

ASSEMBLY BILL NO. 290—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE)

MARCH 6, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to osteopathic medicine. (BDR 54-570)

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 osteopathic medicine; revising the provisions governing the requirements for licensure as an osteopathic physician; revising the provisions governing the filing of a complaint against a practitioner of osteopathic medicine with the state board of osteopathic medicine; requiring a member of the board to review and investigate such a complaint; 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 and 3 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 filed with the board*  
6 *pursuant to the provisions of NRS 633.541.*

7 **Sec. 4.** NRS 633.011 is hereby amended to read as follows:  
8 633.011 As used in this chapter, unless the context otherwise requires,  
9 the words and terms defined in NRS 633.021 to 633.131, inclusive, *and*  
10 *sections 2 and 3 of this act* have the meanings ascribed to them in those  
11 sections.

12 **Sec. 5.** NRS 633.271 is hereby amended to read as follows:  
13 633.271 The board may:

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

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

18 ~~12-1~~ 3. Employ attorneys, investigators and other professional  
19 consultants and clerical personnel necessary to the discharge of its duties.



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1     **Sec. 6.** NRS 633.311 is hereby amended to read as follows:  
2     633.311 Except as otherwise provided in NRS 633.315, an applicant  
3     for a license to practice osteopathic medicine may be issued a license by  
4     the board if ~~he~~:  
5     ~~1. Is~~:  
6     1. *He is* 21 years of age or older;  
7     2. ~~Is~~ *He is* a citizen of the United States or is lawfully entitled to  
8     remain and work in the United States;  
9     3. ~~Is~~ *He is* a graduate of a school of osteopathic medicine;  
10    4. ~~Has completed~~ *He:*  
11    (a) *Has graduated from a school of osteopathic medicine before 1995*  
12    *and has completed:*  
13    (1) A hospital internship; *or*  
14    (2) *One year of postgraduate training that complies with the*  
15    *standards of intern training established by the American Osteopathic*  
16    *Association;*  
17    (b) ~~Three~~ *Has completed 3* years of ~~graduate~~ *postgraduate medical*  
18    education as a resident in the United States or Canada in a program  
19    approved by the *board, the* Bureau of Professional Education of the  
20    American Osteopathic Association or the Accreditation Council for  
21    Graduate Medical Education; or  
22    (c) ~~Postgraduate training in the United States or Canada approved by~~  
23    ~~the board, the Bureau of Professional Education of the American~~  
24    ~~Osteopathic Association or the Accreditation Council for Graduate Medical~~  
25    ~~Education;~~  
26    ~~5. Applies~~ *Is a resident who is enrolled in a postgraduate training*  
27    *program in this state, has completed 24 months of the program and has*  
28    *committed, in writing, that he will complete the program;*  
29    5. *He applies* for the license as provided by law;  
30    6. ~~Passes~~ *He passes:*  
31    (a) *All parts of the licensing examination* ~~prescribed by~~ *of the*  
32    *National Board of Osteopathic Medical Examiners;*  
33    (b) *All parts of the licensing examination of the Federation of State*  
34    *Medical Boards of the United States, Inc.;*  
35    (c) *All parts of the licensing examination of the board, a state,*  
36    *territory or possession of the United States or the District of Columbia,*  
37    *and he is certified by a specialty board of the American Osteopathic*  
38    *Association or by the American Board of Medical Specialties; or*  
39    (d) *A combination of the parts of the licensing examinations specified*  
40    *in paragraphs (a), (b) and (c) of this subsection that is approved by the*  
41    board;  
42    7. ~~Submits~~ *He submits* the statement required pursuant to *the*  
43    *provisions of* NRS 633.326; and  
44    8. ~~Pays~~ *He pays* the fees provided for in this chapter.  
45    **Sec. 7.** NRS 633.321 is hereby amended to read as follows:  
46    633.321 1. Every applicant for a license shall:  
47    (a) File an application with the board in the manner prescribed by  
48    regulations of the board;



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

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

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

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

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

13 **Sec. 8.** NRS 633.341 is hereby amended to read as follows:

14 633.341 1. If an applicant fails in a first examination, he may be  
15 reexamined after not less than 6 months.

