

SENATE BILL NO. 414—SENATOR SCHNEIDER

MARCH 19, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the Nevada Institutional Review Board. (BDR 54-709)

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; providing for the operation and authority of the Nevada Institutional Review Board; removing the Nevada Institutional Review Board from under the supervision of the Board of Homeopathic Medical Examiners; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the creation of the Nevada Institutional Review Board. (NRS 630A.800-630A.910) **Sections 2-11** of this bill provide for the operation and authority of the Nevada Institutional Review Board, including a process to review complaints received by the Nevada Institutional Review Board.

**Section 16** of this bill removes the Nevada Institutional Review Board from under the supervision of the Board of Homeopathic Medical Examiners. This section also changes the composition of, and the manner of appointing members of, the Nevada Institutional Review Board.

**Section 17** of this bill allows the Nevada Institutional Review Board to charge fees for any services it provides in regard to research studies or professional or administrative functions.

**Section 20** of this bill requires the Nevada Institutional Review Board to work to gain recognition for the "ABC" type of bill coding related to insurance transactions. Also, this section requires, notwithstanding any other provision of state law and to the extent allowed by federal law, that the regulations and rulings of the Nevada Institutional Review Board take precedence on issues under its authority.

Upon passage and approval of this act, the Legislative Counsel will transfer all the regulations created under NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act are transferred.



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Upon passage and approval of this bill, the Legislative Counsel will transfer NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act from chapter 630A to a new chapter of NRS.

WHEREAS, There is a need for public safety in the administration and supervision of health care services; and

WHEREAS, Health freedom is desirable for providers of health care and the residents of this State; and

WHEREAS, The Nevada Institutional Review Board was intended to be only temporarily placed under the supervision of the Board of Homeopathic Medical Examiners for financial reasons; and

WHEREAS, The Board of Homeopathic Medical Examiners was, and still is, proven to be insolvent; and

WHEREAS, The Nevada Institutional Review Board has shown that it can maintain financial solvency while independent of the Board of Homeopathic Medical Examiners; now, therefore,

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

**Section 1.** Chapter 630A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

**Sec. 2.** *The Nevada Institutional Review Board shall adopt a seal for its own use.*

**Sec. 3.** *Any certificate or research application issued or approved by the Nevada Institutional Review Board must bear the seal of the Nevada Institutional Review Board and the signatures of the President and Secretary-Treasurer of the Nevada Institutional Review Board.*

**Sec. 4.** *A person shall not use the seal, the designation of the Nevada Institutional Review Board or any certificate or application issued by the Nevada Institutional Review Board or any imitation thereof in any way not authorized by NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act or regulations of the Nevada Institutional Review Board.*

**Sec. 5.** *The Board shall operate on the basis of a fiscal year commencing on July 1 and terminating on June 30.*

**Sec. 6.** *The Nevada Institutional Review Board may:*

**1.** *Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act.*



1       2. *Employ attorneys, investigators, hearing officers, experts,*  
2 *administrators, consultants and clerical personnel necessary to the*  
3 *discharge of its duties.*

4       **Sec. 7. 1.** *Out of the money coming into the possession of*  
5 *the Nevada Institutional Review Board, each member and*  
6 *advisory member of the Nevada Institutional Review Board is*  
7 *entitled to receive:*

8       (a) *A salary of not more than \$100 per day, as fixed by the*  
9 *Nevada Institutional Review Board, while engaged in the business*  
10 *of the Nevada Institutional Review Board; and*

11       (b) *A per diem allowance and travel expenses at a rate fixed by*  
12 *the Nevada Institutional Review Board, while engaged in the*  
13 *business of the Nevada Institutional Review Board. The rate must*  
14 *not exceed the rate provided for state officers and employees*  
15 *generally.*

16       2. *While engaged in the business of the Nevada Institutional*  
17 *Review Board, each employee of the Nevada Institutional Review*  
18 *Board is entitled to receive a per diem allowance and travel*  
19 *expenses at a rate fixed by the Nevada Institutional Review Board.*  
20 *The rate must not exceed the rate provided for state officers and*  
21 *employees generally.*

