

CHAPTER.....

AN ACT relating to osteopathic physicians; increasing the membership of the State Board of Osteopathic Medicine; requiring an applicant for a license to practice osteopathic medicine or an osteopathic physician's assistant for whom an application to employ an osteopathic physician's assistant is submitted to the State Board of Osteopathic Medicine to submit a complete set of his fingerprints to the Board for investigation of the criminal history of the applicant or osteopathic physician's assistant; authorizing an osteopathic physician to be appointed to certain governmental entities; expanding the circumstances under which an osteopathic physician may be designated to carry out certain duties relating to the practice of medicine; revising provisions relating to the confidentiality of investigations conducted 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:

Section 1. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other requirements set forth in this chapter, each applicant for a license to practice osteopathic medicine, except a temporary or special license, or each osteopathic physician's assistant for whom an application to employ an osteopathic physician's assistant is submitted to the Board must submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The Board may issue a provisional license pending receipt of the report of the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified.

3. The Board shall revoke a provisional license upon receipt of the report from the Federal Bureau of Investigation if the report indicates that:

(a) The applicant or the osteopathic physician's assistant has been convicted of an act that is a ground for disciplinary action pursuant to NRS 633.511;

(b) The applicant or the osteopathic physician's assistant has been convicted of a felony set forth in NRS 633.741; or

(c) A warrant for the arrest of the applicant or the osteopathic physician's assistant has been issued by a court of competent jurisdiction.

Sec. 2. NRS 633.181 is hereby amended to read as follows:

633.181 The State Board of Osteopathic Medicine consists of ~~{five}~~ *seven* members appointed by the Governor.

Sec. 3. NRS 633.191 is hereby amended to read as follows:

633.191 1. ~~{Four}~~ *Five* members of the Board must:

- (a) Be licensed under this chapter;
- (b) Be actually engaged in the practice of osteopathic medicine in this state; and
- (c) Have been so engaged in this state for a period of more than 5 years preceding their appointment.

2. ~~{The remaining member}~~ *Two members* must be ~~{a resident}~~ *residents* of the State of Nevada:

- (a) Not licensed in any state to practice any healing art; and
- (b) Not actively engaged in the administration of any medical facility or facility for the dependent as defined in chapter 449 of NRS.

Sec. 4. NRS 633.611 is hereby amended to read as follows:

633.611 1. All proceedings ~~{subsequent to}~~ *after* the filing of a complaint are confidential, except to the extent necessary for the conduct of an examination, until the Board determines to proceed with disciplinary action. ~~{H}~~

2. *Except as otherwise provided in subsection 3, if* the Board dismisses the complaint, the proceedings remain confidential. If the Board proceeds with disciplinary action, confidentiality concerning the proceedings is no longer required.

3. *The Board may disseminate any information or records relating to an investigation of a complaint which has been dismissed by the Board 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.*

Sec. 5. NRS 637A.243 is hereby amended to read as follows:

637A.243 1. A hearing aid specialist licensed pursuant to this chapter may sell hearing aids by catalog or mail if:

- (a) He has received a written statement signed by a physician licensed pursuant to chapter 630 *or 633* of NRS, an advanced practitioner of nursing licensed pursuant to chapter 632 of NRS, an audiologist licensed pursuant to chapter 637B of NRS or a hearing aid specialist licensed pursuant to this chapter which verifies that he has performed an otoscopic examination of that person and that the results of the examination indicate that the person may benefit from the use of a hearing aid;

(b) He has received a written statement signed by a physician licensed pursuant to chapter 630 *or* 633 of NRS, audiologist licensed pursuant to chapter 637B of NRS or a hearing aid specialist licensed pursuant to this chapter which verifies that he has performed an audiometric examination of that person in compliance with regulations adopted by the Board and that the results of the examination indicate that the person may benefit from the use of a hearing aid;

(c) He has received a written statement signed by a hearing aid specialist licensed pursuant to this chapter which verifies that an ear impression has been taken; and

(d) The person has signed a statement acknowledging that the licensee is selling him the hearing aid by catalog or mail based upon the information submitted by the person in accordance with this section.

