

ASSEMBLY BILL NO. 491—ASSEMBLYMEN HUMKE, BEERS, BROWER,  
BUCKLEY, HETTRICK, LESLIE AND PARKS

MARCH 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes ophthalmologist and optometrist to cooperate in formation of professional corporation or professional association. (BDR 54-1280)

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 professions; authorizing an ophthalmologist and an optometrist to cooperate in the formation of a professional corporation or professional association; 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.** NRS 636.300 is hereby amended to read as follows:  
2     636.300 The following acts, among others, constitute unethical or  
3     unprofessional conduct:  
4         1. Association as an optometrist with any person, firm or corporation  
5         violating this chapter.  
6         2. Accepting employment, directly or indirectly, from a person not  
7         licensed to practice optometry in this state to assist him in such practice or  
8         enabling him to engage therein, except as authorized in NRS 636.347 ~~H~~  
9         *and 636.373.*  
10        3. Signing the prescription blanks of another optometrist or allowing  
11        another optometrist to use his prescription blanks.  
12        4. Except as otherwise provided in NRS 636.372 and 636.373,  
13        practicing in or on premises where any materials other than those necessary  
14        to render optometric examinations or services are dispensed to the public,  
15        or where a business is being conducted not exclusively devoted to  
16        optometry or other healing arts and materials or merchandise are displayed  
17        having no relation to the practice of optometry or other healing arts.  
18     **Sec. 2.** NRS 636.301 is hereby amended to read as follows:  
19     636.301 The following acts, among others, constitute unethical or  
20     unprofessional conduct:



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1 1. Division of fees with another optometrist or a health maintenance  
2 organization, except where the division is made in proportion to the  
3 services performed for the patient and the responsibility assumed by each.

4 2. Division of fees or any understanding or arrangement with any  
5 person *who is* not an optometrist, ~~or~~ a health maintenance organization  
6 ~~or an ophthalmologist with whom an optometrist has organized a~~  
7 ~~professional corporation pursuant to paragraph (c) of subsection 2 of~~  
8 ~~NRS 89.050 or a professional association pursuant to subsection 2 of~~  
9 ~~NRS 89.230.~~

10 **Sec. 3.** NRS 636.350 is hereby amended to read as follows:

11 636.350 1. An optometrist shall not practice optometry under an  
12 assumed or fictitious name unless ~~he has~~ *the optometrist:*

13 (a) *Has* been issued a certificate of registration by the board to practice  
14 optometry under an assumed or fictitious name ~~or~~ *;* or

15 (b) *Practices as a professional corporation pursuant to paragraph (c)*  
16 *of subsection 2 of NRS 89.050 or a professional association pursuant to*  
17 *subsection 2 of NRS 89.230.*

18 2. An optometrist who applies for a certificate of registration to  
19 practice optometry under an assumed or fictitious name must submit to the  
20 board an application on a form provided by the board.

21 3. Each optometrist who is issued a certificate of registration pursuant  
22 to this section shall:

23 (a) Comply with the provisions of chapter 602 of NRS; and

24 (b) Display or cause to be displayed near the entrance of his business  
25 his full name and the words or letters that designate him as an optometrist.

26 4. The board shall adopt regulations that prescribe the requirements for  
27 the issuance of a certificate of registration to practice optometry under an  
28 assumed or fictitious name.

29 5. As used in this section, "assumed or fictitious name" means a name  
30 that is not the real name of each person who owns an interest in a business.

31 **Sec. 4.** NRS 636.373 is hereby amended to read as follows:

32 636.373 1. An optometrist may form an association or other business  
33 relationship with a physician to provide their respective services to  
34 patients.

35 2. If such an association or business relationship is formed, the  
36 optometrist may:

37 (a) Locate his office in the same place of business as the physician  
38 without a physical separation between the office and the place of business.

39 (b) Authorize the physician to have access to any medical records in the  
40 possession of the optometrist relating to a patient who is being treated by  
41 both the optometrist and the physician.

42 (c) Advertise and promote the services provided by the association or  
43 business consistent with the restrictions on advertising set forth in NRS  
44 636.302.

45 3. This section does not authorize an optometrist to employ or be  
46 employed by a physician ~~or in circumstances other than those authorized~~  
47 ~~pursuant to paragraph (c) of subsection 2 of NRS 89.050 or subsection 2~~  
48 ~~of NRS 89.230.~~



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1     **Sec. 5.** NRS 89.050 is hereby amended to read as follows:

2     89.050 1. Except as otherwise provided in subsection 2, a  
3     professional corporation may be organized only for the purpose of  
4     rendering one specific type of professional service and may not engage in  
5     any business other than rendering the professional service for which it was  
6     organized and services reasonably related thereto, except that a  
7     professional corporation may own real and personal property appropriate to  
8     its business and may invest its funds in any form of real property, securities  
9     or any other type of investment.

10    2. A professional corporation may be organized to render a  
11    professional service relating to:

12    (a) Architecture, interior design, engineering and landscape architecture,  
13    or any combination thereof, and may be composed of persons:

14    (1) Engaged in the practice of architecture as provided in chapter 623  
15    of NRS;

16    (2) Practicing as a registered interior designer as provided in chapter  
17    623 of NRS;

18    (3) Engaged in the practice of landscape architecture as provided in  
19    chapter 623A of NRS; and

20    (4) Engaged in the practice of professional engineering as provided in  
21    chapter 625 of NRS.

