

(REPRINTED WITH ADOPTED AMENDMENTS)
THIRD REPRINT

A.B. 1

ASSEMBLY BILL NO. 1—ASSEMBLYMEN PERKINS, BUCKLEY, ANDERSON, HETTRICK, 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

JOINT SPONSORS: SENATORS RAGGIO, TITUS, AMODEI, CARE, CARLTON, COFFIN, JACOBSEN, MATHEWS, MCGINNESS, MILBURN, NEAL, O'CONNELL, O'DONNELL, PAULK, RAWSON, RHOADS, SCHNEIDER, SHAFFER, TOWNSEND, WASHINGTON AND WIENER

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; requiring the commissioner of insurance to report to the legislative commission and the legislature regarding certain premiums for insurance and certain jury verdicts and settlements; and providing other matters properly relating thereto.



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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

8 WHEREAS, It is recognized that patients who have been injured by
9 medical malpractice must be afforded appropriate access to legal remedies
10 for their injuries and that judicial discretion to render decisions in
11 malpractice actions involving exceptional circumstances must be
12 preserved; now, therefore,

13
14 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
15 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
16

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

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

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

24 *(b) A hospital other than a hospital described in paragraph (a);*

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

27 *(d) 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) or (b), whether or not the care or assistance*
30 *was rendered gratuitously or for a fee; and*

31 *(e) 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 traumatic*
41 *injury demanding immediate medical attention, for which the patient*
42 *enters the hospital through its emergency room or trauma center, may*
43 *not be held liable for more than \$50,000 in civil damages, exclusive of*
44 *interest computed from the date of judgment, to or for the benefit of any*
45 *claimant arising out of any act or omission in rendering that care or*
46 *assistance if the care or assistance is rendered in good faith and in a*
47 *manner not amounting to gross negligence or reckless, willful or wanton*
48 *conduct.*



- 1 2. *The limitation on liability provided pursuant to this section does*
2 *not apply to any act or omission in rendering care or assistance:*
3 (a) *Which occurs after the patient is stabilized and is capable of*
4 *receiving medical treatment as a nonemergency patient, unless surgery is*
5 *required as a result of the emergency within a reasonable time after the*
6 *patient is stabilized, in which case the limitation on liability provided by*
7 *subsection 1 applies to any act or omission in rendering care or*
8 *assistance which occurs before the stabilization of the patient following*
9 *the surgery; or*
10 (b) *Unrelated to the original traumatic injury.*
11 3. *If:*
12 (a) *A physician or dentist provides follow-up care to a patient to*
13 *whom he rendered care or assistance pursuant to subsection 1;*
14 (b) *A medical condition arises during the course of the follow-up care*
15 *that is directly related to the original traumatic injury for which care or*
16 *assistance was rendered pursuant to subsection 1; and*
17 (c) *The patient files an action for malpractice based on the medical*
18 *condition that arises during the course of the follow-up care,*
19 *there is a rebuttable presumption that the medical condition was the*
20 *result of the original traumatic injury and that the limitation on liability*
21 *provided by subsection 1 applies with respect to the medical condition*
22 *that arises during the course of the follow-up care.*
23 4. *For the purposes of this section:*
24 (a) *“Reckless, willful or wanton conduct,” as it applies to a person to*
25 *whom subsection 1 applies, shall be deemed to be that conduct which the*
26 *person knew or should have known at the time he rendered the care or*
27 *assistance would be likely to result in injury so as to affect the life or*
28 *health of another person, taking into consideration to the extent*
29 *applicable:*
30 (1) *The extent or serious nature of the prevailing circumstances;*
31 (2) *The lack of time or ability to obtain appropriate consultation;*
32 (3) *The lack of a prior medical relationship with the patient;*
33 (4) *The inability to obtain an appropriate medical history of the*
34 *patient; and*
35 (5) *The time constraints imposed by coexisting emergencies.*
36 (b) *“Traumatic injury” means any acute injury which, according to*
37 *standardized criteria for triage in the field, involves a significant risk of*
38 *death or the precipitation of complications or disabilities.*
39 **Sec. 1.5.** NRS 41.505 is hereby amended to read as follows:
40 41.505 1. Any physician or registered nurse who in good faith gives
41 instruction or provides supervision to an emergency medical attendant or
42 registered nurse, at the scene of an emergency or while transporting an ill
43 or injured person from the scene of an emergency, is not liable for any civil
44 damages as a result of any act or omission, not amounting to gross
45 negligence, in giving that instruction or providing that supervision. An
46 emergency medical attendant, registered nurse or licensed practical nurse
47 who obeys an instruction given by a physician, registered nurse or licensed
48 practical nurse and thereby renders emergency care, at the scene of an
49 emergency or while transporting an ill or injured person from the scene of



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1 an emergency, is not liable for any civil damages as a result of any act or
2 omission, not amounting to gross negligence, in rendering that emergency
3 care.

4 2. Except as otherwise provided in subsection 3, any person licensed
5 under the provisions of chapter 630, 632 or 633 of NRS and any person
6 who holds an equivalent license issued by another state, who renders
7 emergency care or assistance in an emergency, gratuitously and in good
8 faith, is not liable for any civil damages as a result of any act or omission,
9 not amounting to gross negligence, by him in rendering the emergency care
10 or assistance or as a result of any failure to act, not amounting to gross
11 negligence, to provide or arrange for further medical treatment for the
12 injured or ill person. This section does not excuse a physician or nurse
13 from liability for damages resulting from his acts or omissions which occur
14 in a licensed medical facility relative to any person with whom there is a
15 preexisting relationship as a patient.

16 3. Any person licensed under the provisions of chapter 630, 632 or 633
17 of NRS and any person who holds an equivalent license issued by another
18 state who renders emergency obstetrical care or assistance to a pregnant
19 woman during labor or the delivery of the child is not liable for any civil
20 damages as a result of any act or omission by him in rendering that care or
21 assistance if:

22 (a) The care or assistance is rendered in good faith and in a manner not
23 amounting to gross negligence or reckless, willful or wanton conduct;

24 (b) The person has not previously provided prenatal or obstetrical care
25 to the woman; and

26 (c) The damages are reasonably related to or primarily caused by a lack
27 of prenatal care received by the woman.

28 A licensed medical facility in which such care or assistance is rendered is
29 not liable for any civil damages as a result of any act or omission by the
30 person in rendering that care or assistance if that person is not liable for
31 any civil damages pursuant to this subsection and the actions of the
32 medical facility relating to the rendering of that care or assistance do not
33 amount to gross negligence or reckless, willful or wanton conduct.

