

ASSEMBLY BILL NO. 288—ASSEMBLYMAN OCEGUERA

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning the practice of medicine and the Board of Medical Examiners. (BDR 54-645)

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 health care; making various changes concerning the qualifications of the members of the Board of Medical Examiners; making various changes concerning the duties and proceedings of the Board of Medical Examiners; restricting the advertising of board certification; expanding the scope of permissible voluntary practice by a retired physician; requiring prescriptions to be legible; requiring a hospital or surgical center for ambulatory patients to maintain and report certain information to 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 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

**Sec. 2. 1. *Not less than 90 days before the expiration of the term of a member of the Board who is licensed to practice medicine in this State or, in the case of a vacancy in the term of such a member before the expiration of his term, not more than 30 days after the vacancy occurs, the Governor shall notify each county medical society of the need to appoint a successor to the Board.***



2. *If a county medical society:*

(a) *Establishes a nominating committee as set forth in subsection 3; and*

(b) *Not later than 45 days after receiving notice of the need to appoint a successor pursuant to subsection 1, provides the Governor with the nominations of two persons qualified for appointment,*

*↳ the Governor shall make his appointment from among the persons nominated by the county medical societies.*

3. *The nominating committee of a county medical society must consist of:*

(a) *Five members of the society who are licensed to practice medicine in this State and are actually engaged in the practice of medicine in this State; and*

(b) *One person not licensed to practice medicine who is a member of senior management at a hospital, clinic or other medical facility licensed in this State and, if possible, located within the geographic area served by the county medical society.*

4. *The nominating committee of a county medical society shall nominate only persons who are the most qualified by reason of their:*

(a) *Education, taking into account the academic standing of the educational institutions attended;*

(b) *Postgraduate medical training;*

(c) *Dedication to the practice of medicine;*

(d) *Professional reputation; and*

(e) *Other qualities that are likely to contribute to improving the quality of medical care in this State.*

**Sec. 3.** 1. *A member of the Board, including an advisory member of the Board designated pursuant to NRS 630.075, shall not participate in any investigation, hearing, deliberation or other proceeding, cast a vote or seek to influence the outcome in such a proceeding involving a licensee if the member entertains actual bias against the licensee.*

2. *A member of the Board shall recuse himself from any proceeding regarding which he is required not to participate pursuant to this section. The licensee who is the subject of such a proceeding may request that the Board disqualify a member pursuant to this section by timely filing an affidavit that sets forth the facts upon which such disqualification is requested.*

3. *The Board shall determine the request for disqualification as part of the record and decision in the proceeding.*

4. *A member of the Board who violates subsection 1 may be removed from the Board by the Governor pursuant to NRS 630.070 solely on the basis of that violation.*



1     5. The Board shall adopt regulations to carry out the  
2 provisions of this section.

3     6. For the purposes of this section, actual bias shall be  
4 deemed to exist if the member of the Board has a personal conflict  
5 with the licensee.

6     **Sec. 4.** 1. If the Board publishes a bulletin or newsletter, or  
7 otherwise communicates with its members on matters of general  
8 interest, the Board shall from time to time include in this  
9 communication a reminder to physicians of the importance of:

10     (a) Obtaining and comparing a patient's previous  
11 mammograms when reading and reporting on a later  
12 mammogram; and

13     (b) Including in a report on a mammogram a report on the  
14 comparison, if any, to previous mammograms.

15     2. The Board shall from time to time post this reminder on  
16 any website or other Internet site that is operated or administered  
17 by or on behalf of the Board.

18     **Sec. 5.** 1. The Board shall adopt regulations establishing  
19 the information and format of the statistical reports of surgical  
20 and other invasive procedures that must be prepared and  
21 submitted by a hospital or surgical center for ambulatory patients  
22 pursuant to section 17 of this act. The reports must include,  
23 without limitation:

24     (a) An identification of the procedure.

25     (b) The name of the physician performing the procedure.

26     (c) The name of the hospital or surgical center for ambulatory  
27 patients at which the procedure was performed.

