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**AB 347  
(BDR 3-1115)**

Changes to civil liability of occupational boards.  
Assemblyman Jason Geddes, District 24 – Washoe County

The state has several boards and commissions that serve to implement policy set forth in NRS and to license professionals per the requirements set forth in the NRS and NAC. Several boards and commissions have their own language for limiting the liability of members serving in that capacity as well as a general requirement in NRS 41. These rules don't go far enough and board/commission members serving in the interest in the state are open to liability.

Some boards and commissions have trouble getting professional and public members to serve due to fear of liability. AB 347 serves to amend NRS 41 to provide liability protection to all who serve on boards and commissions that are serving in the best interest of the state. These public board/commission members serve to improve the quality of life of all Nevadans and do so through their willingness to serve. We must protect those members who are serving in good faith.

I would appreciate your support of AB 347.

**NRS 41.032 Acts or omissions of officers, employees and immune contractors.** Except as provided in NRS 278.0233 no action may be brought under NRS 41.031 or against an immune contractor or an officer or employee of the State or any of its agencies or political subdivisions which is:

1. Based upon an act or omission of an officer, employee or immune contractor, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, if the statute or regulation has not been declared invalid by a court of competent jurisdiction; or
2. Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the State or any of its agencies or political subdivisions or of any officer, employee or immune contractor of any of these, whether or not the discretion involved is abused.

(Added to NRS by 1965, 1413; A 1967, 992; 1977, 1536; 1983, 2100; 1987, 540)

**OCCUPATIONAL LICENSING BOARDS  
(Italics have language)**

1. *The State Board of Architecture, Interior Design and Residential Design.*
2. *The State Board of Landscape Architecture.*
3. The State Contractors' Board.
4. *The State Board of Professional Engineers and Land Surveyors.*
5. The Board of Registered Environmental Health Specialists.
6. The Nevada State Board of Accountancy.
7. The Board of Medical Examiners.
8. *The Board of Homeopathic Medical Examiners.*
9. *The Board of Dental Examiners of Nevada.*
10. *The State Board of Nursing.*
11. *The State Board of Osteopathic Medicine.*
12. *The Chiropractic Physicians' Board of Nevada.*

ASSEMBLY JUDICIARY

DATE: 3/25/03 ROOM: 3138 EXHIBIT 9

SUBMITTED BY: JASON GEDDES

/ of 10

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10. The State Board of Nursing.
11. The State Board of Osteopathic Medicine.
12. The Chiropractic Physicians' Board of Nevada.
13. The State Board of Oriental Medicine.
14. The State Board of Podiatry.
15. The Nevada State Board of Optometry.
16. The Board of Dispensing Opticians.
17. The Board of Hearing Aid Specialists.
18. The Board of Examiners For Audiology and Speech Pathology.
19. The Nevada State Board of Veterinary Medical Examiners.
20. The State Board of Pharmacy.
21. The State Board of Physical Therapy Examiners.
22. The Board of Occupational Therapy.

67 20410

23. The Board of Psychological Examiners.
24. The Board of Examiners For Marriage and Family Therapists.
25. The Board of Examiners for Social Workers.
26. The Board of Examiners for Alcohol and Drug Abuse Counselors.
27. The State Board of Funeral Directors, Embalmers and Operators of Cemeteries and Crematories.
28. The State Barbers' Health and Sanitation Board.
29. The State Board of Cosmetology.
30. The Real Estate Division of The Department of Business and Industry.
31. The Commissioner of Financial Institutions.
32. The Private Investigator's Licensing Board.
33. The Health Division of The Department of Human Resources.
34. The Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care.
35. The Certified Court Reporters' Board of Nevada.

Q 30410

**OCCUPATIONAL LICENSING BOARDS  
CIVIL LIABILITY**

**Architecture, Interior Design and Residential Design**

**NRS 623.335 Immunity from civil liability for furnishing information to board or otherwise assisting in investigation or prosecution.**

1. Any person who furnishes information concerning an applicant for registration or a holder of a certificate of registration in good faith and without malicious intent is immune from any civil action for furnishing that information.