16 2. If he fails in a second examination, he is not thereafter entitled to  
17 another examination within less than 1 year after the date of the second  
18 examination, and prior thereto he shall furnish proof to the board of further  
19 postgraduate study following the second examination satisfactory to the  
20 board.

21 3. Each applicant who fails an examination and who is permitted to be  
22 reexamined shall pay for each reexamination the reexamination fee  
23 specified in this chapter.

24 4. If an applicant does not appear for examination, for any reason  
25 deemed sufficient by the board, the board may refund a portion of the  
26 *application and* initial license fee not to exceed \$100 upon the request of  
27 the applicant. ~~There shall be no~~ *An applicant is not entitled to a* refund  
28 of the *application and* initial license fee if ~~an applicant~~ *he* appears for  
29 examination.

30 **Sec. 9.** NRS 633.361 is hereby amended to read as follows:

31 633.361 1. Except as otherwise provided in NRS 633.315, the board  
32 may issue a license without examination to a person:

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

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

43 2. Any person applying for a license under the provisions of subsection  
44 1 shall:

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

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



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1     **Sec. 10.** NRS 633.401 is hereby amended to read as follows:  
2     633.401 1. Except as otherwise provided in NRS 633.315, the board  
3     may issue a special license:

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

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

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

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

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

18    **Sec. 11.** NRS 633.501 is hereby amended to read as follows:

19    633.501 The board shall charge and collect ~~only the following fees:~~

20    ~~1. Initial~~ *fees not to exceed the following amounts:*

|   |                            |
|---|----------------------------|
| 21    1. Application and initial license fee.....                       | <del>1500</del> <i>500</i> |
| 22    2. Annual license renewal fee.....                                | <del>100</del> <i>300</i>  |
| 23    3. Temporary license fee.....                                     | <del>50</del> <i>100</i>   |
| 24    4. Special license fee.....                                       | <del>50</del> <i>100</i>   |
| 25    5. Special license renewal fee.....                               | <del>50</del> <i>100</i>   |
| 26    6. Reexamination fee.....   | 200                        |
| 27    7. Late payment fee.....  | <del>35</del> <i>100</i>   |
| 28    8. For a certificate as an osteopathic physician's assistant..... | <del>100</del> <i>200</i>  |
| 29    9. Renewal of a certificate as an osteopathic physician's         |                            |
| 30    assistant.....  | <del>50</del> <i>100</i>   |

31    10. For an application to employ an osteopathic  
32    physician's assistant..... ~~100~~ *200*

33    **Sec. 12.** NRS 633.531 is hereby amended to read as follows:

34    633.531 The board or any of its members, any medical review panel of  
35    a hospital or medical society which becomes aware that any one or  
36    combination of the grounds for initiating disciplinary action may exist as to  
37    a person practicing osteopathic medicine in this state shall, and any other  
38    person who is so aware may, file a written complaint specifying the  
39    relevant facts with the board. ~~for with the osteopathic medical society of~~  
40    ~~the county in which the person charged has his office if there is an~~  
41    ~~osteopathic medical society in the county.~~

42    **Sec. 13.** NRS 633.541 is hereby amended to read as follows:

43    633.541 1. When a complaint is filed ~~+~~

44    ~~(a) With the board, it shall be reviewed by the board.~~

45    ~~(b) With a county osteopathic medical society, the society shall forward~~  
46    ~~a copy of the complaint to the board for review.~~

47    ~~2. If, from the complaint or from other official records, it appears that~~  
48    ~~the complaint is not frivolous and the complaint charges:~~



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1 ~~—(a) Unprofessional conduct, a conviction or the suspension or~~  
2 ~~revocation of a license to practice osteopathic medicine, the board shall~~  
3 ~~proceed with appropriate disciplinary action.~~

4 ~~—(b) Gross or repeated malpractice or professional incompetence, the~~  
5 ~~board shall transmit the original complaint, along with further facts or~~  
6 ~~information derived from its own review, to the attorney general.] with the~~  
7 ~~board, the board shall designate a member of the board to review the~~  
8 ~~complaint.~~

