

ASSEMBLY BILL NO. 10—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON HEALTH CARE)

PREFILED DECEMBER 2, 2008

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals. (BDR 40-219)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; prohibiting the licensing boards of physicians from taking adverse action against a physician who discloses or cooperates in the investigation of a violation of any law, rule or regulation by an applicant or licensee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prohibits a medical facility, physician or osteopathic physician
- 2 from retaliating or discriminating against an employee who reports in good faith
- 3 information concerning the conduct of a physician or osteopathic physician to the
- 4 Board of Medical Examiners or the State Board of Osteopathic Medicine, reports in
- 5 good faith a sentinel event to the Health Division of the Department of Health and
- 6 Human Services or cooperates or participates in good faith in an investigation or
- 7 proceeding conducted by the Board of Medical Examiners, the State Board of
- 8 Osteopathic Medicine or another governmental entity concerning the conduct or



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sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports in good faith certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. **Sections 1, 3 and 5** also add a definition of "good faith."

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than \$10,000 for each such act of retaliation or discrimination.

Existing law provides immunity from civil liability to physicians, homeopathic physicians and osteopathic physicians for providing certain information concerning an applicant for a license or a licensee in good faith to their licensing boards and others for the decisions or actions taken by them in good faith in response to information received by the board. (NRS 630.364, 630A.540, 633.691) **Sections 4.3, 4.7 and 7** of this bill further prohibit the licensing board of a physician, homeopathic physician or osteopathic physician from taking any adverse action against a physician, homeopathic physician or osteopathic physician for disclosing a violation of any law, rule or regulation to a governmental entity or for cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation.

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

Section 1. NRS 449.205 is hereby amended to read as follows:
449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;



(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~(1)~~; or

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~(1)~~:

(1) In accordance with the policy, if any, established by the medical facility:

~~(1)~~ *(I) Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and*

~~(2)~~ *(II) Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless such the refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto (1);*

(2) In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.



2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) *“Good faith” means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.*

(b) “Physician” means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

~~[(b)]~~ (c) “Retaliate or discriminate”:

(1) Includes, without limitation, *any of* the following ~~action~~ *if such action is actions if* taken solely because the employee, ~~for the~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~employee~~ *person* works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include *an* action described in subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 *1.* An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility *and* who believes that he has been retaliated or discriminated



1 against in violation of NRS 449.205 may file an action in a court of
2 competent jurisdiction . ~~[for such relief as may be appropriate under~~
3 ~~the law.]~~

4 2. *If a court determines that a violation of NRS 449.205 has*
5 *occurred, the court may award such damages as it determines to*
6 *have resulted from the violation, including, without limitation:*

7 (a) *Compensatory damages;*

8 (b) *Reimbursement of any wages, salary, employment benefits*
9 *or other compensation denied to or lost by the employee, registered*
10 *nurse, licensed practical nurse or nursing assistant as a result of*
11 *the violation;*

12 (c) *Attorney's fees and costs, including, without limitation,*
13 *fees for expert witnesses; and*

14 (d) *Punitive damages, if the facts warrant.*

15 3. *The court shall award interest on the amount of damages*
16 *at a rate determined pursuant to NRS 17.130.*

17 4. *The court may grant any equitable relief it considers*
18 *appropriate, including, without limitation, reinstatement of the*
19 *employee, registered nurse, licensed practical nurse or nursing*
20 *assistant and any temporary, preliminary or permanent injunctive*
21 *relief.*

22 5. *If any action to retaliate or discriminate is taken against an*
23 *employee, registered nurse, licensed practical nurse or nursing*
24 *assistant within 60 days after the employee, registered nurse,*
25 *licensed practical nurse or nursing assistant takes any action*
26 *described in subsection 1 of NRS 449.205, there is a rebuttable*
27 *presumption that the action taken against the employee, registered*
28 *nurse, licensed practical nurse or nursing assistant constitutes*
29 *retaliation or discrimination in violation of NRS 449.205.*

30 6. *A medical facility or any agent or employee thereof that*
31 *violates the provisions of NRS 449.205 is subject to a civil penalty*
32 *of not more than \$10,000 for each violation. The Attorney General*
33 *or any district attorney of this State may recover the penalty in a*
34 *civil action brought in the name of the State of Nevada in any*
35 *court of competent jurisdiction.*

36 7. *Any action under this section must be brought not later*
37 *than 2 years after the date of the last event constituting the alleged*
38 *violation for which the action is brought.*

39 8. *As used in this section, "retaliate or discriminate" has the*
40 *meaning ascribed to it in NRS 449.205.*