2. The board, any member, employee or committee of the board, counsel, investigator, expert, hearing officer, registrant or other person who assists the board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

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

(b) Disseminating information concerning an applicant for registration or a registrant to any other licensing board, national association of registered boards, an agency of the Federal Government or of the state, the attorney general or any law enforcement agency.

(Added to NRS by 1995, 1695)

**Landscape Architects**

**NRS 623A.351 Immunity from civil action.**

1. Any person who, in good faith and without malicious intent, provides information concerning a holder of a certificate of registration or certificate to practice as a landscape architect intern or an applicant for a certificate of registration or certificate to practice as a landscape architect intern is immune from any civil action for providing that information.

2. Any person who assists the board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning the issuance or renewal of a certificate of registration or certificate to practice as a landscape architect intern or a criminal prosecution is immune from any civil liability for:

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

(b) Disseminating information concerning a holder of a certificate of registration or certificate to practice as a landscape architect intern or an applicant for a certificate of registration or certificate to practice as a landscape architect intern to:

- (1) Any other licensing board;
- (2) A national association of registered boards;
- (3) An agency of this state or the Federal Government;
- (4) The attorney general; or
- (5) Any law enforcement agency.

(Added to NRS by 2001, 500)

## **Professional Engineers and Surveyors**

### **NRS 625.405 Immunity from civil liability.**

1. Any person who furnishes information concerning a licensee, an applicant for licensure, an intern or an applicant for certification as an intern in good faith and without malicious intent is immune from any civil action for furnishing that information.

2. The board, any member, employee or committee of the board, counsel, investigator, expert, hearing officer, licensee, intern or other person who assists the board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

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

(b) Disseminating information concerning a licensee, an applicant for licensure, an intern or an applicant for certification as an intern to any other licensing board, national association of registered boards, an agency of the Federal Government or of the state, the attorney general or any law enforcement agency.

(Added to NRS by 1991, 2237; A 1997, 1051)

## **Physicians, Physician Assistants and Practitioners of Respiratory Care**

### **NRS 630.364 Immunity from civil action.**

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

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

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

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

(Added to NRS by 1977, 619, 827; A 1981, 590; 1985, 2012, 2245; 1989, 425; 2002 Special Session, 21)

## **Homeopathic Medicine**

### **NRS 630A.540 Immunity from civil liability.**

1. Any person who furnishes information to the board, in good faith and without malicious intent in accordance with the provisions of this chapter, concerning a person

Q 5 of 10

who is licensed or certified or applies for a license or certificate under this chapter is immune from civil liability for furnishing that information.

2. The board and its members, staff, counsel, investigators, experts, committees, panels, hearing officers and consultants are immune from civil liability for any decision or action taken in good faith and without malicious intent in response to information received by the board.

3. The board and any of its members are immune from civil liability for disseminating information concerning a person who is licensed or certified or applies for a license or certificate under this chapter to the attorney general or any board or agency of the state, hospital, medical society, insurer, employer, patient or his family or law enforcement agency.

(Added to NRS by 1983, 1491; A 1987, 2072; 1995, 2800)

## **Dentistry and Dental Hygiene**

### **NRS 631.378 Immunity from civil liability for furnishing information to Board or otherwise assisting in investigation or prosecution; recovery of attorney's fees and costs.**

1. Any person who furnishes information to the Board concerning a licensee or an applicant for licensure, in good faith and without malicious intent, is immune from any civil action for furnishing that information.

2. The Board, any member, employee or committee of the Board, counsel, investigator, expert, hearing officer, licensee or other person who assists the Board in the investigation or prosecution of an alleged violation of a provision of this chapter, a proceeding concerning licensure or reissuance of a license or a criminal prosecution is immune from any civil liability for:

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

(b) Disseminating information concerning a licensee or an applicant for licensure to any member of the public, other licensing board, national association of registered boards, an agency of the Federal Government or of the State, the Attorney General or any law enforcement agency.