9 2. *If the member of the board determines that the complaint is not*  
10 *frivolous, he shall conduct an investigation of the complaint to determine*  
11 *whether there is a reasonable basis for the complaint. In performing the*  
12 *investigation, the member of the board may request the assistance of the*  
13 *attorney general or contract with a private investigator designated by the*  
14 *executive director of the board who is licensed pursuant to chapter 648 of*  
15 *NRS or any other person designated by the executive director of the*  
16 *board.*

17 3. *If, after conducting the investigation pursuant to subsection 2, the*  
18 *member of the board determines that there is a reasonable basis for the*  
19 *complaint and that a violation of a provision of this chapter has*  
20 *occurred, the member of the board may file a formal complaint with the*  
21 *board specifying the grounds for disciplinary action.*

22 **Sec. 14.** NRS 633.561 is hereby amended to read as follows:

23 633.561 1. If the board ~~if~~ *determines that a complaint is not frivolous,*  
24 *or a member of the board designated to review a complaint pursuant to*  
25 *NRS 633.541 has reason to believe that the conduct of a physician has*  
26 *raised a reasonable question as to his competence to practice medicine*  
27 *with reasonable skill and safety to patients, the board or the member*  
28 *designated by the board may require the person charged in the complaint to*  
29 *submit to a mental or physical examination by physicians designated by the*  
30 *board.*

31 2. For the purposes of this section:

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

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

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

42 **Sec. 15.** NRS 633.621 is hereby amended to read as follows:

43 633.621 If ~~the~~:

44 1. ~~A complaint charging unprofessional conduct, a conviction or the~~  
45 ~~suspension or revocation of a license to practice osteopathic medicine is~~  
46 ~~not frivolous; or~~

47 2. ~~With respect to a complaint reported by the attorney general, the~~  
48 ~~board has determined to proceed with disciplinary action,] a formal~~  
49 *complaint is filed with the board pursuant to NRS 633.541, the secretary*



1 of the board shall fix a time and place for a hearing and cause a notice of  
2 the hearing and a formal complaint ~~{prepared by the board}~~ to be served on  
3 the person charged at least 20 days before the date fixed for the hearing. If  
4 the board receives a ~~{report pursuant to}~~ *formal complaint concerning*  
5 subsection 5 of NRS 228.420, such a hearing must be held within 30 days  
6 after receiving the ~~{report}~~ *formal complaint*.

7 **Sec. 16.** NRS 633.641 is hereby amended to read as follows:

8 633.641 In any disciplinary proceeding before the board:

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

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

15 **Sec. 17.** NRS 633.651 is hereby amended to read as follows:

16 633.651 1. The person charged *in a formal complaint* is entitled to a  
17 hearing before the board, but the failure of the person charged to attend his  
18 hearing or his failure to defend himself ~~{shall not serve to}~~ *must not* delay  
19 or void the proceedings. The board may, for good cause shown, continue  
20 any hearing from time to time.

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

23 (a) Place the person on probation for a specified period or until further  
24 order of the board.

25 (b) Administer to the person a public ~~{or private}~~ reprimand.

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

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

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

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

35 **Sec. 18.** NRS 633.691 is hereby amended to read as follows:

36 633.691 The ~~{state board of osteopathic medicine,}~~ *board*, a medical  
37 review panel of a hospital, ~~{an osteopathic medical society,}~~ or any person  
38 who or other organization which initiates or assists in any lawful  
39 investigation or proceeding concerning the discipline of an osteopathic  
40 physician for gross malpractice, repeated malpractice, professional  
41 incompetence or unprofessional conduct is immune from any civil action  
42 for such initiation or assistance or any consequential damages, if the person  
43 or organization acted without malicious intent.

44 **Sec. 19.** NRS 633.701 is hereby amended to read as follows:

45 633.701 The filing and review of a complaint ~~{, its dismissal without~~  
46 ~~further action or its transmittal to the attorney general,}~~ and any subsequent  
47 disposition by the board, the ~~{attorney general}~~ *member designated by the*  
48 *board to review a complaint pursuant to NRS 633.541* or any reviewing  
49 court do not preclude:



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- 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. 20.** NRS 633.551 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**633.551 Investigation of complaint by attorney general; board's determination of further action.**

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

2. The board shall promptly make a determination with respect to each complaint reported to it by the attorney general as to what action shall be pursued. The board shall:

- (a) Dismiss the complaint; or
- (b) Proceed with appropriate disciplinary action.