22       3. *Expenses of the Nevada Institutional Review Board and*  
23 *the expenses and salaries of its members and employees must be*  
24 *paid from any money received by the Nevada Institutional Review*  
25 *Board pursuant to the provisions of NRS 630A.800 to 630A.910,*  
26 *inclusive, and sections 2 to 11, inclusive, of this act and no part of*  
27 *the salaries or expenses of the Board may be paid out of the State*  
28 *General Fund.*

29       **Sec. 8. 1.** *In a manner consistent with the provisions of*  
30 *chapter 622A of NRS, the Nevada Institutional Review Board may*  
31 *hold hearings and conduct investigations relating to its duties*  
32 *under NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11,*  
33 *inclusive, of this act and take evidence on any matter under*  
34 *inquiry before the Nevada Institutional Review Board. The*  
35 *Secretary-Treasurer of the Nevada Institutional Review Board or,*  
36 *in his absence, any member of the Nevada Institutional Review*  
37 *Board may administer oaths to any witness appearing before the*  
38 *Board. The Secretary-Treasurer or President of the Nevada*  
39 *Institutional Review Board or the Nevada Institutional Review*  
40 *Board's legal designee may issue subpoenas to compel the*  
41 *attendance of witnesses and the production of books, medical*  
42 *records, X-ray photographs and other papers. The Secretary-*  
43 *Treasurer, President or the Nevada Institutional Review Board's*  
44 *legal designee shall sign the subpoena on behalf of the Board.*



2. *If any person fails to comply with a subpoena issued by the Nevada Institutional Review Board, the Secretary-Treasurer or President of the Nevada Institutional Review Board may petition the district court for an order of the court compelling compliance with the subpoena.*

3. *Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon that person.*

4. *If it appears to the court that the subpoena was properly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order, the person must be dealt with as for contempt of court.*

**Sec. 9.** *In addition to any other immunity provided by the provisions of chapter 622A of NRS:*

1. *Any person who furnishes information to the Nevada Institutional Review Board, in good faith and without malicious intent in accordance with the provisions of NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act concerning a researcher who is conducting a research study under NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act is immune from civil liability for furnishing that information.*

2. *The Nevada Institutional Review Board and its members, staff, counsel, investigators, experts, committees, panels, hearing officers and consultants are immune from civil liability for any decision or action taken in good faith and without malicious intent in response to information received by the Nevada Institutional Review Board.*

3. *The Nevada Institutional Review Board and any of its members are immune from civil liability for disseminating information concerning a researcher who is conducting a research study under the provisions of NRS 630A.800 to 630A.910, inclusive, and sections 2 to 11, inclusive, of this act when required by law or requested by the Attorney General or any board or agency of the State, hospital, medical society, insurer, employer, patient or his family or law enforcement agency.*

**Sec. 10.** 1. *The Nevada Institutional Review Board or a committee of its members designated by the Board shall review every complaint filed with the Nevada Institutional Review Board and conduct an investigation to determine whether there is a reasonable basis for acting upon the complaint.*



1       2. *If a committee is designated, it must be composed of at*  
2 *least three members of the Board, at least one of whom is*  
3 *knowledgeable about the medical specialty of the accused.*

4       3. *If, from the complaint or from other official records, it*  
5 *appears that the complaint is not frivolous and the complaint*  
6 *charges gross or repeated malpractice, the Board shall transmit*  
7 *the original complaint, along with further facts or information*  
8 *derived from its own review, to the appropriate state agency or*  
9 *medical board.*

10      4. *Following the investigation, the committee shall present its*  
11 *evaluation and recommendations to the Nevada Institutional*  
12 *Review Board. The Nevada Institutional Review Board shall*  
13 *review the committee's findings to determine whether to take any*  
14 *further action, but a member of the Nevada Institutional Review*  
15 *Board who participated in the investigation may not participate in*  
16 *this review or in any subsequent hearing or action taken by the*  
17 *Nevada Institutional Review Board.*

18      **Sec. 11.** *In a manner consistent with the provisions of*  
19 *chapter 622A of NRS, the Nevada Institutional Review Board is*  
20 *authorized to prosecute all persons guilty of violation of the*  
21 *provisions of NRS 630A.800 to 630A.910, inclusive, and sections 2*  
22 *to 11, inclusive, of this act and may employ investigators and such*  
23 *other assistants as may be necessary to carry out the provisions of*  
24 *chapter 622A of NRS, NRS 630A.800 to 630A.910, inclusive, and*  
25 *sections 2 to 11, inclusive, of this act, but any expenses so incurred*  
26 *must not be paid out of the State General Fund.*

27      **Sec. 12.** NRS 630A.090 is hereby amended to read as follows:  
28      630A.090 1. Except as otherwise provided in NRS 630A.800  
29 to 630A.910, inclusive, *and sections 2 to 11, inclusive, of this act,*  
30 this chapter does not apply to:

31      (a) The practice of dentistry, chiropractic, Oriental medicine,  
32 podiatry, optometry, respiratory care, faith or Christian Science  
33 healing, nursing, veterinary medicine or fitting hearing aids.