34 4. Any person licensed under the provisions of chapter 630, 632 or 633
35 of NRS and any person who holds an equivalent license issued by another
36 state who:

37 (a) Is retired or otherwise does not practice on a full-time basis; and

38 (b) Gratuitously and in good faith, renders medical care within the
39 scope of his license to an indigent person,
40 is not liable for any civil damages as a result of any act or omission by him,
41 not amounting to gross negligence or reckless, willful or wanton conduct,
42 in rendering that care.

43 5. *Any person licensed to practice medicine under the provisions of*
44 *chapter 630 or 633 of NRS or licensed to practice dentistry under the*
45 *provisions of chapter 631 of NRS who renders care or assistance to a*
46 *patient at a health care facility of a governmental entity or a nonprofit*
47 *organization is not liable for any civil damages as a result of any act or*
48 *omission by him in rendering that care or assistance if the care or*



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1 *assistance is rendered gratuitously, in good faith and in a manner not*
2 *amounting to gross negligence or reckless, willful or wanton conduct.*

3 6. As used in this section:

4 (a) "Emergency medical attendant" means a person licensed as an
5 attendant or certified as an emergency medical technician, intermediate
6 emergency medical technician or advanced emergency medical technician
7 pursuant to chapter 450B of NRS.

8 (b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

9 (c) *"Health care facility" has the meaning ascribed to it in*
10 *NRS 449.800.*

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

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

15 **Sec. 4.** *"Noneconomic damages" includes damages to compensate*
16 *for pain, suffering, inconvenience, physical impairment, disfigurement*
17 *and other nonpecuniary damages.*

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

22 **2.** *In an action for damages for medical malpractice or dental*
23 *malpractice, the limitation on noneconomic damages set forth in*
24 *subsection 1 does not apply in the following circumstances and types of*
25 *cases:*

26 (a) *A case in which the conduct of the defendant is determined to*
27 *constitute gross malpractice; or*

28 (b) *A case in which, following return of a verdict by the jury or a*
29 *finding of damages in a bench trial, the court determines, by clear and*
30 *convincing evidence admitted at trial, that an award in excess of*
31 *\$350,000 for noneconomic damages is justified because of exceptional*
32 *circumstances.*

33 **3.** *Except as otherwise provided in subsection 4, in an action for*
34 *damages for medical malpractice or dental malpractice, in the*
35 *circumstances and types of cases described in subsections 1 and 2, the*
36 *noneconomic damages awarded to each plaintiff from each defendant*
37 *must not exceed the amount of money remaining under the professional*
38 *liability insurance policy limit covering the defendant after subtracting*
39 *the economic damages awarded to that plaintiff. Irrespective of the*
40 *number of plaintiffs in the action, in no event may any single defendant*
41 *be liable to the plaintiffs in the aggregate in excess of the professional*
42 *liability insurance policy limit covering that defendant.*

43 **4.** *The limitation set forth in subsection 3 does not apply in an action*
44 *for damages for medical malpractice or dental malpractice unless the*
45 *defendant was covered by professional liability insurance at the time of*
46 *the occurrence of the alleged malpractice and on the date on which the*
47 *insurer receives notice of the claim, in an amount of:*

48 (a) *Not less than \$1,000,000 per occurrence; and*

49 (b) *Not less than \$3,000,000 in the aggregate.*



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1 5. This section is not intended to limit the responsibility of any
2 defendant for the total economic damages awarded.

3 6. For the purposes of this section, “gross malpractice” means
4 failure to exercise the required degree of care, skill or knowledge that
5 amounts to:

6 (a) A conscious indifference to the consequences which may result
7 from the gross malpractice; and

8 (b) A disregard for and indifference to the safety and welfare of the
9 patient.

10 **Sec. 6. 1.** In an action for damages for medical malpractice, each
11 defendant is liable for noneconomic damages severally only, and not
12 jointly, to the plaintiff only for that portion of the judgment which
13 represents the percentage of negligence attributable to the defendant.

14 2. As used in this section, “medical malpractice” means the failure
15 of a physician, hospital, employee of a hospital, certified nurse midwife
16 or certified registered nurse anesthetist in rendering services to use the
17 reasonable care, skill or knowledge ordinarily used under similar
18 circumstances.

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

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

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

27 2. Dismissal of an action pursuant to subsection 1 is a bar to the
28 filing of another action upon the same claim for relief against the same
29 defendants.

30 3. Each district court shall adopt court rules to expedite the
31 resolution of an action involving medical malpractice or dental
32 malpractice.

33 **Sec. 8.** If an action for medical malpractice or dental malpractice is
34 filed in the district court, the district court shall dismiss the action,
35 without prejudice, if the action is filed without an affidavit, supporting
36 the allegations contained in the action, submitted by a medical expert
37 who practices or has practiced in an area that is substantially similar to
38 the type of practice engaged in at the time of the alleged malpractice.

39 **Sec. 9. 1.** In an action for medical malpractice or dental
40 malpractice, all the parties to the action, the insurers of the respective
41 parties and the attorneys of the respective parties shall attend and
42 participate in a settlement conference before a district judge, other than
43 the judge assigned to the action, to ascertain whether the action may be
44 settled by the parties before trial.

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

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

47 (b) Shall decide what information the parties may submit at the
48 settlement conference.



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1 3. *The judge shall notify the parties of the time and place of the*
2 *settlement conference.*

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

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

7 41A.003 As used in this chapter, unless the context otherwise requires,
8 the words and terms defined in NRS 41A.004 ~~[to 41A.013, inclusive,]~~ ,
9 *41A.009 and 41A.013 and sections 3 and 4 of this act* have the meanings
10 ascribed to them in those sections.