22    (b) Medicine, homeopathy and osteopathy, and may be composed of  
23    persons engaged in the practice of medicine as provided in chapter 630 of  
24    NRS, persons engaged in the practice of homeopathic medicine as  
25    provided in chapter 630A of NRS and persons engaged in the practice of  
26    osteopathic medicine as provided in chapter 633 of NRS. Such a  
27    professional corporation may market and manage additional professional  
28    corporations which are organized to render a professional service relating  
29    to medicine, homeopathy and osteopathy.

30    (c) *Ophthalmology and optometry, may be composed of physicians*  
31    *engaged in the practice of ophthalmology as provided in chapter 630 of*  
32    *NRS and persons engaged in the practice of optometry as provided in*  
33    *chapter 636 of NRS. Such a professional corporation may market and*  
34    *manage additional professional corporations that are organized to render*  
35    *a professional service relating to ophthalmology or optometry.*

36    3. A professional corporation may render a professional service only  
37    through its officers and employees, all of whom must be authorized to  
38    render ~~that professional service.~~ *their respective professional services.*

39     **Sec. 6.** NRS 89.070 is hereby amended to read as follows:

40     89.070 1. Except as otherwise provided in subsections 2 ~~and 3.~~, 3  
41     and 4:

42     (a) No corporation organized under the provisions of this chapter may  
43     issue any of its stock to anyone other than a natural person who is licensed  
44     to render the same specific professional services as those for which the  
45     corporation was incorporated.

46     (b) No stockholder of a corporation organized under this chapter may  
47     enter into a voting trust agreement or any other type of agreement vesting  
48     another person with the authority to exercise the voting power of any or all



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1 of his stock, unless the other person is licensed to render the same specific  
2 professional services as those for which the corporation was incorporated.

3 (c) No shares of a corporation organized under this chapter may be sold  
4 or transferred except to a natural person who is eligible to be a stockholder  
5 of the corporation or to the personal representative or estate of a deceased  
6 or legally incompetent stockholder. The personal representative or estate of  
7 the stockholder may continue to own shares for a reasonable period, but  
8 may not participate in any decisions concerning the rendering of  
9 professional services.

10 The articles of incorporation or bylaws may provide specifically for  
11 additional restrictions on the transfer of shares and may provide for the  
12 redemption or purchase of the shares by the corporation, its stockholders or  
13 an eligible individual account plan complying with the requirements of  
14 subsection 2 at prices and in a manner specifically set forth. A stockholder  
15 may transfer his shares in the corporation or any other interest in the assets  
16 of the corporation to a revocable trust if he acts as trustee of the revocable  
17 trust and any person who acts as cotrustee and is not licensed to perform  
18 the services for which the corporation was incorporated does not  
19 participate in any decisions concerning the rendering of those services.

20 2. A person not licensed to render the professional services for which  
21 the corporation was incorporated may own a beneficial interest in any of  
22 the assets, including corporate shares, held for his account by an eligible  
23 individual account plan sponsored by the professional corporation for the  
24 benefit of its employees, which is intended to qualify under section 401 of  
25 the Internal Revenue Code, ~~§~~ 26 U.S.C. § 401, ~~§~~ if the terms of the trust  
26 are such that the total number of shares which may be distributed for the  
27 benefit of persons not licensed to render the professional services for which  
28 the corporation was incorporated is less than a controlling interest and:

29 (a) The trustee of the trust is licensed to render the same specific  
30 professional services as those for which the corporation was incorporated;  
31 or

32 (b) The trustee is not permitted to participate in any corporate decisions  
33 concerning the rendering of professional services in his capacity  
34 as trustee.

35 A trustee who is individually a stockholder of the corporation may  
36 participate in his individual capacity as a stockholder, director or officer in  
37 any corporate decision.

38 3. A professional corporation in which all the stockholders who are  
39 natural persons are licensed to render the same specific professional  
40 service, may acquire and hold stock in another professional corporation, or  
41 in a similar corporation organized pursuant to the corresponding law of  
42 another state, if all the stockholders who are natural persons of the  
43 corporation whose stock is acquired are licensed in that corporation's state  
44 of incorporation to render the same specific professional service as the  
45 stockholders who are natural persons of the professional corporation that  
46 acquires the stock.

47 4. *A corporation organized pursuant to paragraph (c) of subsection 2*  
48 *of NRS 89.050 to render a professional service relating to optometry and*



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1 *ophthalmology may issue its stock to a person who is licensed to render*  
2 *the professional service of either optometry or ophthalmology.*

3 5. Any act in violation of this section is void and does not pass any  
4 rights or privileges or vest any powers, except to an innocent person who is  
5 not a stockholder and who has relied on the effectiveness of the action.

6 **Sec. 7.** NRS 89.230 is hereby amended to read as follows:

7 89.230 ~~{Members}~~

8 *1. Except as otherwise provided in subsection 2, members* who  
9 organize a professional association must all be natural persons licensed to  
10 render the same specific professional services as those for which the  
11 professional association is organized. A professional association may  
12 render professional service only through its members and employees, all of  
13 whom must be licensed to render the professional service.

14 *2. An optometrist and an ophthalmologist may organize and*  
15 *participate in a professional association to render their respective*  
16 *professional services. A professional association of an optometrist and an*  
17 *ophthalmologist may render professional service through its members*  
18 *and employees, all of whom must be licensed as an optometrist or as an*  
19 *ophthalmologist.*