41 **Sec. 3.** NRS 630.293 is hereby amended to read as follows:

42 630.293 1. A physician or any agent or employee thereof
43 shall not retaliate or discriminate unfairly against ~~[an]~~ :

44 (a) *An* employee of the physician or a person acting on behalf of
45 the employee who in good faith:



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~~[(a)]~~ (I) Reports to the Board *of Medical Examiners* information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ or

(2) Reports a sentinel event to the Health Division *of the Department of Health and Human Services* pursuant to NRS 439.835;

(b) *A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:*

(I) In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[(Cooperates)]~~ *An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners or another governmental entity relating to conduct described in paragraph (a) or (b).*

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician *or a registered nurse, licensed practical nurse or nursing*



1 *assistant who is employed by or contracts to provide nursing*
2 *services for the physician* because the employee, *registered nurse,*
3 *licensed practical nurse or nursing assistant* has taken an action
4 described in subsection 1.

5 3. A physician or any agent or employee thereof shall not
6 prohibit, restrict or attempt to prohibit or restrict by contract, policy,
7 procedure or any other manner the right of an employee of the
8 physician *or a registered nurse, licensed practical nurse or*
9 *nursing assistant who is employed by or contracts to provide*
10 *nursing services for the physician* to take an action described in
11 subsection 1.

12 4. As used in this section, "retaliate or discriminate":

13 (a) *"Good faith" means honesty in fact in the reporting of the*
14 *information or in the cooperation of the investigation concerned.*

15 (b) *"Retaliate or discriminate":*

16 (1) Includes, without limitation, *any of* the following ~~action~~
17 ~~if such action is~~ *actions if* taken solely because the employee,
18 *registered nurse, licensed practical nurse or nursing assistant* took
19 an action described in subsection 1:

20 ~~[(1)]~~ (I) Frequent or undesirable changes in the location
21 where the ~~employee~~ *person* works;

22 ~~[(2)]~~ (II) Frequent or undesirable transfers or reassignments;

23 ~~[(3)]~~ (III) The issuance of letters of reprimand, letters of
24 admonition or evaluations of poor performance;

25 ~~[(4)]~~ (IV) A demotion;

26 ~~[(5)]~~ (V) A reduction in pay;

27 ~~[(6)]~~ (VI) The denial of a promotion;

28 ~~[(7)]~~ (VII) A suspension;

29 ~~[(8)]~~ (VIII) A dismissal;

30 ~~[(9)]~~ (IX) A transfer; or

31 ~~[(10)]~~ (X) Frequent changes in working hours or workdays.

32 ~~[(b)]~~ (2) Does not include *an* action described in
33 ~~{subparagraphs (1) to (10).}~~ *sub-subparagraphs (I) to (X),*
34 inclusive, of ~~{paragraph (a)}~~ *subparagraph (I)* if the action is taken
35 in the normal course of employment or as a form of discipline.

36 **Sec. 4.** NRS 630.296 is hereby amended to read as follows:

37 630.296 1. An employee of a physician *or a registered*
38 *nurse, licensed practical nurse or nursing assistant who is*
39 *employed by or contracts to provide nursing services for the*
40 *physician and* who believes that he has been retaliated or
41 discriminated against in violation of NRS 630.293 may file an
42 action in a court of competent jurisdiction. ~~{for such relief as may~~
43 ~~be appropriate.}~~



2. *If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:*

(a) *Compensatory damages;*

(b) *Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;*

(c) *Attorney's fees and costs, including, without limitation, fees for expert witnesses; and*

(d) *Punitive damages, if the facts warrant.*

3. *The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.*

4. *The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.*

5. *If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 630.293.*

6. *A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than \$10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.*

7. *Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.*

8. *As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.*

Sec. 4.3. 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



1 officers, consultants and the employees or volunteers of a diversion
2 program are immune from any civil liability for:

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

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

10 3. *The Board shall not commence an investigation, impose*
11 *any disciplinary action or take any other adverse action against a*
12 *physician for:*

13 (a) *Disclosing to a governmental entity a violation of any law,*
14 *rule or regulation by an applicant for a license to practice*
15 *medicine or by a physician; or*

16 (b) *Cooperating with a governmental entity that is conducting*
17 *an investigation, hearing or inquiry into such a violation,*
18 *including, without limitation, providing testimony concerning the*
19 *violation.*

20 4. As used in this section ~~["diversion"]~~:

21 (a) *"Diversion program"* means a program approved by the
22 Board to correct a licensee's alcohol or drug dependence or any
23 other impairment.

