a number
29 of hours established by the board which must not be less than 35 hours nor
30 more than that set in the requirements for continuing medical education of
31 the American Osteopathic Association.

32 2. The secretary of the board shall notify each licensee of the
33 requirements for renewal not less than 30 days before the date of renewal.

34 3. Members of the Armed Forces of the United States and the United
35 States Public Health Service are exempt from payment of the annual
36 license renewal fee during their active duty status.

37 **Sec. 66.** NRS 633.511 is hereby amended to read as follows:

38 633.511 The grounds for initiating disciplinary action pursuant to this
39 chapter are:

40 1. Unprofessional conduct.

41 2. Conviction of:

42 (a) A violation of any federal or state law regulating the possession,
43 distribution or use of any controlled substance or any dangerous drug as
44 defined in chapter 454 of NRS;

45 (b) A felony;

46 (c) A violation of any of the provisions of NRS 616D.200, 616D.220,
47 616D.240 or 616D.300 to 616D.440, inclusive; or

48 (d) Any offense involving moral turpitude.



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1 3. The suspension of the license to practice osteopathic medicine by
2 any other jurisdiction.

3 4. Gross or repeated malpractice, which may be evidenced by claims
4 of malpractice settled against a practitioner.

5 5. Professional incompetence.

6 **6. *Failure to comply with the requirements of section 63 of this act.***

7 **Sec. 67.** NRS 690B.045 is hereby amended to read as follows:

8 690B.045 Except as more is required in NRS 630.3067 **and section**
9 **63 of this act:**

10 1. Each insurer which issues a policy of insurance covering the
11 liability of a practitioner licensed pursuant to chapters 630 to 640,
12 inclusive, of NRS for a breach of his professional duty toward a patient
13 shall report to the board which licensed the practitioner within 30 days
14 each settlement or award made or judgment rendered by reason of a claim,
15 if the settlement, award or judgment is for more than \$5,000, giving the
16 name and address of the claimant and the practitioner and the
17 circumstances of the case.

18 2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of
19 NRS who does not have insurance covering liability for a breach of his
20 professional duty toward a patient shall report to the board which issued his
21 license within 30 days of each settlement or award made or judgment
22 rendered by reason of a claim, if the settlement, award or judgment is for
23 more than \$5,000, giving his name and address, the name and address of
24 the claimant and the circumstances of the case.

25 3. These reports are public records and must be made available for
26 public inspection within a reasonable time after they are received by the
27 licensing board.

28 **Sec. 68.** NRS 690B.050 is hereby amended to read as follows:

29 690B.050 1. Each insurer which issues a policy of insurance
30 covering the liability of a physician licensed under chapter 630 of NRS **or**
31 ***an osteopathic physician licensed under chapter 633 of NRS*** for a breach
32 of his professional duty toward a patient shall report to the commissioner
33 within 30 days each settlement or award made or judgment rendered by
34 reason of a claim, giving the name and address of the claimant and
35 physician and the circumstances of the case.

36 2. The commissioner shall report to the board of medical examiners **or**
37 ***or the state board of osteopathic medicine, as applicable,*** within 30 days
38 after receiving the report of the insurer, each claim made and each
39 settlement, award or judgment.

40 **Sec. 69.** NRS 41A.0043, 41A.005, 41A.008, 41A.013, 41A.016,
41 41A.019, 41A.023, 41A.024, 41A.026, 41A.029, 41A.033, 41A.036,
42 41A.039, 41A.043, 41A.046, 41A.049, 41A.051, 41A.053, 41A.056,
43 41A.059, 41A.069 and 631.377 are hereby repealed.

44 **Sec. 70.** The amendatory provisions of sections 1 to 6, inclusive, and
45 11 of this act apply only to a cause of action that accrues on or after
46 October 1, 2002.

47 **Sec. 71.** The amendatory provisions of sections 7, 8, 12 and 17 apply
48 only to an action filed on or after October 1, 2002.



1 **Sec. 72.** 1. Notwithstanding the repeal of NRS 41A.0043, 41A.005,
2 41A.008 and 41A.013 to 41A.069, inclusive, if a claimant has filed a
3 complaint with the division of insurance of the department of business and
4 industry pursuant to NRS 41A.039 before October 1, 2002, and a
5 determination has not been made by the screening panel as provided in
6 NRS 41A.003 to 41A.069, inclusive, before October 1, 2002, the claimant
7 may elect:

8 (a) To have a determination made by the screening panel as provided in
9 NRS 41A.003 to 41A.069, inclusive. If the claimant elects to have a
10 determination made by the screening panel, the provisions of NRS
11 41A.003 to 41A.069, inclusive, shall be deemed to continue to apply to the
12 claim and to any subsequent action filed in the district court. If the claimant
13 wishes to elect to have a determination made by the screening panel, the
14 claimant must, before December 1, 2002, file written notice of that fact
15 with the division. If the claimant fails to provide such written notice, the
16 claimant shall be deemed to have elected to have no further action taken by
17 the screening panel concerning the complaint.

