

ASSEMBLY BILL NO. 385—ASSEMBLYMAN MABEY

MARCH 16, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning the practice of medicine. (BDR 54-356)

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 the practice of medicine; authorizing the Board of Medical Examiners to issue restricted licenses; regulating the performance of laser surgery, intense pulsed light therapy and the injection of chemotherapeutic agents; increasing certain penalties; revising the scope of practice authorized for a physician practicing under a special volunteer medical license; making physicians subject to discipline for incurring or failing to report any disciplinary action in another jurisdiction or failing to obtain the informed consent of a patient to any procedure or therapy; providing peer reviewers and employees and volunteers working in a diversion program of the Board with limited civil immunity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 16 of this bill extend to physician assistants certain duties and immunities applicable to other providers of health care. (NRS 41.505, 629.031)

Section 3 of this bill authorizes the Board of Medical Examiners to issue restricted licenses to graduates of foreign medical schools who wish to engage in research, teaching or the practice of clinical medicine at a medical research facility or medical school in this State.

Sections 4 and 15.5 of this bill provide that laser surgery or intense pulsed light therapy on the globe of the eye may be performed only by a licensed physician or osteopathic physician who has completed a residency program in ophthalmology.

Section 5 of this bill prohibits a person, other than a physician, from injecting a patient with any chemotherapeutic agent classified as a prescription drug unless the person is a licensed or certified health care worker, acting within the scope of his license or certificate and under the supervision of a physician. **Section 5** also



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defines the term "prescription drug" as a controlled substance or dangerous drug that may only be dispensed pursuant to a lawful prescription as well as any other substance or drug that can be substituted for such a controlled substance or drug.

Sections 8 and 9 of this bill increase the penalties for physicians who fail to provide written notice to the Board of changes in their status and location. (NRS 630.254, 630.255)

Section 10 of this bill expands the scope of practice authorized for a physician practicing under a special volunteer medical license to include the treatment of persons who are uninsured or unable to afford health care in addition to the treatment of persons who are indigent.

Sections 13 and 14 of this bill expand the acts for which the Board may initiate discipline or deny licensure to include: (1) any disciplinary action taken against a physician by another jurisdiction; (2) failing to report the disciplinary action; and (3) failing to obtain the informed consent of a patient before performing any procedure or prescribing any therapy. (NRS 630.301, 630.306)

Section 15 of this bill extends the Board's limited immunity from civil liability to the Board's peer reviewers and persons working in diversion programs. (NRS 630.364)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 629.031 is hereby amended to read as follows:
629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, *physician assistant*, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. 1. *Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to a person who:*

(a) Is a graduate of a foreign medical school;

(b) Teaches, researches or practices medicine outside of the United States;

(c) Is a recognized medical expert; and

(d) Intends to teach, research or practice clinical medicine at a medical research facility or medical school in this State.

2. *A person who applies for a restricted license pursuant to this section is not required to take or pass a written examination*



1 *concerning his qualifications to practice medicine, but the person*
2 *must satisfy the requirements for a restricted license set forth in*
3 *regulations adopted by the Board.*

4 3. A person who holds a restricted license pursuant to this
5 section may practice medicine in this State only in accordance
6 with the terms and restrictions established by the Board.

7 **Sec. 4.** *Laser surgery or intense pulsed light therapy on the*
8 *globe of the eye of a patient may be performed only by a licensed*
9 *physician who has completed a program of progressive*
10 *postgraduate education in ophthalmology as a resident in the*
11 *United States or Canada in a program approved by the Board,*
12 *the Accreditation Council for Graduate Medical Education or the*
13 *Council on Medical Education of the Canadian Medical*
14 *Association.*

15 **Sec. 5.** 1. A person, other than a physician, shall not inject
16 a patient with any chemotherapeutic agent classified as a
17 prescription drug unless:

18 (a) The person is licensed or certified to perform medical
19 services pursuant to this title;

20 (b) The administration of the injection is within the scope of
21 the person's license or certificate; and

22 (c) The person administers the injection under the supervision
23 of a physician. The Board shall prescribe the requirements for
24 supervision pursuant to this subsection.

25 2. As used in this section:

26 (a) "Dangerous drug" has the meaning ascribed to it in
27 NRS 454.201.

28 (b) "Prescription drug" means:

29 (1) A controlled substance or dangerous drug that may be
30 dispensed to an ultimate user only pursuant to a lawful
31 prescription; and

32 (2) Any other substance or drug substituted for such a
33 controlled substance or dangerous drug.

34 **Sec. 6.** NRS 630.025 is hereby amended to read as follows:

35 630.025 "Supervising physician" means an active physician
36 licensed *and in good standing* in the State of Nevada who ~~employs~~
37 ~~and~~ supervises a physician assistant.

38 **Sec. 7.** NRS 630.160 is hereby amended to read as follows:

39 630.160 1. Every person desiring to practice medicine must,
40 before beginning to practice, procure from the Board a license
41 authorizing him to practice.

42 2. Except as otherwise provided in NRS 630.1605, 630.161
43 and 630.258 to 630.265, inclusive, *and section 3 of this act*, a
44 license may be issued to any person who:



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

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain ~~[such]~~ *the* certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of ~~[such postgraduate education must be]~~ *which must have been completed* as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and



(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

Sec. 8. 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 *in writing* of his new permanent mailing address within 30 days after the change. If a licensee fails to notify the Board *in writing* 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;]~~ *\$250;* 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 *in writing* of the change before practicing at the new location.

3. Any licensee who closes his office in this State shall:

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

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

Sec. 9. 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 *in writing* of his new permanent mailing address within 30 days after the change. If an inactive registrant fails to notify the Board *in writing* 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;]~~ *\$250.*

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.