2. A hearing aid specialist who sells hearing aids by catalog or mail shall maintain a record of each sale of a hearing aid made pursuant to this section for not less than 5 years.

3. The Board may adopt regulations to carry out the provisions of this section, including, without limitation, the information which must be included in each record required to be maintained pursuant to subsection 2.

Sec. 6. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 *or* 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;

4. A marriage and family therapist who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists to engage in the practice of counseling alcohol and drug abusers; or

5. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers.

Sec. 7. NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380, for not longer than the remainder of his sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated to such a degree that he does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians licensed pursuant to chapter 630 *or* 633 of NRS, one of whom is not employed by the Department, verify, in writing, that the offender is:

(1) Physically incapacitated; or

(2) In ill health and expected to die within 12 months.

2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) If the offender will reside within this state after he is released from the custody of the Department, the board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

3. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

If a current address has not been provided by a victim as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited

for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department, except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.

7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 8. NRS 433A.430 is hereby amended to read as follows:

433A.430 1. Whenever the Administrator determines that Division facilities within the State are inadequate for the care of any mentally ill person, he may designate two physicians, licensed under the provisions of chapter 630 *or* 633 of NRS, and familiar with the field of psychiatry, to examine that person. If the two physicians concur with the opinion of the Administrator, the Administrator may contract with appropriate corresponding authorities in any other state of the United States having adequate facilities for such purposes for the reception, detention, care or treatment of that person, but if the person in any manner objects to the transfer, the procedures in subsection 3 of NRS 433.484 and subsections 2 and 3 of NRS 433.534 must be followed. The two physicians so designated are entitled to a reasonable fee for their services which must be paid by the county of the person's last known residence.

2. Money to carry out the provisions of this section must be provided by direct legislative appropriation.

Sec. 9. NRS 439B.410 is hereby amended to read as follows:

439B.410 1. Except as otherwise provided in subsection 4, each hospital in this state has an obligation to provide emergency services and care, including care provided by physicians and nurses, and to admit a patient where appropriate, regardless of the financial status of the patient.

2. Except as otherwise provided in subsection 4, it is unlawful for a hospital or a physician working in a hospital emergency room, to:

(a) Refuse to accept or treat a patient in need of emergency services and care; or

(b) Except when medically necessary in the judgment of the attending physician:

(1) Transfer a patient to another hospital or health facility unless, as documented in the patient's records:

(I) A determination has been made that the patient is medically fit for transfer;

(II) Consent to the transfer has been given by the receiving physician, hospital or health facility;

(III) The patient has been provided with an explanation of the need for the transfer; and

(IV) Consent to the transfer has been given by the patient or his legal representative; or

(2) Provide a patient with orders for testing at another hospital or health facility when the hospital from which the orders are issued is capable of providing that testing.

3. A physician, hospital or other health facility which treats a patient as a result of a violation of subsection 2 by a hospital or a physician working in the hospital is entitled to recover from that hospital an amount equal to three times the charges for the treatment provided that was billed by the physician, hospital or other health facility which provided the treatment, plus reasonable attorney's fees and costs.

4. This section does not prohibit the transfer of a patient from one hospital to another:

(a) When the patient is covered by an insurance policy or other contractual arrangement which provides for payment at the receiving hospital;

(b) After the county responsible for payment for the care of an indigent patient has exhausted the money which may be appropriated for that purpose pursuant to NRS 428.050, 428.285 and 450.425; or

(c) When the hospital cannot provide the services needed by the patient.

No transfer may be made pursuant to this subsection until the patient's condition has been stabilized to a degree that allows the transfer without an additional risk to the patient.