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

12 41A.097 1. Except as otherwise provided in subsection ~~[2.]~~ 3, an
13 action for injury or death against a provider of health care may not be
14 commenced more than 4 years after the date of injury or 2 years after the
15 plaintiff discovers or through the use of reasonable diligence should have
16 discovered the injury, whichever occurs first, for:

17 (a) Injury to or the wrongful death of a person ~~[.]~~ *occurring before*
18 *October 1, 2002*, based upon alleged professional negligence of the
19 provider of health care;

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

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

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

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

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

38 3. This time limitation is tolled ~~[.]~~:

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

43 ~~[(b) In any action governed by the provisions of NRS 41A.003 to~~
44 ~~41A.069, inclusive, from the date a claimant files a complaint for review~~
45 ~~by a screening panel until 30 days after the date the panel notifies the~~
46 ~~claimant, in writing, of its findings. The provisions of this paragraph apply~~
47 ~~to an action against the provider of health care and to an action against any~~
48 ~~person, government or political subdivision of a government who is alleged~~
49 ~~by the claimant to be liable vicariously for the medical or dental~~



~~malpractice of the provider of health care, if the provider, person, government or political subdivision has received notice of the filing of a complaint for review by a screening panel within the limitation of time provided in subsection 1.~~

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

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

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

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

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

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

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

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

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

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

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

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



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

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

5 42.020 1. Except as otherwise provided in subsection 2, in any action
6 for damages for medical malpractice, the amount of damages, if any,
7 awarded in the action must be reduced by the amount of any prior payment
8 made by or on behalf of the provider of health care against whom the
9 action is brought to the injured person or to the claimant to meet reasonable
10 expenses of medical care, other essential goods or services or reasonable
11 living expenses.

12 2. In any action described in subsection 1 in which liability for medical
13 malpractice is established or admitted, the court shall, before the entry of
14 judgment, hold a separate hearing to determine if any expenses incurred by
15 the claimant for medical care, loss of income or other financial loss have
16 been paid or reimbursed as a benefit from a collateral source. If the court
17 determines that a claimant has received such a benefit, the court shall
18 reduce the amount of damages, if any, awarded in the action by the amount
19 of the benefit. The amount so reduced must not include any amount for
20 which there is a right of subrogation to the rights of the claimant if the right
21 of subrogation is exercised by serving a notice of lien on the claimant
22 before the settlement of or the entry of judgment in the action. Notice of
23 the action must be provided by the claimant to any statutory holder of a
24 lien.

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

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

30 (b) Subject to the provisions of ~~subsection 5;~~ *subsections 5 and 6 and*
31 *the discretion of the court, in periodic payments either* by an annuity
32 purchased to provide periodic payments ~~[-]~~ *or by other means if the*
33 *defendant posts an adequate bond or other security to ensure full*
34 *payment by periodic payments of the damages awarded by the*
35 *judgment.*

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

38 4. If the claimant ~~elects to receive~~ *receives* periodic payments
39 pursuant to paragraph (b) of subsection 3, the award must not be reduced to
40 its present value. The amount of the periodic payments must be equal to the
41 total amount of all future damages awarded by the trier of fact and
42 approved by the court. The period for which the periodic payments must be
43 made must be determined by the trier of fact and approved by the court.
44 Before the entry of judgment, each party shall submit to the court a plan
45 specifying the recipient of the payments, the amount of the payments and a
46 schedule of periodic payments for the award. Upon receipt and review of
47 the plans, the court shall specify in its judgment rendered in the action the
48 recipient of the payments, the amount of the payments and a schedule of
49 payments for the award.



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

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

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

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

12 7. As used in this section:

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

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

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

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

23 (4) Any other publicly or privately funded program which provides
24 such benefits.

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

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

28 1.360 Under the direction of the supreme court, the court administrator
29 shall:

30 1. Examine the administrative procedures employed in the offices of
31 the judges, clerks, court reporters and employees of all courts of this state
32 and make recommendations, through the chief justice, for the improvement
33 of those procedures;

34 2. Examine the condition of the dockets of the courts and determine
35 the need for assistance by any court;

36 3. Make recommendations to and carry out the directions of the chief
37 justice relating to the assignment of district judges where district courts are
38 in need of assistance;

39 4. Develop a uniform system for collecting and compiling statistics
40 and other data regarding the operation of the state court system and
41 transmit that information to the supreme court so that proper action may be
42 taken in respect thereto;

43 5. Prepare and submit a budget of state appropriations necessary for
44 the maintenance and operation of the state court system and make
45 recommendations in respect thereto;

46 6. Develop procedures for accounting, internal auditing, procurement
47 and disbursement for the state court system;



1 7. Collect statistical and other data and make reports relating to the
2 expenditure of all public money for the maintenance and operation of the
3 state court system and the offices connected therewith;

4 8. Compile statistics from the information required to be maintained
5 by the clerks of the district courts pursuant to NRS 3.275 and make reports
6 as to the cases filed in the district courts;

7 9. Formulate and submit to the supreme court recommendations of
8 policies or proposed legislation for the improvement of the state court
9 system;

10 10. On or before January 1 of each year, submit to the director of the
11 legislative counsel bureau a written report compiling the information
12 submitted to the court administrator pursuant to NRS 3.243, 4.175 and
13 5.045 during the immediately preceding fiscal year; ~~and~~

14 11. *On or before February 15 of each odd-numbered year, submit to*
15 *the governor and to the director of the legislative counsel bureau for*
16 *transmittal to the next regular session of the legislature a written report*
17 *compiling the information submitted by clerks of courts to the court*
18 *administrator pursuant to NRS 630.307 and section 64 of this act which*
19 *includes only aggregate information for statistical purposes and excludes*
20 *any identifying information related to a particular person; and*

21 12. Attend to such other matters as may be assigned by the supreme
22 court or prescribed by law.

23 **Sec. 15.** Chapter 3 of NRS is hereby amended by adding thereto a new
24 section to read as follows:

25 *The supreme court shall provide by court rule for mandatory*
26 *appropriate training concerning the complex issues of medical*
27 *malpractice litigation for each district judge to whom actions involving*
28 *medical malpractice are assigned.*

29 **Sec. 16.** NRS 7.085 is hereby amended to read as follows:

30 7.085 If a court finds that an attorney has:

31 1. Filed, maintained or defended a civil action or proceeding in any
32 court in this state and such action or defense is not well-grounded in fact or
33 is not warranted by existing law or by an argument for changing the
34 existing law that is made in good faith; or

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

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

41 49.245 There is no privilege under NRS 49.225 or 49.235:

42 1. For communications relevant to an issue in proceedings to
43 hospitalize the patient for mental illness, if the doctor in the course of
44 diagnosis or treatment has determined that the patient is in need of
45 hospitalization.

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



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

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

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

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

11 7. As to records that are required by chapter 453 of NRS to be
12 maintained.