34      (b) A medical officer of the Armed Services or a medical officer  
35 of any division or department of the United States in the discharge  
36 of his official duties.

37      (c) Licensed or certified nurses in the discharge of their duties as  
38 nurses.

39      (d) Homeopathic physicians who are called into this State, other  
40 than on a regular basis, for consultation or assistance to any  
41 physician licensed in this State, and who are legally qualified to  
42 practice in the state or country where they reside.

43      2. This chapter does not repeal or affect any statute of Nevada  
44 regulating or affecting any other healing art.

45      3. This chapter does not prohibit:



(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

**Sec. 13.** NRS 630A.800 is hereby amended to read as follows:

630A.800 As used in NRS 630A.800 to 630A.910, inclusive, *and sections 2 to 11, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 630A.815, 630A.825 and 630A.835 have the meanings ascribed to them in those sections.

**Sec. 14.** NRS 630A.835 is hereby amended to read as follows:

630A.835 1. "Researcher" means ~~{a—practitioner}~~ *an individual* who intends to undertake or is undertaking a research study ~~{ } and:~~

(a) *Has received training as a principal investigator from a training agency recognized by the Nevada Institutional Review Board for the purposes of this section;*

(b) *Is a provider of health care as defined in NRS 629.031; or*

(c) *Is a person who possesses a doctorate degree from a college or university recognized by the Nevada Institutional Review Board for the purposes of this section.*

2. The term does not include a practitioner who intends to undertake or is undertaking any research, study or trial described in NRS 630A.855.

**Sec. 15.** NRS 630A.855 is hereby amended to read as follows:

630A.855 The provisions of NRS 630A.800 to 630A.910, inclusive, *and sections 2 to 11, inclusive, of this act* do not apply to any research, study or trial that is conducted under the auspices of a federally qualified institutional review board and in accordance with applicable federal statutes.

**Sec. 16.** NRS 630A.865 is hereby amended to read as follows:

630A.865 1. The Nevada Institutional Review Board is hereby created.

2. ~~{The Nevada Institutional Review Board shall be under the supervision of the Board of Homeopathic Medical Examiners—3—}~~

The Nevada Institutional Review Board consists of seven members appointed as follows:

(a) ~~{After consultation with organizations in Nevada representing medical disciplines, the Board of Homeopathic Medical Examiners shall appoint four members who represent various medical disciplines in Nevada.}~~ *Four members who are chosen as follows:*

(1) *One member who is a member of and was chosen by the Board of Homeopathic Medical Examiners;*



1       (2) *One member who is a member of and was chosen by the*  
2 *Nevada State Medical Association;*

3       (3) *One member who is a member of and was chosen by the*  
4 *State Board of Osteopathic Medicine; and*

5       (4) *One member who is a member of and was chosen by the*  
6 *State Board of Pharmacy;*

7       (b) Three members who are lay members of the general public  
8 and residents of Nevada and who are not licensed in any medical  
9 discipline must be appointed as follows:

10       (1) One member appointed by the Governor;

11       (2) One member appointed by the Majority Leader of the  
12 Senate; and

13       (3) One member appointed by the Speaker of the Assembly.