5. As used in this section:

(a) "Emergency services and care" means medical screening, examination and evaluation by a physician or, to the extent permitted by a specific statute, by a person under the supervision of a physician, to determine if an emergency medical condition or

active labor exists and, if it does, the care, treatment and surgery by a physician necessary to relieve or eliminate the emergency medical condition or active labor, within the capability of the hospital. As used in this paragraph:

(1) "Active labor" means, in relation to childbirth, labor that occurs when:

(I) There is inadequate time before delivery to transfer the patient safely to another hospital; or

(II) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(2) "Emergency medical condition" means the presence of acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(I) Placing the health of the patient in serious jeopardy;

(II) Serious impairment of bodily functions; or

(III) Serious dysfunction of any bodily organ or part.

(b) "Medically fit" means that the condition of the patient has been sufficiently stabilized so that he may be safely transported to another hospital, or is such that, in the determination of the attending physician, the transfer of the patient constitutes an acceptable risk. Such a determination must be based upon the condition of the patient, the expected benefits, if any, to the patient resulting from the transfer and whether the risks to the patient's health are outweighed by the expected benefits, and must be documented in the patient's records before the transfer.

6. If an allegation of a violation of the provisions of subsection 2 is made against a hospital licensed pursuant to the provisions of chapter 449 of NRS, the Health Division of the Department of Human Resources shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for the denial, suspension or revocation of such a license, or for the imposition of any sanction prescribed by NRS 449.163.

7. If an allegation of a violation of the provisions of subsection 2 is made against ~~the~~:

(a) A physician licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners shall conduct an investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for initiating disciplinary action or denying licensure pursuant to the provisions of subsection 3 of NRS 630.3065.

(b) *An osteopathic physician licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine shall conduct an*

investigation of the alleged violation. Such a violation, in addition to any criminal penalties that may be imposed, constitutes grounds for initiating disciplinary action pursuant to the provisions of subsection 1 of NRS 633.131.

Sec. 10. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. “Advisory Board” means the Advisory Board on Maternal and Child Health.
2. “Department” means the Department of Human Resources.
3. “Director” means the Director of the Department.
4. “Fetal alcohol syndrome” includes fetal alcohol effects.
5. “Health Division” means the Health Division of the Department.
6. “Obstetric center” has the meaning ascribed to it in NRS 449.0155.
7. “Provider of health care or other services” means:
 - (a) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS;
 - (b) A physician or a physician assistant who is licensed pursuant to chapter 630 *or an osteopathic physician who is licensed pursuant to chapter 633* of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;
 - (c) A licensed nurse;
 - (d) A licensed psychologist;
 - (e) A licensed marriage and family therapist;
 - (f) A licensed social worker; or
 - (g) The holder of a certificate of registration as a pharmacist.

Sec. 11. NRS 453A.030 is hereby amended to read as follows:

453A.030 “Attending physician” means a physician who:

1. Is licensed to practice medicine pursuant to the provisions of chapter 630 *or 633* of NRS; and
2. Has primary responsibility for the care and treatment of a person diagnosed with a chronic or debilitating medical condition.

Sec. 12. NRS 453A.500 is hereby amended to read as follows:

453A.500 The Board of Medical Examiners shall not take any disciplinary action against an attending physician on the basis that the attending physician:

1. Advised a person whom the attending physician has diagnosed as having a chronic or debilitating medical condition, or a person whom the attending physician knows has been so diagnosed by another physician licensed to practice medicine pursuant to the provisions of chapter 630 *or 633* of NRS:

(a) About the possible risks and benefits of the medical use of marijuana; or

(b) That the medical use of marijuana may mitigate the symptoms or effects of the person's chronic or debilitating medical condition, if the advice is based on the attending physician's personal assessment of the person's medical history and current medical condition.

2. Provided the written documentation required pursuant to paragraph (a) of subsection 2 of NRS 453A.210 for the issuance of a registry identification card or pursuant to subparagraph (1) of paragraph (b) of subsection 1 of NRS 453A.230 for the renewal of a registry identification card, if:

(a) Such documentation is based on the attending physician's personal assessment of the person's medical history and current medical condition; and

(b) The physician has advised the person about the possible risks and benefits of the medical use of marijuana.