24 (b) *"Governmental entity" includes, without limitation:*

25 (1) *A federal, state or local officer, employee, agency,*
26 *department, division, bureau, board, commission, council,*
27 *authority or other subdivision or entity of a public employer;*

28 (2) *A federal, state or local employee, committee, member*
29 *or commission of the Legislative Branch of Government;*

30 (3) *A federal, state or local representative, member or*
31 *employee of a legislative body or a county, town, village or any*
32 *other political subdivision or civil division of the State;*

33 (4) *A federal, state or local law enforcement agency or*
34 *prosecutorial office, or any member or employee thereof, or police*
35 *or peace officer; and*

36 (5) *A federal, state or local judiciary, or any member or*
37 *employee thereof, or grand or petit jury.*

38 **Sec. 4.7.** NRS 630A.540 is hereby amended to read as
39 follows:

40 630A.540 1. In addition to any other immunity provided by
41 the provisions of chapter 622A of NRS:

42 ~~1-1~~ (a) Any person who furnishes information to the Board, in
43 good faith ~~and without malicious intent~~ in accordance with the
44 provisions of this chapter, concerning a person who is licensed or



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1 certified or applies for a license or certificate under this chapter is
2 immune from civil liability for furnishing that information.

3 ~~(2-)~~ (b) The Board and its members, staff, counsel,
4 investigators, experts, committees, panels, hearing officers and
5 consultants are immune from civil liability for any decision or
6 action taken in good faith ~~[and without malicious intent]~~ in response
7 to information received by the Board.

8 ~~(3-)~~ (c) The Board and any of its members are immune from
9 civil liability for disseminating information concerning a person
10 who is licensed or certified or applies for a license or certificate
11 under this chapter to the Attorney General or any board or agency of
12 the State, hospital, medical society, insurer, employer, patient or his
13 family or law enforcement agency.

14 *2. The Board shall not commence an investigation, impose*
15 *any disciplinary action or take any other adverse action against a*
16 *homeopathic physician for:*

17 (a) *Disclosing to a governmental entity a violation of any law,*
18 *rule or regulation by an applicant for a license to practice*
19 *homeopathic medicine or by a homeopathic physician; or*

20 (b) *Cooperating with a governmental entity that is conducting*
21 *an investigation, hearing or inquiry into such a violation,*
22 *including, without limitation, providing testimony concerning the*
23 *violation.*

24 *3. As used in this section, "governmental entity" includes,*
25 *without limitation:*

26 (a) *A federal, state or local officer, employee, agency,*
27 *department, division, bureau, board, commission, council,*
28 *authority or other subdivision or entity of a public employer;*

29 (b) *A federal, state or local employee, committee, member or*
30 *commission of the Legislative Branch of Government;*

31 (c) *A federal, state or local representative, member or*
32 *employee of a legislative body or a county, town, village or any*
33 *other political subdivision or civil division of the State;*

34 (d) *A federal, state or local law enforcement agency or*
35 *prosecutorial office, or any member or employee thereof, or police*
36 *or peace officer; and*

37 (e) *A federal, state or local judiciary, or any member or*
38 *employee thereof, or grand or petit jury.*

39 **Sec. 5.** NRS 633.505 is hereby amended to read as follows:

40 633.505 1. An osteopathic physician or any agent or
41 employee thereof shall not retaliate or discriminate unfairly against
42 ~~[an]~~ :

43 (a) *An* employee of the osteopathic physician or a person acting
44 on behalf of the employee who in good faith:



~~[(a)]~~ (1) Reports to the *State Board of Osteopathic Medicine* information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ or

(2) Reports a sentinel event to the Health Division *of the Department of Health and Human Services* pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[(Cooperates)]~~ An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates or otherwise participates in an investigation or proceeding conducted by the *State Board of Osteopathic Medicine* or another governmental entity relating to conduct described in paragraph (a) or (b).



2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* because the employee, *registered nurse, licensed practical nurse or nursing assistant* has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician* to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) *"Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.*

(b) *"Retaliate or discriminate":*

(I) Includes, without limitation, *any of* the following ~~action~~ *if such action is* actions if taken solely because the employee, *registered nurse, licensed practical nurse or nursing assistant* took an action described in subsection 1:

~~(1)~~ (I) Frequent or undesirable changes in the location where the ~~employee~~ *person* works;

~~(2)~~ (II) Frequent or undesirable transfers or reassignments;

~~(3)~~ (III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~(4)~~ (IV) A demotion;

~~(5)~~ (V) A reduction in pay;

~~(6)~~ (VI) The denial of a promotion;

~~(7)~~ (VII) A suspension;

~~(8)~~ (VIII) A dismissal;

~~(9)~~ (IX) A transfer; or

~~(10)~~ (X) Frequent changes in working hours or workdays.

