

SENATE BILL NO. 199—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF BOARD OF OSTEOPATHIC MEDICINE)

FEBRUARY 16, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to osteopathic medicine. (BDR 54-402)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

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

AN ACT relating to osteopathic medicine; revising the provisions governing the requirements for licensure as an osteopathic physician; requiring that a complaint against a practitioner of osteopathic medicine be filed with the state board of osteopathic medicine; requiring certain persons to review and investigate such a complaint; requiring those persons to file a report of the results of their investigation; requiring the state board of osteopathic medicine to establish the amount of fees by regulation; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 633 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 **Sec. 2. “Complaint” means a written complaint filed with the board**
- 4 **pursuant to the provisions of NRS 633.531.**
- 5 **Sec. 3. “Formal complaint” means a complaint prepared by the**
- 6 **board pursuant to the provisions of NRS 633.551.**
- 7 **Sec. 4. “Report” means a report filed with the board pursuant to the**
- 8 **provisions of NRS 633.541.**
- 9 **Sec. 5.** NRS 633.011 is hereby amended to read as follows:
- 10 633.011 As used in this chapter, unless the context otherwise requires,
- 11 the words and terms defined in NRS 633.021 to 633.131, inclusive, **and**
- 12 **sections 2, 3 and 4 of this act** have the meanings ascribed to them in those
- 13 sections.

1 **Sec. 6.** NRS 633.271 is hereby amended to read as follows:

2 633.271 The board may:

3 1. ***Appoint an executive director who is entitled to such compensation***
4 ***as determined by the board.***

5 2. Maintain offices in as many localities in the state as it finds
6 necessary to carry out the provisions of this chapter.

7 ~~{2.}~~ 3. Employ attorneys, investigators and other professional
8 consultants and clerical personnel necessary to the discharge of its duties.

9 **Sec. 7.** NRS 633.311 is hereby amended to read as follows:

10 633.311 Except as otherwise provided in NRS 633.315, an applicant
11 for a license to practice osteopathic medicine may be issued a license by
12 the board if ~~{he}~~:

13 ~~—1.—~~ ~~{Is}~~ :

14 1. ***He is*** 21 years of age or older;

15 2. ~~{Is}~~ ***He is*** a citizen of the United States or is lawfully entitled to
16 remain and work in the United States;

17 3. ~~{Is}~~ ***He is*** a graduate of a school of osteopathic medicine;

18 4. ~~{Has completed:}~~ ***He:***

19 (a) ***Graduated from a school of osteopathic medicine before 1995, and***
20 ***has completed:***

21 (1) A hospital internship; ***or***

22 (2) ***One year of postgraduate training that complies with the***
23 ***standards of intern training established by the American Osteopathic***
24 ***Association;***

25 (b) ~~{Three}~~ ***Has completed 3*** years of ~~{graduate}~~ ***postgraduate medical***
26 ***education as a resident in the United States or Canada in a program***
27 ***approved by the board, the Bureau of Professional Education of the***
28 ***American Osteopathic Association or the Accreditation Council for***
29 ***Graduate Medical Education; or***

30 (c) ~~{Postgraduate training in the United States or Canada approved by~~
31 ~~*the board, the Bureau of Professional Education of the American*~~
32 ~~*Osteopathic Association or the Accreditation Council for Graduate Medical*~~
33 ~~*Education;*~~

34 ~~—5.—~~ ~~{Applies}~~ ***Is a resident presently enrolled in a postgraduate training***
35 ***program in this state, has completed 24 months of the training program***
36 ***and has committed, in writing, to completing the training program;***

37 5. ***He applies*** for the license as provided by law;

38 6. ~~{Passes}~~ ***He passes:***

39 (a) ***All parts of the licensing examination*** ~~{prescribed}~~ ***of the National***
40 ***Board of Osteopathic Medical Examiners;***

41 (b) ***All parts of the licensing examination of the Federation of***
42 ***Medical Examiners;***

(c) *All parts of the licensing examination of the board, a state, territory or possession of the United States, or the District of Columbia, and he is certified by a specialty board of the American Osteopathic Association or by the American Board of Medical Specialties; or*

(d) *A combination of the parts of the licensing examinations described in paragraphs (a), (b) and (c) that is approved by the board;*

7. ~~{Submits}~~ **He submits** the statement required pursuant to *the provisions of* NRS 633.326; and

8. ~~{Pays}~~ **He pays** the fees provided for in this chapter.

Sec. 8. NRS 633.401 is hereby amended to read as follows:

633.401 1. Except as otherwise provided in NRS 633.315, the board may issue a special license:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into ~~{Nevada}~~ **this state** to care for or assist in the treatment of his own patients in association with an osteopathic physician in this state who has primary care of the patients.