Sec. 13. NRS 457.310 is hereby amended to read as follows:

457.310 1. The Task Force on Prostate Cancer, consisting of 11 members, is hereby created. The Task Force consists of:

(a) The following ex officio members:

(1) The Chief Executive Officer of Family to Family: "Americans for Prostate Cancer Awareness and Support";

(2) The Nevada Director of Us Too! International, Inc.; and

(3) The Executive Officer of the Public Employees' Benefits Program; and

(b) The following members appointed by the Governor:

(1) Two members who are physicians licensed pursuant to chapter 630 *or* 633 of NRS;

(2) One member who is an officer or employee of the University and Community College System of Nevada;

(3) One member who is an employee of the Bureau of Disease Control and Intervention of the Health Division;

(4) One member who has had prostate cancer;

(5) One member who is related to a person who has had prostate cancer; and

(6) Two members who are representatives of business.

2. If Family to Family: "Americans for Prostate Cancer Awareness and Support" or Us Too! International, Inc., ceases to exist, the highest officer or person in charge of any successor organization shall serve as the ex officio member required by subparagraph (1) or (2) of paragraph (a) of subsection 1 or, if there is no successor organization, the Governor shall appoint a person to serve pursuant to the applicable subparagraph.

3. Vacancies of members appointed to the Task Force must be filled in the same manner as original appointments.

4. The Task Force shall annually submit a report concerning its activities and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 14. NRS 467.015 is hereby amended to read as follows:
467.015 Each member of the Board must:

1. Be licensed to practice medicine pursuant to chapter 630 *or* **633** of NRS.
2. Have at least 5 years of experience in the practice of medicine at the time of his appointment.

Sec. 15. NRS 695G.110 is hereby amended to read as follows:

695G.110 Each managed care organization shall employ or contract with a physician who is licensed to practice medicine in the State of Nevada pursuant to chapter 630 *or* **633** of NRS to serve as its medical director.

Sec. 16. NRS 695G.150 is hereby amended to read as follows:

695G.150 Each managed care organization shall authorize coverage of a health care service that has been recommended for the insured by a provider of health care acting within the scope of his practice if that service is covered by the health care plan of the insured, unless:

1. The decision not to authorize coverage is made by a physician who:

(a) Is licensed to practice medicine in the State of Nevada pursuant to chapter 630 *or* **633** of NRS;

(b) Possesses the education, training and expertise to evaluate the medical condition of the insured; and

(c) Has reviewed the available medical documentation, notes of the attending physician, test results and other relevant medical records of the insured.

The physician may consult with other providers of health care in determining whether to authorize coverage.

2. The decision not to authorize coverage and the reason for the decision have been transmitted in writing in a timely manner to the insured, the provider of health care who recommended the service and the primary care physician of the insured, if any.

Sec. 17. NRS 695G.190 is hereby amended to read as follows:

695G.190 1. As part of a quality assurance program established pursuant to NRS 695G.180, each managed care organization shall create a quality improvement committee directed by a physician who is licensed to practice medicine in the State of Nevada pursuant to chapter 630 *or* **633** of NRS.

2. Each managed care organization shall:

(a) Establish written guidelines setting forth the procedure for selecting the members of the committee;

(b) Select members pursuant to such guidelines; and

(c) Provide staff to assist the committee.

3. The committee shall:

(a) Select and review appropriate medical records of insureds and other data related to the quality of health care provided to insureds by providers of health care;

(b) Review the clinical processes used by providers of health care in providing services;

(c) Identify any problems related to the quality of health care provided to insureds; and

(d) Advise providers of health care regarding issues related to quality of care.

Sec. 18. The provisions of section 1 of this act apply only to an application for a license to practice as an osteopathic physician or an application to employ an osteopathic physician's assistant which is received by the State Board of Osteopathic Medicine on or after October 1, 2003.

Sec. 19. As soon as practicable after October 1, 2003, the Governor shall appoint to the State Board of Osteopathic Medicine pursuant to:

1. Subsection 2 of NRS 633.191, one member whose term expires on September 30, 2006.

2. Subsection 1 of NRS 633.191, one member whose term expires on September 30, 2007.