13 8. ~~In a review before a screening panel pursuant to NRS 41A.003 to~~
14 ~~41A.069, inclusive.~~

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

20 **Sec. 18.** Chapter 439 of NRS is hereby amended by adding thereto the
21 provisions set forth as sections 19 to 39, inclusive, of this act.

22 **Sec. 19.** *As used in sections 19 to 39, inclusive, of this act, unless the*
23 *context otherwise requires, the words and terms defined in sections 20 to*
24 *25, inclusive, of this act have the meanings ascribed to them in those*
25 *sections.*

26 **Sec. 20.** *“Medical facility” means:*

27 1. *A hospital, as that term is defined in NRS 449.012 and 449.0151;*

28 2. *An obstetric center, as that term is defined in NRS 449.0151 and*
29 *449.0155;*

30 3. *A surgical center for ambulatory patients, as that term is defined*
31 *in NRS 449.0151 and 449.019; and*

32 4. *An independent center for emergency medical care, as that term is*
33 *defined NRS 449.013 and 449.0151.*

34 **Sec. 21.** *“Patient” means a person who:*

35 1. *Is admitted to a medical facility for the purpose of receiving*
36 *treatment;*

37 2. *Resides in a medical facility; or*

38 3. *Receives treatment from a provider of health care.*

39 **Sec. 22.** *“Patient safety officer” means a person who is designated*
40 *as such by a medical facility pursuant to section 35 of this act.*

41 **Sec. 23.** *“Provider of health care” means a person who is licensed,*
42 *certified or otherwise authorized by the law of this state to administer*
43 *health care in the ordinary course of the business or practice of a*
44 *profession.*

45 **Sec. 24.** *“Repository” means the repository for health care quality*
46 *assurance created by section 31 of this act.*

47 **Sec. 25.** *“Sentinel event” means an unexpected occurrence*
48 *involving death or serious physical or psychological injury or the risk*
49 *thereof, including, without limitation, any process variation for which a*



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1 *recurrence would carry a significant chance of a serious adverse*
2 *outcome. The term includes loss of limb or function.*

3 **Secs. 26 and 27.** (Deleted by amendment.)

4 **Sec. 28. 1.** *Except as otherwise provided in subsection 2:*

5 *(a) A person who is employed by a medical facility shall, within 24*
6 *hours after becoming aware of a sentinel event that occurred at the*
7 *medical facility, notify the patient safety officer of the facility of the*
8 *sentinel event; and*

9 *(b) The patient safety officer shall, within 13 days after receiving*
10 *notification pursuant to paragraph (a), report the date, the time and a*
11 *brief description of the sentinel event to:*

12 *(1) The health division; and*

13 *(2) The representative designated pursuant to section 32 of this act,*
14 *if that person is different from the patient safety officer.*

15 **2.** *If the patient safety officer of a medical facility personally*
16 *discovers or becomes aware, in the absence of notification by another*
17 *employee, of a sentinel event that occurred at the medical facility, the*
18 *patient safety officer shall, within 14 days after discovering or becoming*
19 *aware of the sentinel event, report the date, time and brief description of*
20 *the sentinel event to:*

21 *(a) The health division; and*

22 *(b) The representative designated pursuant to section 32 of this act, if*
23 *that person is different from the patient safety officer.*

24 **3.** *The administrator shall prescribe the manner in which reports of*
25 *sentinel events must be made pursuant to this section.*

26 **Sec. 29. 1.** *The health division shall, to the extent of legislative*
27 *appropriation and authorization:*

28 *(a) Collect and maintain reports received pursuant to section 28 of*
29 *this act; and*

30 *(b) Ensure that such reports, and any additional documents created*
31 *from such reports, are protected adequately from fire, theft, loss,*
32 *destruction and other hazards and from unauthorized access.*

33 **2.** *Reports received pursuant to section 28 of this act are*
34 *confidential, not subject to subpoena or discovery and not subject to*
35 *inspection by the general public.*

36 **Sec. 30. 1.** *The health division shall, to the extent of legislative*
37 *appropriation and authorization, contract with a quality improvement*
38 *organization, as defined in 42 C.F.R. § 400.200, to analyze and report*
39 *trends regarding sentinel events.*

40 **2.** *When the health division receives notice from a medical facility*
41 *that the medical facility has taken corrective action to remedy the causes*
42 *or contributing factors, or both, of a sentinel event, the health division*
43 *shall:*

44 *(a) Make a record of the information;*

45 *(b) Ensure that the information is aggregated so as not to reveal the*
46 *identity of a specific person or medical facility; and*

47 *(c) Transmit the information to a quality improvement organization.*

48 **3.** *A quality improvement organization to whom information is*
49 *transmitted pursuant to subsection 2 shall, at least quarterly, report its*



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1 *findings regarding the analysis of aggregated trends of sentinel events to*
2 *the repository for health care quality assurance.*

3 **Sec. 31.** 1. *The repository for health care quality assurance is*
4 *hereby created within the health division.*

5 2. *The repository shall, to the extent of legislative appropriation and*
6 *authorization, function as a clearinghouse of information relating to*
7 *aggregated trends of sentinel events.*

8 **Sec. 32.** 1. *Each medical facility that is located within this state*
9 *shall designate a representative for the notification of patients who have*
10 *been involved in sentinel events at that medical facility.*

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

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

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

20 **Sec. 33.** *Any report, document and any other information compiled*
21 *or disseminated pursuant to the provisions of sections 19 to 39, inclusive,*
22 *of this act is not admissible in evidence in any administrative or legal*
23 *proceeding conducted in this state.*

24 **Sec. 34.** 1. *Each medical facility that is located within this state*
25 *shall develop, in consultation with the providers of health care who*
26 *provide treatment to patients at the medical facility, an internal patient*
27 *safety plan to improve the health and safety of patients who are treated at*
28 *that medical facility.*

29 2. *A medical facility shall submit its patient safety plan to the*
30 *governing board of the medical facility for approval in accordance with*
31 *the requirements of this section.*

32 3. *After a medical facility's patient safety plan is approved, the*
33 *medical facility shall notify all providers of health care who provide*
34 *treatment to patients at the medical facility of the existence of the plan*
35 *and of the requirements of the plan. A medical facility shall require*
36 *compliance with its patient safety plan.*

37 **Sec. 35.** 1. *A medical facility shall designate an officer or*
38 *employee of the facility to serve as the patient safety officer of the*
39 *medical facility.*

40 2. *The person who is designated as the patient safety officer of a*
41 *medical facility shall:*

42 (a) *Serve on the patient safety committee.*

43 (b) *Supervise the reporting of all sentinel events alleged to have*
44 *occurred at the medical facility, including, without limitation, performing*
45 *the duties required pursuant to section 28 of this act.*

46 (c) *Take such action as he determines to be necessary to ensure the*
47 *safety of patients as a result of an investigation of any sentinel event*
48 *alleged to have occurred at the medical facility.*



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

3 **Sec. 36.** 1. A medical facility shall establish a patient safety
4 committee.