18 (b) To have no further action taken by the screening panel concerning
19 the complaint. If the claimant elects to have no further action taken by the
20 screening panel concerning the complaint, the division and the screening
21 panel shall not take any further action with respect to the complaint, and
22 the claimant may file an action in the district court.

23 2. Notwithstanding the repeal of NRS 41A.0043, 41A.005, 41A.008
24 and 41A.013 to 41A.069, inclusive, and the amendment of paragraph (b) of
25 subsection 2 of NRS 41A.097, if a claimant elects:

26 (a) To have a determination made by the screening panel, the tolling of
27 the time limitation provided for review of the complaint by the screening
28 panel pursuant to NRS 41A.097 shall be deemed to continue to apply until
29 30 days after the date on which the screening panel notifies the claimant, in
30 writing, of its findings.

31 (b) To have no further action taken by the screening panel concerning
32 the complaint, the tolling of the time limitation provided for review of the
33 complaint by the screening panel pursuant to NRS 41A.097 ceases on
34 December 1, 2002.

35 3. If a claimant:

36 (a) Elects to have no further action taken by the screening panel
37 concerning the complaint;

38 (b) Files an action in the district court; and

39 (c) Prevails at the trial of the action,
40 the claimant is entitled to tax, as costs, the fee paid to the division pursuant
41 to NRS 41A.039 for filing the complaint.

42 **Sec. 73.** On or before March 1, 2003, pursuant to subsection 3 of
43 section 7 of this act, each district court in this state shall adopt court rules
44 to expedite the resolution of an action involving medical malpractice or
45 dental malpractice.

46 **Sec. 74.** 1. With respect to the duty set forth in subsection 3 of
47 section 38 of this act, a medical facility shall submit its patient safety plan
48 to the repository:



1 (a) Not later than August 31, 2003, if the medical facility was licensed
2 pursuant to chapter 449 of NRS on or before July 1, 2003.

3 (b) Within 60 days after the date of licensure, if the medical facility was
4 licensed pursuant to chapter 449 of NRS after July 1, 2003.

5 2. As used in this section:

6 (a) “Medical facility” has the meaning ascribed to it in section 21 of this
7 act.

8 (b) “Repository” has the meaning ascribed to it in section 25 of this act.

9 **Sec. 75.** 1. This section and sections 1 to 17, inclusive, 50 to 58,
10 inclusive, and 61 to 73, inclusive, of this act become effective on
11 October 1, 2002.

12 2. Sections 18 to 49, inclusive, and 59, 60 and 74 of this act become
13 effective on July 1, 2003.

LEADLINES OF REPEALED SECTIONS

41A.0043 “Dentist” defined.

41A.005 “Division” defined.

41A.008 “Health care records” defined.

41A.013 “Physician” defined.

41A.016 Submission of case to screening panel required before suit
may be filed; admissibility in court of findings of screening panel.

41A.019 Creation of tentative screening panels.

41A.023 Designation of members.

41A.024 Courses of instruction for members.

41A.026 Election of chairmen; applicability of rules.

41A.029 Requirements regarding open meetings do not apply to
meetings of screening panels.

41A.033 Administrative duties and powers of division.

41A.036 Deposit of money received by division with state
treasurer; payment of administrative costs of screening panel.

41A.039 Submission of claim to screening panel: Complaint;
answer; response to answer; service of pleadings; fees.

41A.043 Selection of members for particular screening panel.

41A.046 Subpoenas: Powers and duties of division; enforcement.

41A.049 Hearing by screening panel: Time for holding; materials
for consideration; findings.

41A.051 Hearing by screening panel: Preferential scheduling for
certain elderly claimants and claimants who suffer from terminal
illness or condition.

41A.053 Early disclosure of medical or dental records prohibited;
penalty.

41A.056 Effect of decision of screening panel.

41A.059 Conference for settlement of claim: Attendance; powers
and duties of judge; effect of failure to settle.



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41A.069 Instructions to jury.

631.377 Screening panel immune from civil action.

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