28     (d) An evaluation of the successfulness of the procedure. This  
29 evaluation must include the patient's condition upon discharge  
30 from the hospital or surgical center for ambulatory patients and  
31 must disclose whether the patient was readmitted to the hospital or  
32 surgical center within 2 weeks after discharge.

33     2. The Board shall:

34     (a) Consolidate the information submitted pursuant to  
35 subsection 1 and annually publish a report presenting the  
36 consolidated information for the most recent year and on a  
37 cumulative basis.

38     (b) Post the consolidated information on any website or other  
39 Internet site that is operated or administered by or on behalf of the  
40 Board.

41     3. As used in this section:

42     (a) "Hospital" has the meaning ascribed to it in NRS 449.012.

43     (b) "Surgical center for ambulatory patients" has the meaning  
44 ascribed to it in NRS 449.019.



1     **Sec. 6.** NRS 630.050 is hereby amended to read as follows:

2     630.050   1. The Board of Medical Examiners consists of nine  
3 members appointed by the Governor **[H]**, *who shall appoint only the*  
4 *most qualified persons to the Board pursuant to the qualifications*  
5 *set forth in section 2 of this act.*

6     2. No person may be appointed as a member of the Board to  
7 serve for more than two consecutive full terms, but he may be  
8 reappointed after the lapse of 4 years.

9     3. *No person may be appointed to the Board who has ever*  
10 *been disciplined by a professional body for unethical conduct.*

11    **Sec. 7.** NRS 630.060 is hereby amended to read as follows:

12    630.060   1. Six members of the Board must be persons who  
13 are licensed to practice medicine in this State, are actually engaged  
14 in the practice of medicine in this State and have resided and  
15 practiced medicine in this State for at least 5 years preceding their  
16 respective appointments. *Such a member must not have:*

17    (a) *Paid, personally or by insurance, more than \$100,000 to*  
18 *settle an action or claim for medical malpractice or negligence; or*

19    (b) *Received three or more adverse judgments in actions for*  
20 *medical malpractice or negligence.*

21    2. One member of the Board must be a person who has resided  
22 in this State for at least 5 years and who represents the interests of  
23 persons or agencies that regularly provide health care to patients  
24 who are indigent, uninsured or unable to afford health care. This  
25 member must not be licensed under the provisions of this chapter.

26    3. The remaining two members of the Board must be persons  
27 who have resided in this State for at least 5 years and who:

28    (a) Are not licensed in any state to practice any healing art;

29    (b) Are not the spouse or the parent or child, by blood, marriage  
30 or adoption, of a person licensed in any state to practice any healing  
31 art;

32    (c) Are not actively engaged in the administration of any facility  
33 for the dependent as defined in chapter 449 of NRS, medical facility  
34 or medical school; and

35    (d) Do not have a pecuniary interest in any matter pertaining to  
36 the healing arts, except as a patient or potential patient.

37    4. The members of the Board must be selected without regard  
38 to their individual political beliefs **[H]** *or partisan activities,*  
39 *including, without limitation, their financial or other support for*  
40 *any candidate for political office.*

41    5. *Not more than one member of the Board may be a*  
42 *graduate of a foreign medical school.*



**Sec. 8.** NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; ~~and~~

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter ~~and~~;

*(f) Ensure that the process of relicensure is as easy, swift and economical as possible;*

*(g) Examine the amounts of the fees charged by the Board pursuant to this chapter and, annually, in accordance with all applicable limitations on the amounts of the fees, adjust the amounts of the fees to the lowest amounts found by the Board to be advisable;*

*(h) Devote the majority of its time and resources to matters directly related to the quality of patient care and medical practice within this State; and*

*(i) Seek to reduce the incidence of adverse drug events by encouraging the use of computerized physician order entry systems.*

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence; and

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 2 and 3 of NRS 630.307 and NRS 690B.250 and 690B.260.

➤ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

**Sec. 9.** NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who wishes to donate his expertise for the medical care and treatment of ~~indigent~~ persons in this State may obtain a special



1 volunteer medical license by submitting an application to the Board  
2 pursuant to this section.