5 2. Except as otherwise provided in subsection 3:

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

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

9 (2) At least three providers of health care who treat patients at the
10 medical facility, including, without limitation, at least one member of the
11 medical, nursing and pharmaceutical staff of the medical facility.

12 (3) One member of the executive or governing body of the medical
13 facility.

14 (b) A patient safety committee shall meet at least once each month.

15 3. The administrator shall adopt regulations prescribing the
16 composition and frequency of meetings of patient safety committees at
17 medical facilities having fewer than 25 employees and contractors.

18 4. A patient safety committee shall:

19 (a) Receive reports from the patient safety officer pursuant to section
20 35 of this act.

21 (b) Evaluate actions of the patient safety officer in connection with all
22 reports of sentinel events alleged to have occurred at the medical facility.

23 (c) Review and evaluate the quality of measures carried out by the
24 medical facility to improve the safety of patients who receive treatment at
25 the medical facility.

26 (d) Make recommendations to the executive or governing body of the
27 medical facility to reduce the number and severity of sentinel events that
28 occur at the medical facility.

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

31 (1) The number of sentinel events that occurred at the medical
32 facility during the preceding calendar quarter; and

33 (2) Any recommendations to reduce the number and severity of
34 sentinel events that occur at the medical facility.

35 5. The proceedings and records of a patient safety committee are
36 subject to the same privilege and protection from discovery as the
37 proceedings and records described in NRS 49.265.

38 **Sec. 37.** No person is subject to any criminal penalty or civil liability
39 for libel, slander or any similar cause of action in tort if he, without
40 malice:

41 1. Reports a sentinel event to a governmental entity with jurisdiction
42 or another appropriate authority;

43 2. Notifies a governmental entity with jurisdiction or another
44 appropriate authority of a sentinel event;

45 3. Transmits information regarding a sentinel event to a
46 governmental entity with jurisdiction or another appropriate authority;

47 4. Compiles, prepares or disseminates information regarding a
48 sentinel event to a governmental entity with jurisdiction or another
49 appropriate authority; or



- 1 5. *Performs any other act authorized pursuant to sections 19 to 39,*
2 *inclusive, of this act.*
- 3 **Sec. 38.** *If a medical facility:*
- 4 1. *Commits a violation of any provision of sections 19 to 39,*
5 *inclusive, of this act or for any violation for which an administrative*
6 *sanction pursuant to NRS 449.163 would otherwise be applicable; and*
- 7 2. *Of its own volition, reports the violation to the*
8 *administrator,*
9 *such a violation must not be used as the basis for imposing an*
10 *administrative sanction pursuant to NRS 449.163.*
- 11 **Sec. 39.** *The administrator shall adopt such regulations as the*
12 *administrator determines to be necessary or advisable to carry out the*
13 *provisions of sections 19 to 39, inclusive, of this act.*
- 14 **Secs. 40-43.** (Deleted by amendment.)
- 15 **Sec. 44.** Chapter 449 of NRS is hereby amended by adding thereto the
16 provisions set forth as sections 45 and 46 of this act.
- 17 **Sec. 45.** 1. *A medical facility or any agent or employee thereof*
18 *shall not retaliate or discriminate unfairly against an employee of the*
19 *medical facility or a person acting on behalf of the employee who in good*
20 *faith:*
- 21 (a) *Reports to the board of medical examiners or the state board of*
22 *osteopathic medicine, as applicable, information relating to the conduct*
23 *of a physician which may constitute grounds for initiating disciplinary*
24 *action against the physician or which otherwise raises a reasonable*
25 *question regarding the competence of the physician to practice medicine*
26 *with reasonable skill and safety to patients;*
- 27 (b) *Reports a sentinel event to the health division pursuant to section*
28 *28 of this act; or*
- 29 (c) *Cooperates or otherwise participates in an investigation or*
30 *proceeding conducted by the board of medical examiners, the state board*
31 *of osteopathic medicine or another governmental entity relating to*
32 *conduct described in paragraph (a) or (b).*
- 33 2. *A medical facility or any agent or employee thereof shall not*
34 *retaliate or discriminate unfairly against an employee of the*
35 *medical facility because the employee has taken an action described in*
36 *subsection 1.*
- 37 3. *A medical facility or any agent or employee thereof shall not*
38 *prohibit, restrict or attempt to prohibit or restrict by contract, policy,*
39 *procedure or any other manner the right of an employee of the medical*
40 *facility to take an action described in subsection 1.*
- 41 4. *As used in this section:*
- 42 (a) *"Physician" means a person licensed to practice medicine*
43 *pursuant to chapter 630 or 633 of NRS.*
- 44 (b) *"Retaliate or discriminate":*
- 45 (1) *Includes, without limitation, the following action if such action*
46 *is taken solely because the employee took an action described in*
47 *subsection 1:*



1 (I) *Frequent or undesirable changes in the location where the*
2 *employee works;*

3 (II) *Frequent or undesirable transfers or reassignments;*

4 (III) *The issuance of letters of reprimand, letters of admonition*
5 *or evaluations of poor performance;*

6 (IV) *A demotion;*

7 (V) *A reduction in pay;*

8 (VI) *The denial of a promotion;*

9 (VII) *A suspension;*

10 (VIII) *A dismissal;*

11 (IX) *A transfer; or*

12 (X) *Frequent changes in working hours or workdays.*

13 (2) *Does not include action described in subparagraphs (I) to (X),*
14 *inclusive, of paragraph (1) if the action is taken in the normal course of*
15 *employment or as a form of discipline.*

16 **Sec. 46.** *An employee of a medical facility who believes that he has*
17 *been retaliated or discriminated against in violation of section 45 of this*
18 *act may file an action in a court of competent jurisdiction for such relief*
19 *as may be appropriate under the law.*

20 **Sec. 47.** *Chapter 630 of NRS is hereby amended by adding thereto the*
21 *provisions set forth as sections 48 and 49 of this act.*