(b) To a resident ~~{or fellow}~~ while **he is** enrolled in a ~~{graduate education program or}~~ postgraduate training **program** required pursuant to **the provisions of paragraph (d) of** subsection 4 of NRS 633.311.

(c) For a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

2. A special license issued under this section may be renewed by the board upon application of the licensee.

3. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 9. NRS 633.501 is hereby amended to read as follows:

633.501 The board shall charge and collect ~~{only the following fees}~~:

1. Initial license fee.....	\$200
2. Annual license renewal fee.....	100
3. Temporary license fee.....	50
4. Special license fee	50
5. Special license renewal fee.....	50
6. Re-examination fee.....	200
7. Late payment fee.....	35
8. For a certificate as an osteopathic physician's assistant.....	100
9. Renewal of a certificate as an osteopathic physician's assistant.....	50
10. For an application to employ an osteopathic physician's assistant.....	100

such fees as it establishes by regulation.

1 **Sec. 10.** NRS 633.531 is hereby amended to read as follows:

2 633.531 The board or any of its members, any medical review panel of
3 a hospital or medical society which becomes aware that any one or
4 combination of the grounds for initiating disciplinary action may exist as to
5 a person practicing osteopathic medicine in this state shall, and any other
6 person who is so aware may, file a written complaint specifying the
7 relevant facts with the board . ~~for with the osteopathic medical society of~~
8 ~~the county in which the person charged has his office if there is an~~
9 ~~osteopathic medical society in the county.]~~

10 **Sec. 11.** NRS 633.541 is hereby amended to read as follows:

11 633.541 1. ~~[When]~~ **If** a complaint is filed ~~[-~~

12 ~~—(a) With]~~ **with** the board, it ~~[shall]~~ **must** be reviewed by the **executive**
13 **director of the board or a member of the board [-**

14 ~~—(b) With a county osteopathic medical society, the society shall forward~~
15 ~~a copy of the complaint to the board for review.]~~ **designated by the**
16 **executive director.**

17 2. If, from the complaint or from other official records, ~~[it appears]~~ **the**
18 **executive director or member of the board determines** that the complaint
19 is not frivolous and the complaint charges:

20 (a) Unprofessional conduct, a conviction or the suspension or revocation
21 of a license to practice osteopathic medicine, **an investigation of the**
22 **complaint must be conducted by:**

23 (1) **A member of the board** ~~[shall proceed with appropriate~~
24 ~~disciplinary action.]~~ **designated by the executive director;**

25 (2) **A private investigator who is licensed pursuant to chapter 648 of**
26 **NRS and designated by the executive director; or**

27 (3) **The attorney general, upon the request of the board.**

28 (b) Gross or repeated malpractice or professional incompetence, **an**
29 **investigation of the complaint must be conducted by a committee**
30 **appointed by the board .** ~~[shall transmit the original complaint, along with~~
31 ~~further facts or information derived from its own review, to the attorney~~
32 ~~general.]~~ **The committee must include at least one member of the board.**

33 3. **If the investigator, attorney general or the committee determines**
34 **that there is a reasonable basis for the complaint, the investigator,**
35 **attorney general or committee shall file a report of the results of its**
36 **investigation with the board. The report must include a copy of the**
37 **complaint.**

38 **Sec. 12.** NRS 633.551 is hereby amended to read as follows:

39 633.551 1. The ~~[attorney general shall conduct an investigation of~~
40 ~~each complaint transmitted to him to determine whether it warrants~~
41 ~~proceedings for modification, suspension or revocation of license. If he~~
42 ~~determines that such further proceedings are warranted, he shall report the~~
43 ~~results of his investigation together with his recommendation to the board~~

1 in a manner which does not violate the right of the person charged in the
2 complaint to due process in any later hearing before the board.

3 —2.— ~~The~~ board shall promptly ~~[make a determination]~~ **determine the**
4 **action it will take** with respect to each ~~[complaint reported to it by the~~
5 ~~attorney general as to what action shall be pursued.]~~ **report**. The board
6 shall:

7 (a) Dismiss the complaint; or

8 (b) Proceed with appropriate disciplinary action.

9 **2. If the board proceeds with disciplinary action, it shall prepare a**
10 **formal complaint specifying the grounds for proceeding with disciplinary**
11 **action.**

12 **Sec. 13.** NRS 633.561 is hereby amended to read as follows:

13 633.561 1. ~~[If the board determines that a complaint is not frivolous,~~
14 ~~the]~~ **The** board may require the person charged in ~~[the]~~ **a formal** complaint
15 to submit to a mental or physical examination by physicians designated by
16 the board.