3 2. An application for a special volunteer medical license must  
4 be on a form provided by the Board and must include:

5 (a) Documentation of the history of medical practice of the  
6 physician;

7 (b) Proof that the physician previously has been issued an  
8 unrestricted license to practice medicine in any state of the United  
9 States and that he has never been the subject of disciplinary action  
10 by a medical board in any jurisdiction;

11 (c) Proof that the physician satisfies the requirements for  
12 licensure set forth in NRS 630.160 or the requirements for licensure  
13 by endorsement set forth in NRS 630.1605;

14 (d) Acknowledgment that the practice of the physician under the  
15 special volunteer medical license will be exclusively devoted to  
16 providing medical care to ~~indigent~~ persons in this State; and

17 (e) Acknowledgment that the physician will not receive any  
18 payment or compensation, either direct or indirect, or have the  
19 expectation of any payment or compensation, for providing medical  
20 care under the special volunteer medical license, except for payment  
21 by a medical facility at which the physician provides volunteer  
22 medical services of the expenses of the physician for necessary  
23 travel, continuing education, malpractice insurance or fees of the  
24 State Board of Pharmacy.

25 3. If the Board finds that the application of a physician satisfies  
26 the requirements of subsection 2 and that the retired physician is  
27 competent to practice medicine, the Board shall issue a special  
28 volunteer medical license to the physician.

29 4. The initial special volunteer medical license issued pursuant  
30 to this section expires 1 year after the date of issuance. The license  
31 may be renewed pursuant to this section, and any license that is  
32 renewed expires 2 years after the date of issuance.

33 5. The Board shall not charge a fee for:

34 (a) The review of an application for a special volunteer medical  
35 license; or

36 (b) The issuance or renewal of a special volunteer medical  
37 license pursuant to this section.

38 6. A physician who is issued a special volunteer medical  
39 license pursuant to this section and who accepts the privilege of  
40 practicing medicine in this State pursuant to the provisions of the  
41 special volunteer medical license is subject to all the provisions  
42 governing disciplinary action set forth in this chapter.

43 7. A physician who is issued a special volunteer medical  
44 license pursuant to this section shall comply with the requirements  
45 for continuing education adopted by the Board.



**Sec. 10.** NRS 630.304 is hereby amended to read as follows:

630.304 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Obtaining, maintaining or renewing or attempting to obtain, maintain or renew a license to practice medicine by bribery, fraud or misrepresentation or by any false, misleading, inaccurate or incomplete statement.

2. Advertising the practice of medicine in a false, deceptive or misleading manner. *For the purposes of this subsection, an advertisement stating that a physician is "Board Certified" is false, deceptive or misleading unless:*

*(a) The physician is currently certified by a certifying body that is a member of the American Board of Medical Specialties; and*

*(b) The advertisement includes the name of the certifying body.*

3. Practicing or attempting to practice medicine under another name.

4. Signing a blank prescription form.

5. Influencing a patient in order to engage in sexual activity with the patient or with others.

6. Attempting directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

7. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

**Sec. 11.** NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board.

*7. Failure to write legibly in filling out a prescription in violation of NRS 639.2353.*



1     **Sec. 12.** NRS 630.307 is hereby amended to read as follows:

2     630.307 1. Any person, *including, without limitation, a*  
3 *county coroner*, medical school or medical facility that becomes  
4 aware that a person practicing medicine or respiratory care in this  
5 State has, is or is about to become engaged in conduct which  
6 constitutes grounds for initiating disciplinary action shall file a  
7 written complaint with the Board within 30 days after becoming  
8 aware of the conduct.

9     2. Any hospital, clinic or other medical facility licensed in this  
10 State, or medical society, shall report to the Board any change in a  
11 physician's privileges to practice medicine while the physician is  
12 under investigation and the outcome of any disciplinary action taken  
13 by that facility or society against the physician concerning the care  
14 of a patient or the competency of the physician within 30 days after  
15 the change in privileges is made or disciplinary action is taken. The  
16 Board shall report any failure to comply with this subsection by a  
17 hospital, clinic or other medical facility licensed in this State to the  
18 Health Division of the Department of Human Resources. If, after a  
19 hearing, the Health Division determines that any such facility or  
20 society failed to comply with the requirements of this subsection,  
21 the Division may impose an administrative fine of not more than  
22 \$10,000 against the facility or society for each such failure to report.  
23 If the administrative fine is not paid when due, the fine must be  
24 recovered in a civil action brought by the Attorney General on  
25 behalf of the Division.