22 **Sec. 48. 1.** *A physician or any agent or employee thereof shall not*
23 *retaliate or discriminate unfairly against an employee of the physician or*
24 *a person acting on behalf of the employee who in good faith:*

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

30 (b) *Reports a sentinel event to the health division pursuant to section*
31 *28 of this act; or*

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

35 2. *A physician or any agent or employee thereof shall not retaliate or*
36 *discriminate unfairly against an employee of the physician because the*
37 *employee has taken an action described in subsection 1.*

38 3. *A physician or any agent or employee thereof shall not prohibit,*
39 *restrict or attempt to prohibit or restrict by contract, policy, procedure or*
40 *any other manner the right of an employee of the physician to take an*
41 *action described in subsection 1.*

42 4. *As used in this section, “retaliate or discriminate”:*

43 (a) *Includes, without limitation, the following action if such*
44 *action is taken solely because the employee took an action described in*
45 *subsection 1:*

46 (1) *Frequent or undesirable changes in the location where the*
47 *employee works;*

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



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- 1 (3) *The issuance of letters of reprimand, letters of admonition or*
2 *evaluations of poor performance;*
3 (4) *A demotion;*
4 (5) *A reduction in pay;*
5 (6) *The denial of a promotion;*
6 (7) *A suspension;*
7 (8) *A dismissal;*
8 (9) *A transfer; or*
9 (10) *Frequent changes in working hours or workdays.*
10 (b) *Does not include action described in paragraphs (1) to (10),*
11 *inclusive, of paragraph (a) if the action is taken in the normal course of*
12 *employment or as a form of discipline.*
13 **Sec. 49.** *An employee of a physician who believes that he has been*
14 *retaliated or discriminated against in violation of section 48 of this act*
15 *may file an action in a court of competent jurisdiction for such relief as*
16 *may be appropriate.*
17 **Sec. 50.** (Deleted by amendment.)
18 **Sec. 51.** NRS 630.130 is hereby amended to read as follows:
19 630.130 1. In addition to the other powers and duties provided in this
20 chapter, the board shall:
21 (a) Enforce the provisions of this chapter;
22 (b) Establish by regulation standards for licensure under this chapter;
23 (c) Conduct examinations for licensure and establish a system of
24 scoring for those examinations;
25 (d) Investigate the character of each applicant for a license and issue
26 licenses to those applicants who meet the qualifications set by this chapter
27 and the board; and
28 (e) Institute a proceeding in any court to enforce its orders or the
29 provisions of this chapter.
30 2. *On or before February 15 of each odd-numbered year, the board*
31 *shall submit to the governor and to the director of the legislative counsel*
32 *bureau for transmittal to the next regular session of the legislature a*
33 *written report compiling:*
34 (a) *Disciplinary action taken by the board during the previous*
35 *biennium against physicians for malpractice or negligence; and*
36 (b) *Information reported to the board during the previous biennium*
37 *pursuant to NRS 630.3067, subsections 2 and 3 of NRS 630.307 and*
38 *NRS 690B.045.*
39 *The report must include only aggregate information for statistical*
40 *purposes and exclude any identifying information related to a particular*
41 *person.*
42 3. The board may adopt such regulations as are necessary or desirable
43 to enable it to carry out the provisions of this chapter.
44 **Sec. 52.** NRS 630.267 is hereby amended to read as follows:
45 630.267 1. Each holder of a license to practice medicine must, on or
46 before July 1 of each alternate year:
47 (a) Submit the statement required pursuant to NRS 630.197; ~~and~~



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

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

7 2. When a holder of a license fails to pay the fee for biennial
8 registration and submit the statement required pursuant to NRS 630.197
9 after they become due, his license to practice medicine in this state is
10 automatically suspended. The holder may, within 2 years after the date his
11 license is suspended, upon payment of twice the amount of the current fee
12 for biennial registration to the secretary-treasurer and submission of the
13 statement required pursuant to NRS 630.197 and after he is found to be in
14 good standing and qualified under the provisions of this chapter, be
15 reinstated to practice.

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

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

20 (b) That his license is suspended.

21 A copy of this notice must be sent to the Drug Enforcement Administration
22 of the United States Department of Justice or its successor agency.

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

24 630.3062 The following acts, among others, constitute grounds for
25 initiating disciplinary action or denying licensure:

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

28 2. Altering medical records of a patient.

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

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

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

37 ~~—(a) Claim is filed; and~~

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

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

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

44 630.3067 ~~[Under the provisions of NRS 690B.045, the]~~

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



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

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

4 2. The board shall report any failure to comply with subsection 1 by
5 an insurer licensed in this state to the division of insurance of the
6 department of business and industry. If, after a hearing, the division of
7 insurance determines that any such insurer failed to comply with the
8 requirements of subsection 1, the division may impose an administrative
9 fine of not more than \$10,000 against the insurer for each such failure to
10 report. If the administrative fine is not paid when due, the fine must be
11 recovered in a civil action brought by the attorney general on behalf of
12 the division.

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

14 630.307 1. Any person, medical school or medical facility that
15 becomes aware that a person practicing medicine or respiratory care in this
16 state has, is or is about to become engaged in conduct which constitutes
17 grounds for initiating disciplinary action shall ~~forthwith~~
18 complaint with the board ~~within 30 days after becoming aware of the~~
19 ~~conduct.~~

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

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

- 39 (a) Is mentally ill;
40 (b) Is mentally incompetent;
41 (c) Has been convicted of a felony or any law governing controlled
42 substances or dangerous drugs;
43 (d) Is guilty of abuse or fraud under any state or federal program
44 providing medical assistance; or
45 (e) Is liable for damages for malpractice or negligence ~~within 45 days after such a finding, judgment or determination is made.~~

46 4. On or before January 15 of each year, the clerk of each court
47 shall submit to the office of court administrator created pursuant to NRS
48 1.320 a written report compiling the information that the clerk reported
49



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1 *during the previous year to the board regarding physicians pursuant to*
2 *paragraph (e) of subsection 3.*

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

4 630.364 1. Any person or organization who furnishes information
5 concerning an applicant for a license or a licensee in good faith and
6 without malicious intent in accordance with the provisions of this chapter
7 is immune from any civil action for furnishing that information.

