

ASSEMBLY BILL NO. 555—ASSEMBLYMAN MABEY

MARCH 29, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to certain provisions governing medical professionals and practice of 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 medical professionals; requiring a physician licensed to practice medicine or osteopathic medicine to report annually to the appropriate licensing board information concerning certain office-based surgery performed by him; providing that the failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action; requiring the licensing boards of such physicians biennially to compile and report such information to the Governor and the Legislature; making various other changes to the provisions governing certain medical professionals; expanding the medical review committees that may refuse to disclose and to prevent other persons from disclosing certain information from their proceedings; providing that the proceedings and records of those medical review committees are not subject to discovery proceedings; revising the provisions limiting the liability of certain medical providers who render gratuitous care or assistance for certain entities; providing for the imposition of certain civil penalties; 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 a new section to read as follows:

1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:

(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(1) At a medical facility as that term is defined in NRS 449.0151; or

(2) Outside of this State; and

(b) Reporting the occurrence of any sentinel event arising from any such surgery.

2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.

3. The Board shall:

(a) Collect and maintain reports received pursuant to subsection 1; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

4. A report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

6. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.



(b) “Deep sedation” means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) “General anesthesia” means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) “Sentinel event” means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 2. NRS 630.007 is hereby amended to read as follows:

630.007 “Administrative physician” means a physician who is licensed only to act in an administrative capacity as an:

1. Officer or employee of a state agency; ~~{or}~~

2. Independent contractor pursuant to a contract with the State ~~{;}~~; or

3. *Officer, employee or independent contractor of a private insurance company, medical facility or medical care organization, and who does not examine or treat patients in a clinical setting.*

Sec. 3. NRS 630.103 is hereby amended to read as follows:

630.103 1. The Board shall employ a person as the Executive ~~{Secretary}~~ *Director* of the Board.

2. The Executive ~~{Secretary}~~ *Director* serves as the chief administrative officer of the Board at a level of compensation set by the Board.

3. The Executive ~~{Secretary}~~ *Director* is an at-will employee who serves at the pleasure of the Board.

Sec. 4. 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.

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 ~~and~~ *and section 1 of this act.*

↪ 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. 5. NRS 630.254 is hereby amended to read as follows:

630.254 1. *Each licensee shall maintain a permanent mailing address with the Board to which all communications from the Board to the licensee must be sent. A licensee who changes his permanent mailing address shall notify the Board of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board of a change in his permanent mailing address within 30 days after the change, the Board:*

(a) Shall impose upon the licensee a fine not to exceed \$100; and

(b) May initiate disciplinary action against the licensee as provided pursuant to subsection 9 of NRS 630.306.

2. Any licensee who changes the location of his office in this State shall notify the Board of the change before practicing at the new location.

~~2-1~~ 3. Any licensee who closes his office in this State shall:

(a) Notify the Board of this occurrence within 14 days after the closure; and

(b) For a period of 5 years thereafter keep the Board apprised of the location of the medical records of his patients.

Sec. 6. NRS 630.255 is hereby amended to read as follows:

630.255 1. Any licensee who changes the location of his practice of medicine from this State to another state or country, has never engaged in the practice of medicine in this State after licensure or has ceased to engage in the practice of medicine in this State for 12 consecutive months may be placed on inactive status by order of the Board.



2. *Each inactive registrant shall maintain a permanent mailing address with the Board to which all communications from the Board to the registrant must be sent. An inactive registrant who changes his permanent mailing address shall notify the Board of his new permanent mailing address within 30 days after the change. If an inactive registrant fails to notify the Board of a change in his permanent mailing address within 30 days after the change, the Board shall impose upon the registrant a fine not to exceed \$100.*

3. Before resuming the practice of medicine in this State, the inactive registrant must:

(a) Notify the Board of his intent to resume the practice of medicine in this State;

(b) File an affidavit with the Board describing his activities during the period of his inactive status;

(c) Complete the form for registration for active status;

(d) Pay the applicable fee for biennial registration; and

(e) Satisfy the Board of his competence to practice medicine.