26     3. The clerk of ~~every~~ *each* court shall report to the Board any  
27 finding, judgment or other determination of the court that a  
28 physician, physician assistant or practitioner of respiratory care:

29     (a) Is mentally ill;

30     (b) Is mentally incompetent;

31     (c) Has been convicted of a felony or any law governing  
32 controlled substances or dangerous drugs;

33     (d) Is guilty of abuse or fraud under any state or federal program  
34 providing medical assistance; or

35     (e) Is liable for damages for malpractice or negligence,

36     ➤ within 45 days after such a finding, judgment or determination is  
37 made.

38     4. On or before January 15 of each year, the clerk of each court  
39 shall submit to the Office of Court Administrator created ~~pursuant~~  
40 ~~to~~ *by* NRS 1.320 a written report compiling the information that the  
41 clerk reported during the previous year to the Board regarding  
42 physicians pursuant to paragraph (e) of subsection 3.

43     **Sec. 13.** NRS 630.352 is hereby amended to read as follows:

44     630.352 1. ~~Any~~ *Except as otherwise provided in section 3*  
45 *of this act, any* member of the Board, except for an advisory





1 member serving on a panel of the Board hearing charges, may  
2 participate in the final order of the Board. If the Board, after a  
3 formal hearing, determines from a preponderance of the evidence  
4 that a violation of the provisions of this chapter or of the regulations  
5 of the Board has occurred, it shall issue and serve on the physician  
6 charged an order, in writing, containing its findings and any  
7 sanctions.

8 2. If the Board determines that no violation has occurred, ~~the~~  
9 *the Board* shall dismiss the charges, in writing, and notify the  
10 physician that the charges have been dismissed. If the disciplinary  
11 proceedings were instituted against the physician as a result of a  
12 complaint filed against him, the Board may provide the physician  
13 with a copy of the complaint.

14 3. Except as otherwise provided in subsection 4, if the Board  
15 finds that a violation has occurred, ~~the~~ *the Board* shall by order take  
16 one or more of the following actions:

17 (a) Place the person on probation for a specified period on any  
18 of the conditions specified in the order;

19 (b) Administer to him a public reprimand;

20 (c) Limit his practice or exclude one or more specified branches  
21 of medicine from his practice;

22 (d) Suspend his license for a specified period or until further  
23 order of the Board;

24 (e) Revoke his license to practice medicine, but only in  
25 accordance with the provisions of NRS 630.348;

26 (f) Require him to participate in a program to correct alcohol or  
27 drug dependence or any other impairment;

28 (g) Require supervision of his practice;

29 (h) Impose a fine not to exceed \$5,000;

30 (i) Require him to perform community service without  
31 compensation;

32 (j) Require him to take a physical or mental examination or an  
33 examination testing his competence; ~~and~~

34 (k) Require him to fulfill certain training or educational  
35 requirements ~~;~~ *and*

36 *(l) Restrict, limit, suspend or revoke his authority to possess,*  
37 *administer, prescribe or dispense drugs.*

38 4. If the Board finds that the physician has violated the  
39 provisions of NRS 439B.425, the Board shall suspend his license for  
40 a specified period or until further order of the Board.

41 5. The Board shall not administer a private reprimand if the  
42 Board finds that a violation has occurred.

43 6. An order that imposes discipline and the findings of fact and  
44 conclusions of law supporting that order are public records.



