

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.

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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; revising the fees that may be charged and collected by the board; 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;

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

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

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

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

10 **Sec. 8.** NRS 633.321 is hereby amended to read as follows:

11 633.321 1. Every applicant for a license shall:

12 (a) File an application with the board in the manner prescribed by
13 regulations of the board;

14 (b) Submit verified proof satisfactory to the board that he meets the age,
15 citizenship and educational requirements prescribed by this chapter; and

16 (c) Pay in advance to the board the *application and* initial license fee
17 specified in this chapter.

18 2. An application filed with the board pursuant to subsection 1 must
19 include the social security number of the applicant.

20 3. The board may hold hearings and conduct investigations into any
21 matter related to the application and, in addition to the proofs required by
22 subsection 1, may take such further evidence and require such other
23 documents or proof of qualifications as it deems proper.

24 4. The board may reject an application if it appears that any credential
25 submitted is false.

26 **Sec. 9.** NRS 633.341 is hereby amended to read as follows:

27 633.341 1. If an applicant fails in a first examination, he may be re-
28 examined after not less than 6 months.

29 2. If he fails in a second examination, he is not thereafter entitled to
30 another examination within less than 1 year after the date of the second
31 examination, and prior thereto he shall furnish proof to the board of further
32 postgraduate study following the second examination satisfactory to the
33 board.

34 3. Each applicant who fails an examination and who is permitted to be
35 re-examined shall pay for each re-examination the re-examination fee
36 specified in this chapter.

37 4. If an applicant does not appear for examination, for any reason
38 deemed sufficient by the board, the board may refund a portion of the
39 *application and* initial license fee not to exceed \$100 upon the request of
40 the applicant. ~~{There shall be no}~~ *An applicant is not entitled to a* refund of
41 the *application and* initial license fee if ~~{an applicant}~~ *he* appears for
42 examination.

1 **Sec. 10.** NRS 633.361 is hereby amended to read as follows:

2 633.361 1. Except as otherwise provided in NRS 633.315, the board
3 may issue a license without examination to a person:

4 (a) Who has completed a hospital internship and is licensed in any
5 country, state, territory or province to practice osteopathic medicine, if the
6 licensing requirements of that country, state, territory or province at the
7 time the license was issued are deemed by the board to be practically
8 equivalent to the licensing requirements in force in this state at that time.

9 (b) Who is a graduate of a school of osteopathic medicine, has
10 completed a hospital internship and passed an examination for admission
11 into the medical corps of any of the Armed Forces of the United States or
12 the United States Public Health Service or who possesses a certificate from
13 the National Board of Examiners for Osteopathic Physicians and Surgeons.

14 2. Any person applying for a license under the provisions of subsection
15 1 shall:

16 (a) Furnish to the board such proof of qualifications and pass an oral
17 examination as the board may require; and

18 (b) Pay in advance to the board the *application and* initial license fee
19 specified in this chapter.

20 **Sec. 11.** NRS 633.401 is hereby amended to read as follows:

21 633.401 1. Except as otherwise provided in NRS 633.315, the board
22 may issue a special license:

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

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

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

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

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

37 **Sec. 12.** NRS 633.501 is hereby amended to read as follows:

38 633.501 The board shall charge and collect ~~[only the following fees:]~~
39 *fees not to exceed the following amounts:*

- 40
41 1. ~~[Initial]~~ *Application and initial* license fee ~~[\$200]~~ *\$500*
42 2. Annual license renewal fee..... ~~[100]~~ *300*
43 3. Temporary license fee ~~[50]~~ *100*

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

11 **Sec. 13.** NRS 633.531 is hereby amended to read as follows:

12 633.531 The board or any of its members, any medical review panel of
13 a hospital or medical society which becomes aware that any one or
14 combination of the grounds for initiating disciplinary action may exist as to
15 a person practicing osteopathic medicine in this state shall, and any other
16 person who is so aware may, file a written complaint specifying the
17 relevant facts with the board . ~~{or with the osteopathic medical society of~~
18 ~~the county in which the person charged has his office if there is an~~
19 ~~osteopathic medical society in the county.}~~

20 **Sec. 14.** NRS 633.541 is hereby amended to read as follows:

21 633.541 1. ~~{When}~~ **If** a complaint is filed ~~{:~~

22 ~~—(a) With}~~ **with** the board, it ~~{shall}~~ **must** be reviewed by the **executive**
23 **director of the board or a member of the** board ~~{:~~

