

Amendment No. CA28

First Conference Committee Amendment to Assembly Bill No. 555 Second Reprint (BDR 54-570)

Proposed by: First Conference Committee

Amendment Box:

Resolves Conflicts with: N/A

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

Amend the bill as a whole by renumbering sections 1 and 2 as sections 2 and 3 and adding a new section designated section 1, following the enacting clause, to read 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.

MSM

Date: 6/5/2005

A.B. No. 555—Makes various changes relating to provisions governing medical professionals.



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.”.

Amend the bill as a whole by renumbering sections 3 through 6 as sections 5 through 8 and adding a new section designated sec. 4, following sec. 2, to read as follows:

“**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 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.”.

Amend the bill as a whole by renumbering sec. 7 as sec. 11 and adding new sections designated sections 9 and 10, following sec. 6, to read as follows:

“**Sec. 9.** Chapter 633 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 issued pursuant to this chapter 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. 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.”.

Amend the bill as a whole by renumbering sections 8 and 9 as sections 15 and 16 and adding new sections designated sections 12 through 14, following sec. 7, to read as follows:

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

4. 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:

- (a) Is retired or otherwise does not practice on a full-time basis; and
- (b) Gratuitously and in good faith, renders medical care within the scope of his license to an indigent person,

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

5. Any person licensed to practice medicine under the provisions of chapter 630 or 633 of NRS or licensed to practice dentistry under the provisions of chapter 631 of NRS who renders care or assistance to a patient ~~at a health care facility of~~ **for** a governmental entity or a nonprofit

organization is not liable for any civil damages as a result of any act or omission by him in rendering that care or assistance if the care or assistance is rendered gratuitously, in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct.

6. As used in this section:

(a) “Emergency medical attendant” means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.

(b) “Gratuitously” has the meaning ascribed to it in NRS 41.500.

~~[(c) “Health care facility” has the meaning ascribed to it in NRS 449.800.]~~

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

49.117 As used in NRS 49.117 to 49.123, inclusive, unless the context otherwise requires, “review committee” means:

1. An organized committee of:

(a) A hospital;

(b) An ambulatory surgical center;

(c) A health maintenance organization;

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

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

↪ which has the responsibility of evaluating and improving the quality of care rendered by the parent organization; ~~for~~

2. A peer review committee of a medical or dental society ~~for~~; *or*

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

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

49.265 1. Except as otherwise provided in subsection 2:

(a) The proceedings and records of:

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

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

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

↪ are not subject to discovery proceedings.

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

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

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

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

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

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

Amend sec. 9, page 5, by deleting line 10 and inserting:

“**Sec. 16.** 1. This section becomes effective upon passage and approval.

2. Sections 2, 3, 5 to 8, inclusive, 11 and 15 of this act become effective on July 1, 2005.

3. Sections 1, 4, 9, 10, 12, 13 and 14 of this act become effective on October 1, 2005.”.

Amend the title of the bill to read as follows:

“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.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes relating to certain provisions governing medical professionals and practice of medicine. (BDR 54-570)”.