~~3-1~~ 4. If the Board determines that the conduct or competence of the registrant during the period of inactive status would have warranted denial of an application for a license to practice medicine in this State, the Board may refuse to place the registrant on active status.

Sec. 7. NRS 630.259 is hereby amended to read as follows:

630.259 1. A person may apply to the Board to be licensed as an administrative physician if the person meets all of the statutory requirements for licensure in effect at the time of application except the requirements of paragraph (d) of subsection 2 of NRS 630.160.

2. A person who is licensed as an administrative physician pursuant to this section:

(a) May not engage in the practice of *clinical* medicine;

(b) Shall comply with all of the statutory requirements for continued licensure pursuant to this chapter; and

(c) Shall be deemed to hold a license to practice medicine in an administrative capacity only.

Sec. 8. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated, is violating or is about to violate any provision of this chapter, the Board *or any investigative committee of the Board* may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action



1 against the person based on any conduct alleged or described in the
2 letter or admonishment or any other conduct; and

3 (b) Does not constitute a final decision of the Board and is not
4 subject to judicial review.

5 **Sec. 9.** Chapter 633 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *1. The Board shall require each holder of a license issued*
8 *pursuant to this chapter to submit annually to the Board, on a*
9 *form provided by the Board, and in the format required by the*
10 *Board by regulation, a report:*

11 (a) *Stating the number and type of surgeries requiring*
12 *conscious sedation, deep sedation or general anesthesia performed*
13 *by the holder of the license at his office or any other facility,*
14 *excluding any surgical care performed:*

15 (1) *At a medical facility as that term is defined in NRS*
16 *449.0151; or*

17 (2) *Outside of this State; and*

18 (b) *Reporting the occurrence of any sentinel event arising*
19 *from any such surgery.*

20 2. *Failure to submit a report or knowingly filing false*
21 *information in a report constitutes grounds for initiating*
22 *disciplinary action.*

23 3. *The Board shall:*

24 (a) *Collect and maintain reports received pursuant to*
25 *subsection 1; and*

26 (b) *Ensure that the reports, and any additional documents*
27 *created from the reports, are protected adequately from fire, theft,*
28 *loss, destruction and other hazards, and from unauthorized*
29 *access.*

30 4. *A report received pursuant to subsection 1 is confidential,*
31 *not subject to subpoena or discovery, and not subject to inspection*
32 *by the general public.*

33 5. *The provisions of this section do not apply to surgical care*
34 *requiring only the administration of oral medication to a patient to*
35 *relieve the patient's anxiety or pain, if the medication is not given*
36 *in a dosage that is sufficient to induce in a patient a controlled*
37 *state of depressed consciousness or unconsciousness similar to*
38 *general anesthesia, deep sedation or conscious sedation.*

39 6. *As used in this section:*

40 (a) *"Conscious sedation" means a minimally depressed level of*
41 *consciousness, produced by a pharmacologic or*
42 *nonpharmacologic method, or a combination thereof, in which the*
43 *patient retains the ability independently and continuously to*
44 *maintain an airway and to respond appropriately to physical*
45 *stimulation and verbal commands.*



(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 10. NRS 633.286 is hereby amended to read as follows:

633.286 1. 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 osteopathic physicians for malpractice or negligence; and

(b) Information reported to the Board during the previous biennium pursuant to NRS 633.526, 633.527, subsections 2 and 3 of NRS 633.533 and NRS 690B.250 and 690B.260 ~~and~~ *and section 9 of this act.*

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

Sec. 11. NRS 652.210 is hereby amended to read as follows:

652.210 No person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a licensed physician assistant, a certified osteopathic physician's assistant, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, *a practitioner of respiratory care licensed pursuant to chapter 630 of NRS* or a licensed dentist may manipulate a person for the collection of specimens, except that technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.



Sec. 12. NRS 41.505 is hereby amended to read as follows:

41.505 1. Any physician or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant or registered nurse, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in giving that instruction or providing that supervision. An emergency medical attendant, registered nurse or licensed practical nurse who obeys an instruction given by a physician, registered nurse or licensed practical nurse and thereby renders emergency care, at the scene of an emergency or while transporting an ill or injured person from the scene of an emergency, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in rendering that emergency care.