1     **Sec. 14.** Chapter 639 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     *If a practitioner licensed as a physician or physician assistant*  
4 *pursuant to chapter 630 of NRS is reported to the Board for*  
5 *writing an illegible prescription in violation of NRS 639.2353, the*  
6 *Board shall:*

7     1. *Issue a warning to the physician or physician assistant;*  
8 *and*

9     2. *Notify the Board of Medical Examiners.*

10    **Sec. 15.** NRS 639.2107 is hereby amended to read as follows:

11    639.2107 1. The surrender, revocation or a suspension that  
12 has not been stayed of any certificate, license or registration of a  
13 practitioner, as defined in NRS ~~453.126, 454.00958~~ or 639.0125,  
14 ~~[453.126 or 454.00958,]~~ by a licensing board or the Drug  
15 Enforcement Administration operates as an immediate suspension of  
16 a certificate, license, registration or permit issued by the Board  
17 pursuant to this chapter or chapter 453 or 454 of NRS to possess,  
18 administer, prescribe or dispense drugs.

19    2. *Any restriction, limitation, suspension or revocation of a*  
20 *practitioner's authority to possess, administer, prescribe or*  
21 *dispense drugs imposed by the Board of Medical Examiners*  
22 *pursuant to NRS 630.352, operates as an immediate restriction,*  
23 *limitation, suspension or revocation of a certificate, license,*  
24 *registration or permit issued to the practitioner by the State Board*  
25 *of Pharmacy pursuant to this chapter or chapter 453 or 454 of*  
26 *NRS to possess, administer, prescribe or dispense drugs.*

27    **Sec. 16.** NRS 639.2353 is hereby amended to read as follows:

28    639.2353 Except as otherwise provided in a regulation adopted  
29 pursuant to NRS 453.385:

30    1. A prescription must be given:

31    (a) Directly from the practitioner to a pharmacist;

32    (b) Indirectly by means of an order signed by the practitioner;

33    (c) By an oral order transmitted by an agent of the practitioner;  
34 or

35    (d) Except as otherwise provided in subsection 5, by electronic  
36 transmission or transmission by a facsimile machine, including,  
37 without limitation, transmissions made from a facsimile machine to  
38 another facsimile machine, a computer equipped with a facsimile  
39 modem to a facsimile machine or a computer to another computer,  
40 pursuant to the regulations of the Board.

41    2. A written prescription must contain:

42    (a) Except as otherwise provided in this section, the name and  
43 signature of the practitioner, and his address if not immediately  
44 available to the pharmacist;

45    (b) The classification of his license;



(c) The name of the patient, and his address if not immediately available to the pharmacist;

(d) The name, strength and quantity of the drug or drugs prescribed;

(e) Directions for use; and

(f) The date of issue.

3. The directions for use must be specific in that they indicate the portion of the body to which the medication is to be applied or, if to be taken into the body by means other than orally, the orifice or canal of the body into which the medication is to be inserted or injected.

4. Each written prescription must be written in such a manner that any registered pharmacist would be able to dispense it. A prescription must be written in Latin or English and may include any character, figure, cipher or abbreviation which is generally used by pharmacists and practitioners in the writing of prescriptions. *The writing must be legible.*

5. A prescription for a controlled substance must not be given by electronic transmission or transmission by a facsimile machine unless authorized by federal law.

6. A prescription that is given by electronic transmission is not required to contain the signature of the practitioner if:

(a) It contains a facsimile signature, security code or other mark that uniquely identifies the practitioner; or

(b) A voice recognition system, biometric identification technique or other security system approved by the Board is used to identify the practitioner.

*7. Each time a pharmacist receives an illegible prescription from a practitioner licensed as a physician or physician assistant pursuant to chapter 630 of NRS, the pharmacist shall notify the practitioner and report the incident to the Board.*

**Sec. 17.** Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A hospital or surgical center for ambulatory patients shall maintain a record of each surgical or other invasive procedure that is performed at the hospital or surgical center. The record must include the information required by the regulations adopted by the Board of Medical Examiners pursuant to section 5 of this act.*

*2. A hospital or surgical center for ambulatory patients shall, on a quarterly basis:*

*(a) Prepare, from the records maintained pursuant to subsection 1, a statistical report of surgical and other invasive procedures performed at the hospital or surgical center. The report must include the information and be in the format set forth*



- 1 *in regulations adopted by the Board of Medical Examiners*
- 2 *pursuant to section 5 of this act. The report must not reveal the*
- 3 *identity of a specific patient.*
- 4 *(b) Submit the report to the Board of Medical Examiners.*