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

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

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

17 ~~[3. —A screening panel or any of its members, acting pursuant to NRS~~
18 ~~41A.003 to 41A.069, inclusive, that initiates or assists in any proceeding~~
19 ~~concerning a claim of malpractice against a physician is immune from any~~
20 ~~civil action for that initiation or assistance or any consequential damages, if~~
21 ~~the panel or members acted without malicious intent.]~~

22 **Sec. 57.** (Deleted by amendment.)

23 **Sec. 58.** Chapter 633 of NRS is hereby amended by adding thereto the
24 provisions set forth as sections 62, 63 and 64 of this act.

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

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

35 (b) *Reports a sentinel event to the health division pursuant to section*
36 *28 of this act; or*

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

40 2. *An osteopathic physician or any agent or employee thereof shall*
41 *not retaliate or discriminate unfairly against an employee of the*
42 *osteopathic physician because the employee has taken an action*
43 *described in subsection 1.*

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

48 4. *As used in this section, “retaliate or discriminate”:*



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- 1 (a) Includes, without limitation, the following action if such
2 action is taken solely because the employee took an action described in
3 subsection 1:
4 (1) Frequent or undesirable changes in the location where the
5 employee works;
6 (2) Frequent or undesirable transfers or reassignments;
7 (3) The issuance of letters of reprimand, letters of admonition or
8 evaluations of poor performance;
9 (4) A demotion;
10 (5) A reduction in pay;
11 (6) The denial of a promotion;
12 (7) A suspension;
13 (8) A dismissal;
14 (9) A transfer; or
15 (10) Frequent changes in working hours or workdays.
16 (b) Does not include action described in paragraphs (1) to (10),
17 inclusive, of paragraph (a) if the action is taken in the normal course of
18 employment or as a form of discipline.
19 **Sec. 60.** An employee of an osteopathic physician who believes that
20 he has been retaliated or discriminated against in violation of section 59
21 of this act may file an action in a court of competent jurisdiction for such
22 relief as may be appropriate under the law.
23 **Sec. 61.** (Deleted by amendment.)
24 **Sec. 62.** 1. On or before February 15 of each odd-numbered year,
25 the board shall submit to the governor and to the director of the
26 legislative counsel bureau for transmittal to the next regular session of
27 the legislature a written report compiling:
28 (a) Disciplinary action taken by the board during the previous
29 biennium against osteopathic physicians for malpractice or negligence;
30 and
31 (b) Information reported to the board during the previous biennium
32 pursuant to NRS 690B.045, section 63 of this act and subsections 2 and 3
33 of section 64 of this act.
34 2. The report must include only aggregate information for statistical
35 purposes and exclude any identifying information related to a particular
36 person.
37 **Sec. 63.** 1. The insurer of an osteopathic physician licensed under
38 this chapter and the osteopathic physician must report to the board any
39 action filed or claim submitted to arbitration or mediation for
40 malpractice or negligence against the osteopathic physician and the
41 settlement, award, judgment or other disposition of the action or claim
42 within 30 days after:
43 (a) The action was filed or the claim was submitted to arbitration or
44 mediation; and
45 (b) The disposition of the action or claim.
46 2. The board shall report any failure to comply with subsection 1 by
47 an insurer licensed in this state to the division of insurance of the
48 department of business and industry. If, after a hearing, the division of
49 insurance determines that any such insurer failed to comply with the



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1 *requirements of subsection 1, the division may impose an administrative*
2 *fine of not more than \$10,000 against the insurer for each such failure to*
3 *report. If the administrative fine is not paid when due, the fine must be*
4 *recovered in a civil action brought by the attorney general on behalf of*
5 *the division.*

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

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

28 *3. The clerk of every court shall report to the board any finding,*
29 *judgment or other determination of the court that an osteopathic*
30 *physician or osteopathic physician's assistant:*

- 31 *(a) Is mentally ill;*
32 *(b) Is mentally incompetent;*
33 *(c) Has been convicted of a felony or any law governing controlled*
34 *substances or dangerous drugs;*
35 *(d) Is guilty of abuse or fraud under any state or federal program*
36 *providing medical assistance; or*
37 *(e) Is liable for damages for malpractice or negligence,*
38 *within 45 days after such a finding, judgment or determination is made.*

39 *4. On or before January 15 of each year, the clerk of every court*
40 *shall submit to the office of court administrator created pursuant to NRS*
41 *1.320 a written report compiling the information that the clerk reported*
42 *during the previous year to the board regarding osteopathic physicians*
43 *pursuant to paragraph (e) of subsection 3.*

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

45 633.471 1. Except as otherwise provided in subsection 3 and in
46 NRS 633.491, every holder of a license issued under this chapter, except
47 a temporary or a special license, may renew his license on or before
48 January 1 of each calendar year after its issuance by:

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



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- 1 (b) Submitting the statement required pursuant to NRS 633.326;
2 (c) Paying the annual license renewal fee specified in this chapter; ~~and~~
3 (d) *Submitting a list of all actions filed or claims submitted to*
4 *arbitration or mediation for malpractice or negligence against him*
5 *during the previous year; and*

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

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

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

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

18 633.511 The grounds for initiating disciplinary action pursuant to this
19 chapter are:

20 1. Unprofessional conduct.

21 2. Conviction of:

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

25 (b) A felony;

26 (c) A violation of any of the provisions of NRS 616D.200, 616D.220,
27 616D.240 or 616D.300 to 616D.440, inclusive; or

28 (d) Any offense involving moral turpitude.

29 3. The suspension of the license to practice osteopathic medicine by
30 any other jurisdiction.

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

33 5. Professional incompetence.

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

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

36 690B.045 Except as more is required in NRS 630.3067 ~~and~~ ***and section***
37 ***63 of this act:***

38 1. Each insurer which issues a policy of insurance covering the
39 liability of a practitioner licensed pursuant to chapters 630 to 640,
40 inclusive, of NRS for a breach of his professional duty toward a patient
41 shall report to the board which licensed the practitioner within 30 days
42 each settlement or award made or judgment rendered by reason of a claim,
43 if the settlement, award or judgment is for more than \$5,000, giving the
44 name and address of the claimant and the practitioner and the
45 circumstances of the case.

46 2. A practitioner licensed pursuant to chapters 630 to 640, inclusive, of
47 NRS who does not have insurance covering liability for a breach of his
48 professional duty toward a patient shall report to the board which issued his
49 license within 30 days of each settlement or award made or judgment



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1 rendered by reason of a claim, if the settlement, award or judgment is for
2 more than \$5,000, giving his name and address, the name and address of
3 the claimant and the circumstances of the case.