24 ~~—(b) With a county osteopathic medical society, the society shall forward~~
25 ~~a copy of the complaint to the board for review.}~~ **designated by the**
26 **executive director.**

27 2. If, from the complaint or from other official records, ~~{it appears}~~ **the**
28 **executive director or member of the board determines** that the complaint
29 is not frivolous and the complaint charges:

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

33 **(1) A member of the board** ~~{shall proceed with appropriate~~
34 ~~disciplinary action.}~~ **designated by the executive director;**

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

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

38 (b) Gross or repeated malpractice or professional incompetence, **an**
39 **investigation of the complaint must be conducted by a committee**

40 **appointed by** the board . ~~{shall transmit the original complaint, along with~~
41 ~~further facts or information derived from its own review, to the attorney~~

42 ~~general.}~~ **The committee must include at least one member of the board.**

1 **3. If the investigator, attorney general or the committee determines**
2 **that there is a reasonable basis for the complaint, the investigator,**
3 **attorney general or committee shall file a report of the results of its**
4 **investigation with the board. The report must include a copy of the**
5 **complaint.**

6 **Sec. 15.** NRS 633.551 is hereby amended to read as follows:

7 633.551 1. ~~The [attorney general shall conduct an investigation of~~
8 ~~each complaint transmitted to him to determine whether it warrants~~
9 ~~proceedings for modification, suspension or revocation of license. If he~~
10 ~~determines that such further proceedings are warranted, he shall report the~~
11 ~~results of his investigation together with his recommendation to the board~~
12 ~~in a manner which does not violate the right of the person charged in the~~
13 ~~complaint to due process in any later hearing before the board.~~

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

18 (a) Dismiss the complaint; or

19 (b) Proceed with appropriate disciplinary action.

20 **2. If the board proceeds with disciplinary action, it shall prepare a**
21 **formal complaint specifying the grounds for proceeding with disciplinary**
22 **action.**

23 **Sec. 16.** NRS 633.561 is hereby amended to read as follows:

24 633.561 1. ~~[If the board determines that a complaint is not frivolous,~~
25 ~~the]~~ **The** board may require the person charged in ~~[the]~~ **a formal** complaint
26 to submit to a mental or physical examination by physicians designated by
27 the board.

28 2. For the purposes of this section:

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

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

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

39 **Sec. 17.** NRS 633.621 is hereby amended to read as follows:

40 633.621 If ~~;~~

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

or

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

10 **Sec. 18.** NRS 633.641 is hereby amended to read as follows:

11 633.641 In any disciplinary proceeding before the board:

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

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

18 **Sec. 19.** NRS 633.651 is hereby amended to read as follows:

19 633.651 1. The person charged **in a formal complaint** is entitled to a
20 hearing before the board, but the failure of the person charged to attend his
21 hearing or his failure to defend himself ~~[shall not serve to]~~ **must not** delay
22 or void the proceedings. The board may, for good cause shown, continue
23 any hearing from time to time.

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

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

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

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

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

33 (e) Revoke the license of the person to practice osteopathic medicine.

34 The order of the board may contain such other terms, provisions or
35 conditions as the board deems proper and which are not inconsistent with
36 law.

37 **Sec. 20.** NRS 633.691 is hereby amended to read as follows:

38 633.691 The ~~[state board of osteopathic medicine,]~~ **board**, a medical
39 review panel of a hospital ~~[, an osteopathic medical society,]~~ or any person
40 who or other organization which initiates or assists in any lawful
41 investigation or proceeding concerning the discipline of an osteopathic
42 physician for gross malpractice, repeated malpractice, professional
43 incompetence or unprofessional conduct is immune from any civil action

1 for such initiation or assistance or any consequential damages, if the person
2 or organization acted without malicious intent.

3 **Sec. 21.** NRS 633.701 is hereby amended to read as follows:

4 633.701 The filing , ~~and~~ review *and investigation* of a complaint, its
5 dismissal without further action ~~for its transmittal to the attorney general,~~
6 and any subsequent disposition by the board ~~[, the attorney general]~~ or any
7 reviewing court do not preclude:

8 1. Any measure by a hospital or other institution ~~for osteopathic~~
9 ~~medical society~~ to limit or terminate the privileges of an osteopathic
10 physician according to its rules or the custom of the profession. No civil
11 liability attaches to any such action taken without malice even if the
12 ultimate disposition of the complaint is in favor of the physician.

13 2. Any appropriate criminal prosecution by the attorney general or a
14 district attorney based upon the same or other facts.

15 **Sec. 22.** This act becomes effective upon passage and approval.

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