14       ~~[4. The members of the Nevada Institutional Review Board~~  
15 ~~serve at the pleasure of the appointing authority.]~~

16       3. *A member appointed pursuant to paragraph (a) of*  
17 *subsection 2 shall serve as soon as is practicable after July 1 of the*  
18 *year in which he is appointed. His term shall end on June 30 of*  
19 *the third year after the year of his appointment. A member*  
20 *appointed pursuant to paragraph (b) of subsection 2 shall serve as*  
21 *soon as is practicable after July 1 of the year he is appointed. His*  
22 *term shall end on June 30 of the fourth year after the year of his*  
23 *appointment.*

24       4. *A member of the Nevada Institutional Review Board may*  
25 *only be removed by the appointing authority for good cause.*

26       5. A vacancy on the Nevada Institutional Review Board must  
27 be filled by the appointing authority in the same manner as the  
28 original appointment. *If an appointing authority does not fill a*  
29 *vacancy within 30 days:*

30       (a) *For a vacancy of a member appointed pursuant to*  
31 *paragraph (a) of subsection 2, the Board of Homeopathic Medical*  
32 *Examiners shall appoint a member who meets the requirements*  
33 *for that vacancy; or*

34       (b) *For a vacancy of a member appointed pursuant to*  
35 *paragraph (b) of subsection 2, the Governor shall appoint a*  
36 *member who meets the requirements for that vacancy.*

37       6. *Upon expiration of his term of office, a member of the*  
38 *Nevada Institutional Review Board shall continue to serve until*  
39 *his replacement is appointed.*

40       ~~[5. The members of the Nevada Institutional Review Board are~~  
41 ~~entitled to receive, out of the money coming into the possession of~~  
42 ~~the Nevada Institutional Review Board, a per diem allowance and~~  
43 ~~travel expenses, as fixed by the Nevada Institutional Review Board.~~





1 ~~—6.]~~ 7. Four members of the Nevada Institutional Review Board  
2 constitute a quorum. A quorum may exercise all the power and  
3 authority conferred on the Nevada Institutional Review Board.

4 ~~[7.]~~ 8. The Nevada Institutional Review Board shall:

5 (a) *Annually* elect ~~{officers}~~ *a President, Vice-President and*  
6 *Secretary-Treasurer* from within its membership ~~[, fix the time and~~  
7 ~~place of its meetings and adopt;]~~

8 (b) *Meet at least quarterly and at other times on the call of the*  
9 *President or a majority of the Nevada Institutional Review Board;*  
10 *and*

11 (c) *Adopt* rules of procedure as it deems necessary to carry out  
12 its duties.

13 **Sec. 17.** NRS 630A.875 is hereby amended to read as follows:

14 630A.875 1. ~~{Except as otherwise provided in subsection 3,~~  
15 ~~the}~~ *The Nevada Institutional Review Board may be funded by:*

16 (a) A nonprofit organization, created by the Board of  
17 Homeopathic Medical Examiners, which is exempt from taxation  
18 pursuant to 26 U.S.C. § 501(c)(3); ~~{and}~~

19 (b) Grants, gifts, appropriations or donations to assist the  
20 Nevada Institutional Review Board in carrying out its duties  
21 pursuant to the provisions of NRS 630A.800 to 630A.910, inclusive  
22 ~~[, and sections 2 to 11, inclusive of this act; and~~

23 (c) *Fees which the Nevada Institutional Review Board is*  
24 *authorized to charge.*

25 2. Any money received by the Nevada Institutional Review  
26 Board must be placed with the financial institutions described in  
27 NRS 630A.880.

28 3. ~~{The Nevada Institutional Review Board may not be funded~~  
29 ~~by any money from:~~

30 ~~—(a) The sponsor of any research study; or~~

31 ~~—(b) The manufacturer of any device, drug or other substance~~  
32 ~~regulated by the Board of Homeopathic Medical Examiners.}~~

33 *The Nevada Institutional Review Board may charge and collect fees*  
34 *for any services it provides in regard to research studies or*  
35 *professional or administrative functions.*

36 **Sec. 18.** NRS 630A.880 is hereby amended to read as follows:

37 630A.880 1. All money received by the Nevada Institutional  
38 Review Board must be deposited in financial institutions in this  
39 State that are federally insured or insured by a private insurer  
40 approved pursuant to NRS 678.755. ~~{The money must be kept~~  
41 ~~separate from any money to be used by or for the Board of~~  
42 ~~Homeopathic Medical Examiners.}~~

43 2. The deposited money must only be used to carry out the  
44 activities of the Nevada Institutional Review Board and to pay the





1 expenses incurred by the Nevada Institutional Review Board in the  
2 discharge of its duties.