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

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

8 690B.050 1. Each insurer which issues a policy of insurance
9 covering the liability of a physician licensed under chapter 630 of NRS *or*
10 *an osteopathic physician licensed under chapter 633 of NRS* for a breach
11 of his professional duty toward a patient shall report to the commissioner
12 within 30 days each settlement or award made or judgment rendered by
13 reason of a claim, giving the name and address of the claimant and
14 physician and the circumstances of the case.

15 2. The commissioner shall report to the board of medical examiners ~~H~~
16 *or the state board of osteopathic medicine, as applicable*, within 30 days
17 after receiving the report of the insurer, each claim made and each
18 settlement, award or judgment.

19 **Sec. 69.** NRS 41A.0043, 41A.005, 41A.008, 41A.016, 41A.019,
20 41A.023, 41A.024, 41A.026, 41A.029, 41A.033, 41A.036, 41A.039,
21 41A.043, 41A.046, 41A.049, 41A.051, 41A.053, 41A.056, 41A.059,
22 41A.069 and 631.377 are hereby repealed.

23 **Sec. 70.** The amendatory provisions of sections 1 to 6, inclusive, and
24 11 of this act apply only to a cause of action that accrues on or after
25 October 1, 2002.

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

28 **Sec. 72.** 1. Notwithstanding the repeal of NRS 41A.0043, 41A.005,
29 41A.008 and 41A.016 to 41A.069, inclusive, if a claimant has filed a
30 complaint with the division of insurance of the department of business and
31 industry pursuant to NRS 41A.039 before October 1, 2002, and a
32 determination has not been made by the screening panel as provided in
33 NRS 41A.003 to 41A.069, inclusive, before October 1, 2002, the claimant
34 may elect:

35 (a) To have a determination made by the screening panel as provided in
36 NRS 41A.003 to 41A.069, inclusive. If the claimant elects to have a
37 determination made by the screening panel, the provisions of NRS
38 41A.003 to 41A.069, inclusive, shall be deemed to continue to apply to the
39 claim and to any subsequent action filed in the district court. If the claimant
40 wishes to elect to have a determination made by the screening panel, the
41 claimant must, before December 1, 2002, file written notice of that fact
42 with the division. If the claimant fails to provide such written notice, the
43 claimant shall be deemed to have elected to have no further action taken by
44 the screening panel concerning the complaint.

45 (b) To have no further action taken by the screening panel concerning
46 the complaint. If the claimant elects to have no further action taken by the
47 screening panel concerning the complaint, the division and the screening
48 panel shall not take any further action with respect to the complaint, and
49 the claimant may file an action in the district court.



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1 2. Notwithstanding the repeal of NRS 41A.0043, 41A.005, 41A.008
2 and 41A.016 to 41A.069, inclusive, and the amendment of paragraph (b) of
3 subsection 2 of NRS 41A.097, if a claimant elects:

4 (a) To have a determination made by the screening panel, the tolling of
5 the time limitation provided for review of the complaint by the screening
6 panel pursuant to NRS 41A.097 shall be deemed to continue to apply until
7 30 days after the date on which the screening panel notifies the claimant, in
8 writing, of its findings.

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

13 3. If a claimant:

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

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

17 (c) Prevails at the trial of the action,

18 the claimant is entitled to tax, as costs, the fee paid to the division pursuant
19 to NRS 41A.039 for filing the complaint.

20 **Sec. 72.5.** 1. For the period beginning on October 1, 2002, and
21 ending on October 1, 2005, the division shall monitor and maintain records
22 of all:

23 (a) Premiums charged for policies of insurance covering the liability of
24 a practitioner licensed to practice medicine, dentistry or osteopathic
25 medicine pursuant to chapter 630, 631 or 633 of NRS for a breach of his
26 professional duty toward a patient; and

27 (b) Jury verdicts and settlements of cases and claims relating to the
28 liability of a practitioner licensed to practice medicine, dentistry or
29 osteopathic medicine pursuant to chapter 630, 631 or 633 of NRS for a
30 breach of his professional duty toward a patient, including, without
31 limitation:

32 (1) The amount of each jury verdict or settlement;

33 (2) For each case or claim, whether any limitation on the amount of
34 any damages applied; and

35 (3) For each case or claim, the effect of any applicable limitation on
36 the amount of any damages.

37 2. Not later than November 1, 2005, the division shall deliver to the
38 commissioner for review a report that must include, without limitation:

39 (a) A summary of the information obtained pursuant to subsection 1;
40 and

41 (b) Analyses of any changes or trends in the amounts of or volumes of
42 premiums or jury verdicts and settlements as evidenced by the information
43 obtained pursuant to subsection 1.

44 3. Not later than December 1, 2005, the commissioner shall submit to
45 the director of the legislative counsel bureau for transmission to the
46 legislative commission and the legislature a report that must include,
47 without limitation:



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- 1 (a) The findings of the division delivered to the commissioner pursuant
2 to this section; and
3 (b) Any recommendations of the commissioner for legislation based
4 upon the findings of the division, including, without limitation, any
5 recommendations for annual adjustments for inflation for any limitations
6 on damages applicable to cases and claims relating to the liability of a
7 practitioner licensed to practice medicine, dentistry or osteopathic
8 medicine pursuant to chapter 630, 631 or 633 of NRS for a breach of his
9 professional duty toward a patient.
- 10 4. As used in this section:
11 (a) "Commissioner" has the meaning ascribed to it in NRS 679A.060.
12 (b) "Division" has the meaning ascribed to it in NRS 679A.085.
- 13 **Sec. 73.** On or before March 1, 2003, pursuant to subsection 3 of
14 section 7 of this act, each district court in this state shall adopt court rules
15 to expedite the resolution of an action involving medical malpractice or
16 dental malpractice.
- 17 **Sec. 74.** (Deleted by amendment.)
- 18 **Sec. 75.** 1. This section and sections 1 to 17, inclusive, 51 to 58,
19 inclusive, and 62 to 73, inclusive, of this act become effective on
20 October 1, 2002.
- 21 2. Sections 18 to 39, inclusive, 44 to 49, inclusive, 59 and 60 of this
22 act become effective on July 1, 2003.

LEADLINES OF REPEALED SECTIONS

- 41A.0043 "Dentist" defined.
41A.005 "Division" defined.
41A.008 "Health care records" 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.



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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.

41A.069 Instructions to jury.

631.377 Screening panel immune from civil action.