2. Except as otherwise provided in subsection 3, any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state, who renders emergency care or assistance in an emergency, gratuitously and in good faith, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in rendering the emergency care or assistance or as a result of any failure to act, not amounting to gross negligence, to provide or arrange for further medical treatment for the injured or ill person. This section does not excuse a physician or nurse from liability for damages resulting from his acts or omissions which occur in a licensed medical facility relative to any person with whom there is a preexisting relationship as a patient.

3. Any person licensed under the provisions of chapter 630, 632 or 633 of NRS and any person who holds an equivalent license issued by another state who renders emergency obstetrical care or assistance to a pregnant woman during labor or the delivery of the child is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if:

(a) The care or assistance is rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct;

(b) The person has not previously provided prenatal or obstetrical care to the woman; and

(c) The damages are reasonably related to or primarily caused by a lack of prenatal care received by the woman.

➤ A licensed medical facility in which such care or assistance is rendered is not liable for any civil damages as a result of any act or omission by the person in rendering that care or assistance if that person is not liable for any civil damages pursuant to this subsection



1 and the actions of the medical facility relating to the rendering of
2 that care or assistance do not amount to gross negligence or
3 reckless, willful or wanton conduct.

4 4. Any person licensed under the provisions of chapter 630,
5 632 or 633 of NRS and any person who holds an equivalent license
6 issued by another state who:

7 (a) Is retired or otherwise does not practice on a full-time basis;
8 and

9 (b) Gratuitously and in good faith, renders medical care within
10 the scope of his license to an indigent person,

11 ➔ is not liable for any civil damages as a result of any act or
12 omission by him, not amounting to gross negligence or reckless,
13 willful or wanton conduct, in rendering that care.

14 5. Any person licensed to practice medicine under the
15 provisions of chapter 630 or 633 of NRS or licensed to practice
16 dentistry under the provisions of chapter 631 of NRS who renders
17 care or assistance to a patient ~~[at a health care facility of]~~ **for** a
18 governmental entity or a nonprofit organization is not liable for any
19 civil damages as a result of any act or omission by him in rendering
20 that care or assistance if the care or assistance is rendered
21 gratuitously, in good faith and in a manner not amounting to gross
22 negligence or reckless, willful or wanton conduct.

23 6. As used in this section:

24 (a) "Emergency medical attendant" means a person licensed as
25 an attendant or certified as an emergency medical technician,
26 intermediate emergency medical technician or advanced emergency
27 medical technician pursuant to chapter 450B of NRS.

28 (b) "Gratuitously" has the meaning ascribed to it in NRS 41.500.

29 ~~[(c) "Health care facility" has the meaning ascribed to it in~~
30 ~~NRS 449.800.]~~

31 **Sec. 13.** NRS 49.117 is hereby amended to read as follows:

32 49.117 As used in NRS 49.117 to 49.123, inclusive, unless the
33 context otherwise requires, "review committee" means:

34 1. An organized committee of:

35 (a) A hospital;

36 (b) An ambulatory surgical center;

37 (c) A health maintenance organization;

38 (d) An organization that provides emergency medical services
39 pursuant to the provisions of chapter 450B of NRS; or

40 (e) A medical facility as defined in NRS 449.0151,

41 ➔ which has the responsibility of evaluating and improving the
42 quality of care rendered by the parent organization; ~~[or]~~

43 2. A peer review committee of a medical or dental society ~~[;]~~ ;

44 **or**



1 **3. A medical review committee of a county or district board of**
2 **health that certifies, licenses or regulates providers of emergency**
3 **medical services pursuant to the provisions of chapter 450B of**
4 **NRS, but only when functioning as a peer review committee.**

5 **Sec. 14.** NRS 49.265 is hereby amended to read as follows:

6 49.265 1. Except as otherwise provided in subsection 2:

7 (a) The proceedings and records of:

8 (1) Organized committees of hospitals, and organized
9 committees of organizations that provide emergency medical
10 services pursuant to the provisions of chapter 450B of NRS, having
11 the responsibility of evaluation and improvement of the quality of
12 care rendered by those hospitals or organizations; ~~and~~

13 (2) Review committees of medical or dental societies ~~and~~ ;
14 **and**

15 **(3) Medical review committees of a county or district board**
16 **of health that certifies, licenses or regulates providers of**
17 **emergency medical services pursuant to the provisions of chapter**
18 **450B of NRS, but only when such committees function as peer**
19 **review committees,**

20 ➤ are not subject to discovery proceedings.

21 (b) No person who attends a meeting of any such committee
22 may be required to testify concerning the proceedings at the
23 meeting.

24 2. The provisions of subsection 1 do not apply to:

25 (a) Any statement made by a person in attendance at such a
26 meeting who is a party to an action or proceeding the subject of
27 which is reviewed at the meeting.

28 (b) Any statement made by a person who is requesting staff
29 privileges at a hospital.

30 (c) The proceedings of any meeting considering an action
31 against an insurance carrier alleging bad faith by the carrier in
32 refusing to accept a settlement offer within the limits of the policy.

33 (d) Any matter relating to the proceedings or records of such
34 committees which is contained in health care records furnished in
35 accordance with NRS 629.061.

36 **Sec. 15.** NRS 440.415 is hereby amended to read as follows:

37 440.415 1. A physician who anticipates the death of a patient
38 because of an illness, infirmity or disease may authorize a specific
39 registered nurse **or physician assistant** or the registered nurses **or**
40 **physician assistants** employed by a medical facility or program for
41 hospice care to make a pronouncement of death if they attend the
42 death of the patient.

43 2. Such an authorization is valid for 120 days. Except as
44 otherwise provided in subsection 3, the authorization must:

45 (a) Be a written order entered on the chart of the patient;



(b) State the name of the registered nurse or nurses *or physician assistant or assistants* authorized to make the pronouncement of death; and

(c) Be signed and dated by the physician.

3. If the patient is in a medical facility or under the care of a program for hospice care, the physician may authorize the registered nurses *or physician assistants* employed by the facility or program to make pronouncements of death without specifying the name of each nurse ~~(c)~~ *or assistant, as applicable.*

4. If a pronouncement of death is made by a registered nurse ~~(c)~~ *or physician assistant*, the physician who authorized that action shall sign the medical certificate of death within 24 hours after being presented with the certificate.

5. If a patient in a medical facility is pronounced dead by a registered nurse *or physician assistant* employed by the facility, the registered nurse *or physician assistant* may release the body of the patient to a licensed funeral director pending the completion of the medical certificate of death by the attending physician if the physician or the medical director or chief of the medical staff of the facility has authorized the release in writing.

6. The Board may adopt regulations concerning the authorization of a registered nurse *or physician assistant* to make pronouncements of death.

7. As used in this section:

(a) "Medical facility" means:

(1) A facility for skilled nursing as defined in NRS 449.0039;

(2) A facility for hospice care as defined in NRS 449.0033;

(3) A hospital as defined in NRS 449.012;

(4) An agency to provide nursing in the home as defined in NRS 449.0015; or

(5) A facility for intermediate care as defined in NRS 449.0038.

(b) *"Physician assistant" means a person who holds a license as a physician assistant pursuant to chapter 630 of NRS or a certificate as an osteopathic physician's assistant pursuant to chapter 633 of NRS.*

(c) "Program for hospice care" means a program for hospice care licensed pursuant to chapter 449 of NRS.

~~(c)~~ (d) "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs as recorded in the patient's medical record by the attending provider of health care in accordance with the provisions of chapter 440 of NRS.



- 1 **Sec. 16.** 1. This section becomes effective upon passage and
2 approval.
3 2. Sections 2, 3, 5 to 8, inclusive, 11 and 15 of this act become
4 effective on July 1, 2005.
5 3. Sections 1, 4, 9, 10, 12, 13 and 14 of this act become
6 effective on October 1, 2005.