3 **Sec. 19.** NRS 630A.900 is hereby amended to read as follows:

4 630A.900 ~~[1-]~~ The Nevada Institutional Review Board shall  
5 adopt regulations to carry out the provisions of NRS 630A.800 to  
6 630A.910, inclusive ~~[-]~~

7 ~~—2. All regulations adopted by the Nevada Institutional Review~~  
8 ~~Board must be approved by the Board of Homeopathic Medical~~  
9 ~~Examiners.], and sections 2 to 11, inclusive, of this act.~~

10 **Sec. 20.** NRS 630A.905 is hereby amended to read as follows:

11 630A.905 1. The Nevada Institutional Review Board shall:

12 (a) Review proposals for research studies and oversee, review  
13 and control all research studies it has approved;

14 (b) Evaluate, determine and act upon the safety, efficacy,  
15 reimbursement and availability of diagnostic devices, substances,  
16 other modalities, therapies and methods of treatment used in such  
17 research studies; and

18 (c) Analyze, coordinate and integrate the diagnostic techniques  
19 and treatments related to alternative and complementary integrative  
20 medicine with the diagnostic techniques and treatments of other  
21 health care practices.

22 2. The Nevada Institutional Review Board shall oversee,  
23 review and control any research studies which it has approved and  
24 which involve the use of human research subjects and any related  
25 issues, including, without limitation:

26 (a) The qualifications required for conducting such research  
27 studies;

28 (b) The proper clinical outcome to be attributed to such research  
29 studies; and

30 (c) The safety, efficacy, reimbursement and availability of  
31 diagnostic devices, substances, other modalities, therapies and  
32 methods of treatment used in such research studies.

33 3. The Nevada Institutional Review Board shall evaluate:

34 (a) The social and economic impact of the research studies it has  
35 approved; and

36 (b) The relationship between alternative and complementary  
37 integrative medicine and other health care practices.

38 4. The Nevada Institutional Review Board shall:

39 (a) Keep a record of all transactions and provide the Board of  
40 Homeopathic Medical Examiners, the Board of Medical Examiners ,  
41 *the State Board of Pharmacy* and the State Board of Osteopathic  
42 Medicine with ~~[quarterly]~~ *annual* reports of all transactions; and

43 (b) Make any additional reports or recommendations to the  
44 Board of Homeopathic Medical Examiners as the Board of  
45 Homeopathic Medical Examiners requires.



1        5. The Nevada Institutional Review Board ~~is accountable to~~  
2 ~~the Board of Homeopathic Medical Examiners for all the activities~~  
3 ~~of the Nevada Institutional Review Board.] shall work to gain~~  
4 *recognition for ABC coding as a valid means for transacting the*  
5 *business of a provider of insurance, including, without limitation,*  
6 *working to gain recognition for ABC coding for:*

7        (a) *Establishing benefits for insurance, arrangements for*  
8 *managed care and filing claims for interventions that are not*  
9 *prohibited by the Nevada Insurance Code or any other law of this*  
10 *State;*

11        (b) *Documenting health care interventions used to treat*  
12 *diagnosed ailments;*

13        (c) *Providing expanded descriptions of procedures for health*  
14 *care administered to a patient; and*

15        (d) *Communicating with any insurer or payor through billing*  
16 *for health care.*

17        6. *Notwithstanding any other provision of law, and to the*  
18 *extent allowed by federal law, the regulations and rulings of the*  
19 *Nevada Institutional Review Board take precedence on issues*  
20 *under its authority.*

21        7. *As used in this section, "ABC coding" means a system of*  
22 *coding that uses 5-character alphabetic symbols to represent the*  
23 *practices, procedures and services provided by a homeopathic*  
24 *physician.*

25        **Sec. 21.** As soon as is practicable after passage and approval  
26 of this act, the Legislative Counsel will transfer all the regulations  
27 created under NRS 630A.800 to 630A.910, inclusive, and sections 2  
28 to 11, inclusive, of this act to the chapter of NAC that corresponds  
29 with the new chapter of NRS in which NRS 630A.800 to 630A.910,  
30 inclusive, and sections 2 to 11, inclusive, of this act are transferred.

31        **Sec. 22.** 1. The appointments of the present members of the  
32 Nevada Institutional Review Board are terminated upon the  
33 effective date of this act.

34        2. As soon as practicable after July 1, 2007, new members shall  
35 be appointed to the Nevada Institutional Review Board pursuant to  
36 this act.

37        **Sec. 23.** This act becomes effective on July 1, 2007.