~~(b)~~ (2) Does not include *an* action described in ~~subparagraphs (1) to (10),~~ *sub-subparagraphs (I) to (X),* inclusive, of ~~paragraph (a)~~ *subparagraph (I)* if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 *1.* An employee of an osteopathic physician *or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and* who believes that he has been retaliated or discriminated against in violation of NRS 633.505 may file an



1 action in a court of competent jurisdiction . ~~[for such relief as may~~
2 ~~be appropriate under the law.]~~

3 2. *If a court determines that a violation of NRS 633.505 has*
4 *occurred, the court may award such damages as it determines to*
5 *have resulted from the violation, including, without limitation:*

6 (a) *Compensatory damages;*

7 (b) *Reimbursement of any wages, salary, employment benefits*
8 *or other compensation denied to or lost by the employee, registered*
9 *nurse, licensed practical nurse or nursing assistant as a result of*
10 *the violation;*

11 (c) *Attorney's fees and costs, including, without limitation,*
12 *fees for expert witnesses; and*

13 (d) *Punitive damages, if the facts warrant.*

14 3. *The court shall award interest on the amount of damages*
15 *at a rate determined pursuant to NRS 17.130.*

16 4. *The court may grant any equitable relief it considers*
17 *appropriate, including, without limitation, reinstatement of the*
18 *employee, registered nurse, licensed practical nurse or nursing*
19 *assistant and any temporary, preliminary or permanent injunctive*
20 *relief.*

21 5. *If any action to retaliate or discriminate is taken against an*
22 *employee, registered nurse, licensed practical nurse or nursing*
23 *assistant within 60 days after the employee, registered nurse,*
24 *licensed practical nurse or nursing assistant takes any action*
25 *described in subsection 1 of NRS 633.505, there is a rebuttable*
26 *presumption that the action taken against the employee, registered*
27 *nurse, licensed practical nurse or nursing assistant constitutes*
28 *retaliation or discrimination in violation of NRS 633.505.*

29 6. *An osteopathic physician or any agent or employee thereof*
30 *that violates the provisions of NRS 633.505 is subject to a civil*
31 *penalty of not more than \$10,000 for each violation. The Attorney*
32 *General or any district attorney of this State may recover the*
33 *penalty in a civil action brought in the name of the State of*
34 *Nevada in any court of competent jurisdiction.*

35 7. *Any action under this section must be brought not later*
36 *than 2 years after the date of the last event constituting the alleged*
37 *violation for which the action is brought.*

38 8. *As used in this section, "retaliate or discriminate" has the*
39 *meaning ascribed to it in NRS 633.505.*

40 **Sec. 7.** NRS 633.691 is hereby amended to read as follows:

41 633.691 1. In addition to any other immunity provided by the
42 provisions of chapter 622A of NRS, the Board, a medical review
43 panel of a hospital, a hearing officer, a panel of the Board, or any
44 person who or other organization which initiates or assists in any
45 lawful investigation or proceeding concerning the discipline of an



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1 osteopathic physician for gross malpractice, repeated malpractice,
2 professional incompetence or unprofessional conduct is immune
3 from any civil action for such initiation or assistance or any
4 consequential damages, if the person or organization acted ~~[without~~
5 ~~malicious intent.]~~ in good faith.

6 2. The Board shall not commence an investigation, impose
7 any disciplinary action or take any other adverse action against an
8 osteopathic physician for:

9 (a) Disclosing to a governmental entity a violation of a law,
10 rule or regulation by an applicant for a license to practice
11 osteopathic medicine or by an osteopathic physician; or

12 (b) Cooperating with a governmental entity that is conducting
13 an investigation, hearing or inquiry into such a violation,
14 including, without limitation, providing testimony concerning the
15 violation.

16 3. As used in this section, "governmental entity" includes,
17 without limitation:

18 (a) A federal, state or local officer, employee, agency,
19 department, division, bureau, board, commission, council,
20 authority or other subdivision or entity of a public employer;

21 (b) A federal, state or local employee, committee, member or
22 commission of the Legislative Branch of Government;

23 (c) A federal, state or local representative, member or
24 employee of a legislative body or a county, town, village or any
25 other political subdivision or civil division of the State;

26 (d) A federal, state or local law enforcement agency or
27 prosecutorial office, or any member or employee thereof, or police
28 or peace officer; and

29 (e) A federal, state or local judiciary, or any member or
30 employee thereof, or grand or petit jury.

31 Sec. 8. This act becomes effective on July 1, 2009.