3. A defendant who is the prevailing party in a civil action brought pursuant to subsection 2 may recover the attorney's fees and costs incurred in defending the action.

(Added to NRS by 2001, 907)

## **Nursing**

### **NRS 632.472 Persons required to report on conduct of licensees or holders of certificates; voluntary reports; immunity from civil liability.**

1. The following persons shall report in writing to the executive director of the board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the department of human resources.

(f) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(i) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the executive director of the board pursuant to this section is immune from civil liability for reporting the violation.

(Added to NRS by 1989, 2012; A 1991, 137; 1993, 2218; 1995, 1651; 2001, 773)

## **Osteopathic Medicine**

**NRS 633.691 Immunity from civil action.** The Board, a medical review panel of a hospital, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, repeated malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

(Added to NRS by 1977, 953; A 2001, 496)

9 7 of 10



**NRS 633.701 Limitation or termination of licensee's privileges or criminal prosecution not precluded by disciplinary action; immunity from civil liability.** The filing and review of a complaint and any subsequent disposition by the Board, the member designated by the Board to review a complaint pursuant to NRS 633.541 or any reviewing court do not preclude:

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

2. Any appropriate criminal prosecution by the Attorney General or a district attorney based upon the same or other facts.

(Added to NRS by 1977, 953; A 2001, 496)

### **Chiropractic**

**NRS 634.216 Immunity for person initiating or assisting in lawful investigation.** The board or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of a chiropractor for gross malpractice, repeated malpractice or unprofessional conduct is immune from any civil action for that initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

(Added to NRS by 1983, 419)

### **Veterinarians**

**NRS 638.152 Immunity from civil action.** The board, a veterinary society, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning a veterinarian or veterinary technician, is immune from any civil action for that initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

(Added to NRS by 1985, 1249; A 1995, 1689)

### **Pharmacists and Pharmacy**

**NRS 639.2576 Immunity from civil action for assisting administrative proceeding.** The board or any other person who initiates or assists in any lawful investigation or administrative proceeding concerning the discipline of a pharmacist is immune from any civil action for that initiation or assistance or any consequential damages, if the person acted without malicious intent.

(Added to NRS by 1987, 948)

Q 8 of 10

## **Physical Therapists**

### **NRS 640.030 Creation; qualifications, terms and removal of members; representative of public not to participate in examination; quorum; personal liability.**

1. The state board of physical therapy examiners, consisting of five members appointed by the governor, is hereby created.

2. The governor shall appoint:

(a) Four members who are licensed physical therapists in the State of Nevada.

(b) One member who is a representative of the general public.

3. The member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the board.

4. No member of the board may serve more than two consecutive terms.

5. The governor may remove any member of the board for incompetency, neglect of duty, gross immorality or malfeasance in office.

6. A majority of the members of the board constitutes a quorum.

7. No member of the board may be held liable in a civil action for any act which he has performed in good faith in the execution of his duties under this chapter.

[Part 3:364:1955]—(NRS A 1957, 77; 1977, 1257; 1981, 933; 1989, 1574)

## **Psychologists**

### **NRS 641C.150 Creation; appointment and qualifications of members; limitations on civil liability.**

1. The board of examiners for alcohol and drug abuse counselors, consisting of five members appointed by the governor, is hereby created.

2. The board must consist of:

(a) Three members who are licensed as alcohol and drug abuse counselors pursuant to the provisions of this chapter;

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter; and

(c) One member who is a representative of the general public.

3. A person may not be appointed to the board unless he is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this state.

4. No member of the board may be held liable in a civil action for any act that he performs in good faith in the execution of his duties pursuant to the provisions of this chapter.

(Added to NRS by 1999, 3050)

## **Private Investigators, Private Patrolmen, Polygraphic Examiners, Process Servers, Repossessors and Dog Handlers**

**NRS 648.045 Civil liability.** A member of the board or an employee or agent of the board is not liable in a civil action for any act performed in good faith and within the scope of the duties of the board pursuant to the provisions of this chapter.

(Added to NRS by 1997, 209)

Q 10 of 10