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. 10. 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 *who are indigent, uninsured or unable to afford health care* may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

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

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

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

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

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care to ~~indigent~~ persons in this State ~~[-]~~ *who are indigent, uninsured or unable to afford health care*; and

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

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



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

5. The Board shall not charge a fee for:

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

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

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

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

Sec. 11. NRS 630.265 is hereby amended to read as follows:

630.265 1. Except as otherwise provided in NRS 630.161, the Board may issue to a qualified applicant a limited license to practice medicine as a resident physician in a graduate program approved by the Accreditation Council for Graduate Medical Education if he is:

(a) A graduate of an accredited medical school in the United States or Canada; or

(b) A graduate of a foreign medical school and has received the standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by it.

2. The medical school or other institution sponsoring the program shall provide the Board with written confirmation that the applicant has been appointed to a position in the program and is a citizen of the United States or lawfully entitled to remain and work in the United States. ~~Such a~~ **A limited** license remains valid only while the licensee is actively practicing medicine in the residency program and is legally entitled to work and remain in the United States.

3. The Board may issue ~~such~~ a limited license for not more than 1 year but may renew the license if the applicant for the limited license meets the requirements set forth by the Board by regulation.

4. The holder of a limited license may practice medicine only in connection with his duties as a resident physician or under such conditions as are approved by the director of the program . ~~and the Board.~~



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5. The holder of a limited license granted pursuant to this section may be disciplined by the Board at any time for any of the grounds provided in NRS 630.161 or 630.301 to 630.3065, inclusive.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 630.301 is hereby amended to read as follows:

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

1. Conviction of a felony relating to the practice of medicine or the ability to practice medicine. A plea of nolo contendere is a conviction for the purposes of this subsection.

2. Conviction of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310, or 616D.350 to 616D.440, inclusive.

3. ~~The~~ *Any disciplinary action, including, without limitation, the* revocation, suspension, modification or limitation of ~~the~~ *a* license to practice any type of medicine, *taken by another state, the Federal Government, a foreign country or* any other jurisdiction or the surrender of the license or discontinuing the practice of medicine while under investigation by any licensing authority, a medical facility, a branch of the Armed Services of the United States, an insurance company, an agency of the Federal Government or an employer.

4. Malpractice, which may be evidenced by claims settled against a practitioner, but only if ~~such~~ *the* malpractice is established by a preponderance of the evidence.

5. The engaging by a practitioner in any sexual activity with a patient who is currently being treated by the practitioner.

6. Disruptive behavior with physicians, hospital personnel, patients, members of the families of patients or any other persons if the behavior interferes with patient care or has an adverse impact on the quality of care rendered to a patient.

7. The engaging in conduct that violates the trust of a patient and exploits the relationship between the physician and the patient for financial or other personal gain.

8. The failure to offer appropriate procedures or studies, to protest inappropriate denials by organizations for managed care, to provide necessary services or to refer a patient to an appropriate provider, when ~~such a~~ *the* failure occurs with the intent of positively influencing the financial well-being of the practitioner or an insurer.

9. The engaging in conduct that brings the medical profession into disrepute, including, without limitation, conduct that violates any provision of a code of ethics adopted by the Board by regulation based on a national code of ethics.



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10. The engaging in sexual contact with the surrogate of a patient or other key persons related to a patient, including, without limitation, a spouse, parent or legal guardian, which exploits the relationship between the physician and the patient in a sexual manner.

11. Conviction of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency;

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS; or

(g) Any offense involving moral turpitude.

Sec. 14. NRS 630.306 is hereby amended to read as follows:

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

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform.

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine ~~are~~ is experimental.



7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report ~~in~~ *in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation,* the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

Sec. 15. NRS 630.364 is hereby amended to read as follows:

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

2. The Board and any of its members and its staff, counsel, investigators, experts, *peer reviewers*, committees, panels, hearing officers, ~~and~~ consultants *and the employees or volunteers of a diversion program* are immune from any civil liability for:

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

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

3. As used in this section, "diversion program" means a program approved by the Board to correct a licensee's alcohol or drug dependence or any other impairment.

Sec. 15.5. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

Laser surgery or intense pulsed light therapy on the globe of the eye of a patient may be performed only by a licensed osteopathic physician who has completed a program of progressive postgraduate education in ophthalmology as a resident in the United States or Canada in a program approved by the Bureau of Osteopathic Education of the American Osteopathic Association,



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the Accreditation Council for Graduate Medical Education or the Council on Medical Education of the Canadian Medical Association.

Sec. 16. NRS 41.505 is hereby amended to read as follows:

41.505 1. Any physician , *physician assistant* or registered nurse who in good faith gives instruction or provides supervision to an emergency medical attendant , *physician assistant* 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, *physician assistant*, registered nurse or licensed practical nurse who obeys an instruction given by a physician, *physician assistant*, 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 , *physician assistant* 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.



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1 ➡ A licensed medical facility in which ~~[such]~~ *the* care or assistance
2 is rendered is not liable for any civil damages as a result of any act
3 or omission by the person in rendering that care or assistance if that
4 person is not liable for any civil damages pursuant to this subsection
5 and the actions of the medical facility relating to the rendering of
6 that care or assistance do not amount to gross negligence or
7 reckless, willful or wanton conduct.

8 4. Any person licensed under the provisions of chapter 630,
9 632 or 633 of NRS and any person who holds an equivalent license
10 issued by another state who:

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

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

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

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

27 6. As used in this section:

28 (a) "Emergency medical attendant" means a person licensed as
29 an attendant or certified as an emergency medical technician,
30 intermediate emergency medical technician or advanced emergency
31 medical technician pursuant to chapter 450B of NRS.

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

33 **Sec. 17.** (Deleted by amendment.)