17 2. For the purposes of this section:

18 (a) Every physician **who is** licensed under this chapter who accepts the
19 privilege of practicing osteopathic medicine in this state shall be deemed to
20 have given his consent to submit to a mental or physical examination
21 ~~[when]~~ **if** directed to do so in writing by the board.

22 (b) The testimony or examination reports of the examining physicians
23 are not privileged communications.

24 3. Except in extraordinary circumstances, as determined by the board,
25 the failure of a physician **who is** licensed under this chapter to submit to an
26 examination ~~[when]~~ **if** directed as provided in this section constitutes an
27 admission of the charges against him.

28 **Sec. 14.** NRS 633.621 is hereby amended to read as follows:

29 633.621 If ~~[-~~

30 ~~1.— A complaint charging unprofessional conduct, a conviction or the~~
31 ~~suspension or revocation of a license to practice osteopathic medicine is not~~
32 ~~frivolous; or~~

33 ~~2.— With respect to a complaint reported by the attorney general,]~~ the
34 board ~~[has determined to proceed]~~ **proceeds** with disciplinary action ~~[-]~~
35 **pursuant to the provisions of NRS 633.551**, the secretary of the board
36 shall fix a time and place for a hearing and cause a notice of the hearing
37 and ~~[a]~~ **the** formal complaint ~~[prepared by the board]~~ to be served on the
38 person charged at least 20 days before the date fixed for the hearing. If the
39 board receives a report **from the attorney general** pursuant to **the**
40 **provisions of** subsection 5 of NRS 228.420, ~~[such a]~~ **the** hearing must be
41 held within 30 days after receiving the report.

1 **Sec. 15.** NRS 633.641 is hereby amended to read as follows:

2 633.641 In any disciplinary proceeding before the board:

3 1. Proof of actual injury need not be established where the **formal**
4 complaint charges deceptive or unethical professional conduct or medical
5 practice harmful to the public.

6 2. A certified copy of the record of a court or a licensing agency
7 showing a conviction or the suspension or revocation of a license to
8 practice osteopathic medicine is conclusive evidence of its occurrence.

9 **Sec. 16.** NRS 633.651 is hereby amended to read as follows:

10 633.651 1. The person charged **in a formal complaint** is entitled to a
11 hearing before the board, but the failure of the person charged to attend his
12 hearing or his failure to defend himself ~~shall not serve to~~ **must not** delay
13 or void the proceedings. The board may, for good cause shown, continue
14 any hearing from time to time.

15 2. If the board finds the person guilty as charged in the **formal**
16 complaint, it may, by order:

17 (a) Place the person on probation for a specified period, or until further
18 order of the board.

19 (b) Administer to the person a public or private reprimand.

20 (c) Limit the practice of the person to, or by the exclusion of, one or
21 more specified branches of osteopathic medicine.

22 (d) Suspend the license of the person to practice osteopathic medicine
23 for a specified period, or until further order of the board.

24 (e) Revoke the license of the person to practice osteopathic medicine.
25 The order of the board may contain such other terms, provisions or
26 conditions as the board deems proper and which are not inconsistent with
27 law.

28 **Sec. 17.** NRS 633.691 is hereby amended to read as follows:

29 633.691 The ~~[state board of osteopathic medicine,]~~ **board**, a medical
30 review panel of a hospital ~~[, an osteopathic medical society,]~~ or any person
31 who or other organization which initiates or assists in any lawful
32 investigation or proceeding concerning the discipline of an osteopathic
33 physician for gross malpractice, repeated malpractice, professional
34 incompetence or unprofessional conduct is immune from any civil action
35 for such initiation or assistance or any consequential damages, if the person
36 or organization acted without malicious intent.

37 **Sec. 18.** NRS 633.701 is hereby amended to read as follows:

38 633.701 The filing, ~~[and]~~ review **and investigation** of a complaint, its
39 dismissal without further action ~~for its transmittal to the attorney general,~~
40 and any subsequent disposition by the board ~~[, the attorney general]~~ or any
41 reviewing court do not preclude:

- 1 1. Any measure by a hospital or other institution ~~for osteopathic~~
2 ~~medical society]~~ to limit or terminate the privileges of an osteopathic
3 physician according to its rules or the custom of the profession. No civil
4 liability attaches to any such action taken without malice even if the
5 ultimate disposition of the complaint is in favor of the physician.
- 6 2. Any appropriate criminal prosecution by the attorney general or a
7 district attorney based upon the same or other facts.
- 8 **Sec. 19.** This act becomes effective upon passage and approval.

~